

**CHESHIRE INLAND WETLANDS AND WATERCOURSES COMMISSION  
PUBLIC HEARING  
TUESDAY, MAY 17, 2016  
TOWN HALL 84 SOUTH MAIN STREETS  
COUNCIL CHAMBERS AT 7:30 P.M.**

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**Members present: Robert de Jongh, Charles Dimmick, Dave Brzozowski, and Thom Norback.**

**Members Absent: Kerrie Dunne, Earl Kurtz and Will McPhee.**

**Staff: Suzanne Simone.**

**Mr. Norback served as secretary pro-tem in Ms. Dunne's absence.**

**I. CALL TO ORDER**

**Chairman de Jongh called the meeting to order at 7:32 pm.**

**II. PLEDGE OF ALLEGIANCE**

**All present recited the pledge of allegiance.**

**III. ROLL CALL**

**Mr. Norback called the roll.**

**Members present were Robert de Jongh, Charles Dimmick, Dave Brzozowski, and Thom Norback.**

**IV. DETERMINATION OF QUORUM**

**Chairman de Jongh determined there were enough members present for a quorum.**

**V. BUSINESS**

**Mr. Norback read the legal call to open the public hearing on the following items listed.**

**Chairman de Jongh explained the public hearing process for all present.**

- 1. Permit Application APP 2016-013**

Nosal Properties of Cheshire, LLC	DOR	4/05/16
Fieldstone Court	SW	4/09/16
Site Plan	PH	5/17/16
	MAD	6/21/16

John Milone from Milone and MacBroom was present on behalf of the applicant.

Joe Nosal of Nosal Properties of Cheshire, LLC was present.

Matt Ducsay, registered professional engineer with Milone and MacBroom was present on behalf of the applicant. William Root, certified soil scientist with Milone and MacBroom was also present.

Ed Pawlak, Soil Scientist at Connecticut Ecosystems was also present.

Mr. Milone addressed the Commission. He stated he was here tonight filling in for Darin Overton.

Mr. Milone explained that this application has a little bit of quiet history so he just wanted to take a moment and remind the Commission and the record relative to this.

Mr. Milone said this plan in front of you is a plan from 1999 – this property is an industrial piece – it’s on Fieldstone Court – it’s a long standing industrial property; wetlands have always existed in the western portion of the property to the south of Fieldstone Court; the property is then somewhat disturbed in the central portion then it slopes up quickly to the east.

Mr. Milone said a number of years ago – in 1999 we proposed – the owner at that time was Michael Racklin represented by Joe Duddy did own all these properties – and about a 45,000 SF building.

Mr. Milone said he knew there were wetland systems (as he showed the location on the plans); including a small, isolated pocket of wetland a little further to the east; we knew there were also steep slopes and shallow rock to the eastern portion of the site and we did tuck the application in close to the wetlands and gained approval for a plan here with a loading dock on the west side; some encroachment into the wetlands – about 2,500 SF and the filling of a small pocket and a fairly good size water management system on the north west portion.

Mr. Milone explained when this current applicant bought property and came to us we did advise him that there were previous approval on the properties and that there were no guaranteed with that but there was some level of comfort that the Commission had already see this site and approved it and we felt there was the ability to move forward in this regarding; so a couple of months ago he wanted to do some clearing on the property so at that time it was suggested that we might to look at the property to see if there was any activity on some of those wetlands and we did that.

Mr. Milone stated they found some activity. He said he only mentions it because he wanted the Commission to be aware that he could just come in here and get close to the wetlands or even fill wetlands without least some history here that gave him comfort that he thought he was doing the right thing and was consistent with the Commission's approach in the past and the view of this so we want to move forward tonight and do everything we can – we are going to review alternatives, etc. to what we are doing here and what we found so far relative to the use of some of these wetlands are excavated areas now of which have naturally formed but excavated and because they have been excavated they do have water in them seasonally and now there are some habitat areas there.

Mr. Milone said his roll tonight is to kind of go back to when he was in front of this Commission years ago and remind the Commission of what we'd done before and why we had some level of comfort that we were moving in the right direction; again we want to try to do everything right and we want to move forward tonight.

Mr. Milone said Matthew Ducsay is going to tell them about this application and Mr. Nosal is here as well.

Mr. Ducsay addressed the Commission.

Mr. Ducsay said just to elaborate a little bit more on what John said – this site is approximately 6.7 acres in size – it's located on the south side of Fieldstone Court which intersects directly with Route 10 in the north section of town – its zoned I-2 for this particular use.

Mr. Ducsay said the wetlands on site were originally flagged as part of the previous application in 1999 and have since been reflagged and verified in advance of this application.

Mr. Ducsay stated this item was subject of a field walk on April 9, 2016 of this year.

Mr. Ducsay reviewed the location of the wetlands on the plans – shown along the western boundary – those wetlands flow underneath and down to what is known as lot 4 then underneath Route 10 to the Ten Mile River which is not a public supply watershed.

Mr. Ducsay said a portion of the eastern portion of the site is located within the north Cheshire well field aquifer protection area and in light of that notification has been sent to RWA and the Department of Public Health.

Mr. Ducsay stated the application calls for the construction of a 26,000 SF industrial building; it's to serve as the future home of Nosal Builders and Shred It; both companies will have office space located in the northern portion of the building and warehouse and warehouse space in the southern side of the building.

Mr. Ducsay said the plan also calls for a 58 passenger car spaces and an additional 28 spaces for box trucks to park along the southern boundary.

Mr. Ducsay stated the building is to be served by public water and sewer and the application has been in front of the Cheshire WPCA and has received feasibility approval for the connection to the public sanitary sewer.

Mr. Ducsay explained stormwater management on site is located on the western portion of the site- the lower down gradient portion of the property – that stormwater management basin is a dry bottom design; in working with the engineering department on their staff comments and have arrived at this dry bottom design; it has an underdrain in the bottom in order to ensure no puddling occurs or ponding in dry times of the year.

Mr. Ducsay said the plan in front of you depicts 36,000 SF of disturbance within the 50' upland review area; most of that disturbance is due to construction of storm water management area as well as some of the parking located within the south western portion of the property.

Mr. Ducsay said it also calls for the disturbance or filling of 300 SF of direct impact for the wetland pocket shown on the plan and has since been identified as a vernal pool based upon some of the breeding activity that has been observed there.

Mr. Ducsay further explained the plan also calls for S&E controls measures to ensure there's no erosion into the wetlands or leaving the site; there are silt fences reinforced with hay bales and many of the environmentally sensitive areas to protect the down gradient wetlands; there are inlet protections on many of the proposed inlets to make sure sediment laden water isn't discharged to the detention basin; the basin is to serve as a temporary sediment trap during construction and there are going to be construction entrance pads located along the frontage as well to ensure that none of that sediment is dragged onto Fieldstone Court or onto Route 10.

Mr. Ducsay said with that he'd like to turn it over to Bill Root to speak a little bit about his delineation of the wetlands onsite and the investigation of the vernal pools we've mentioned.

Mr. Root addressed the Commission.

Mr. Root explained that he testified previously on this application and since this is a public hearing he'd reiterate some of the information.

Mr. Root stated he prepared a wetland delineation report which Apple Valley lot 3 which has been previously submitted.

Mr. Root said he would run through some of the highlights of that; this site was previously approved for a much larger building on the site and also 2,500 SF of direct wetland impact; there are two wetlands on the site that were delineated in the 1999 application and were reviewed by the biologist – one is the western portion of the site where there is a small drainage outfall which comes from an excavated retention pond north of Fieldstone Court and falls into a dump channel into a broader wetland area which flows towards Route 10 and the Ten Mile River – that wetland was evaluated by the biologist in 1999 and significant functions and values and wildlife habitat, nutrient and sediment removal and flood controls – and in his report states he agrees with those evaluations.

Mr. Root said the second wetland area delineated – the one we are talking about now – is a small vernal pool and that's about 300 SF; in

1999 the area was evaluated late in the year – in October and the biologist wrote in her report that the second wetland “is small, isolated and disturbed with an oily sheen and sparse vegetation”; its described as a manmade puddle in an area of cut and fill and the wetland function and values are described as very low.

Mr. Root said when he went out to the site in March of this year he took wetland points – the current boundary and matched them up with the GPS units to these boundaries and found the wetland delineation seemed fine – seems accurate; and took a look at the function and values report and he agrees with those as well and also agree that this small puddle that we are talking about now is just a manmade scoop that someone just went in and dug up and piled – there are a lot of fill piles all through the area and the wetlands in this area are very disturbed – there’s a lot of asphalt buried there – there are pipes sticking out of the fill piles; so they are very low function and value area in this area.

Mr. Root said when they were before the Commission early on in March – the Commission said why don’t you go take a look and make sure there is no vernal pool activity out there so he did and found that there was some vernal pool activity within the wetland boundary near wetland flag 17 there is also an excavated area – there are a lot of trees around it and woody debris and the bottom has a lot of organic matter and in that pool area – there are a lot of Wood Frog egg masses in there and in the last week there are a lot of Wood Frog tadpoles in there now – there are about 20 egg masses – the numbers were fairly high so they seemed to be doing fairly well.

Mr. Root said in contrast there were only a very few Wood Frog egg masses in the smaller of the two vernal pools; that may sometimes vary year to year.

Mr. Root talked about the previously approved site plan that included the filling of 2,500 SF of inland wetland along the western wetland but also included the 300 SF of wetland filling for this excavated basin that is serving somewhat as a vernal pool.

Mr. Root said the current site plan has been pulled back since the building is so much smaller – they pulled the building back to avoid the direct wetland impact – and to square the developed area off for truck traffic and things like that – the design went ahead with the previously approved filling of that small manmade wetland pocket; so that’s the application before you (the Commission) tonight.

Mr. Root said we did find some vernal pool activity there were proposed mitigation for that filling – a creation of a similar area closer to the wetland and away from the proposed development zone – as a beginning of that we put two staph gauges in the other existing vernal pools and started monitoring those to get the water elevations and they put a meter into the ground where there was no standing water to monitor ground water below it – they compared the water elevations to make sure that when they try to develop the vernal that they look at the hydrology which is one of the key factors to make sure the vernal pools work.

Mr. Root talked about how the manmade vernal pools were taken over by Wood Frogs.

Mr. Root said so that was his recommendation after reviewing the previous approval and the two versions of the site plan was to go ahead and ask the Commission to approve that filling of the smaller of the vernal pool areas has had been previously approved and to mitigate for that by creating a larger vernal pool area – replant it in the area we were just talking about – as he showed on the plans.

Mr. Root said so the piezometers are installed and the staph gauges are in – he showed on the plans what the area looks like and the area proposed to be filled – the other vernal pool and the proposed area that is fairly flat; he explained the process being used to create the new vernal pool to intersect with the water table and they would generate a 5:1 slope on side and then a 3:1 slope on the wetland side.

Mr. Root stated there's a construction sequence on there and the idea was that the proposed site plan proposal could be worked out with the Commission's expert on vernal pools Ed Pawlak during the next round of hearing so they could arrive at the review of the water tables results that we have and then design the vernal pool accordingly to fit into that location.

Mr. Root stated they would plan to do the work once the vernal pool creatures and Wood Frogs have left – so they are looking at a July or August period for the mitigation site and one of the steps in that would be to remove the bottom material which would contain insect eggs and any larvae that might be in there – and moving them from the impacted vernal pool into the created vernal pool mitigation site.

Mr. Root said so that's the plan as this point – they are monitoring the water tables weekly and we'll have better data in a couple of weeks as far design data – right now when they put the piezometer in we hit the water table with a foot or so – so it doesn't seem like it's going to be difficult at all in this very flat area to get the right hydrology for the vernal pool creation area; and its significantly larger opposed to the impact.

Mr. Root said so he thinks they'll get a good trade off – there will be some impacts – the ones that were previously approved and will generate some larger and better habitat for the vernal pool creatures - the Wood Frogs are much more prevalent in the vernal pool that is not to be impacted then they are in the much steeper sided and disturbed wetland pocket that is a little bit to the east.

Mr. Root said if there are any questions otherwise he'd turn it back over to Matthew.

Mr. Ducsay said as part of the public hearing process they put together an alternate plan – they looked to minimize the impact proposed to the wetland features on site and in doing so they submitted one alternate plan which is before you (the Commission) tonight.

Mr. Ducsay said the alternate plan attempts to maintains what is the western edge of pavement and shifts the building and parking approximately 20' to the east upslope – they increased the pavement width – he said the layout is driven by truck access – this facility is going have large trucks going in and out of there and as part of that those trucks need to have the ability to back into their loading docks; this plan also takes the liberty or reconfiguring the loading dock locations – while the plan is not ideal in terms of truck maneuvering – it is an alternative plan.

Mr. Ducsay said they looked at a number of options; but in order to maintain adequate widths and turn around areas for the vehicles this is the plan that made the most sense while minimizing the impacts to the environmentally sensitive areas on site.

Mr. Ducsay reviewed the alternative plan – 20'-25' of the gravel storage area is lost due to the shifting of the building and parking areas that were shifted to the east as part of the alternate plan; there was a loss of the storage area and box truck parking; the layout is driven for trucks.

Mr. Ducsay said from the applicant's perspective it's not an ideal alternative – they looked at many options and this was the only plan that made some sense in being able to satisfied the requirements of the regulations as well as meet the needs of the applicant.

Mr. Norback asked if the alternate plan impact the operations of the building significantly.

Mr. Ducsay reviewed the truck access on the site – he said it make the maneuvering more difficult but not impossible.

Mr. Norback asked about snow removal – in terms of storage area for vehicular or snow remove – is that's been considered and if that makes this still a prudent alternative.

Mr. Ducsay stated they did not consider snow removal areas on the plan as delineating snow removal areas but certainly once snow is on the ground it is going to make navigating through the site more difficult due to the fact it has to go somewhere.

Dr. Dimmick asked if there were the same number of parking spaces for both vehicles and boxed trucks in this alternate.

Mr. Ducsay said no – there is the same number of passenger car spaces – the 58 shown on the northern side – but it was a net loss of box truck parking along the southern boundary – he said they show 14 now and the submitted application depicts 28.

Mr. Norback said the applicant at the previous meeting indicated that there were some time constraints – he was wondering if the data they are expecting three weeks out as far as the viability of the newly formed vernal pool – is that going to significantly impact the applicant.

Mr. Nosal stated that contractually with Shred-It they are under some deadlines to meet – both with the original plan we would be able to section off that parcel of the property to at least get the building progress going so they can do the monitoring and the vernal pool.

Mr. Norback said so you can start construction with the vernal pool still in flux.

Mr. Nosal stated correct.

Mr. Norback asked if that was true from our (the Commission's) standpoint.

Chairman de Jongh said he thought if they grant approval and we can have that one section worked on.

Dr. Dimmick said we can stage approvals as long as there is nothing involved in the second part that absolutely has to be there for the first part in terms of the detention basins – if the detention basin is going to be used for sediment to be trapped it during construction that certainly has to be part of the first approval – if that can be separated from the section with the vernal pool then it's possible to get a staged permit – it's not done very often but it is possible.

Mr. Norback said that sounds very similar to what he suggested last meeting.

Ms. Simone said she just wanted to understand the question – if the Commission were to approve the plan that shows the alternative of keeping the vernal pool in place so if a permit was issued that the work could as approved for the building and parking spaces and if it were determined that they wanted to come back to the Commission to fill in the vernal pool that they would be able to do that.

Mr. Norback said that's seems like the best option for the applicant and it seems like it will still give us some latitude and control.

Mr. Nosal said we would section off this area from the activity where the vernal pool work would be monitored.

Mr. Norback asked if there were drawings to that affect and how it would be isolated.

Ms. Simone said we are just looking at the alternative – that's what they are showing that they could meet both the standards of keeping the vernal pool and also be able to develop the building.

Ms. Simone said she had a question of Matt relative to the vernal pool – it shows the limit of clearing and it shows it going right up against the vernal pool which in the field it appears to do that; but she said in this proposal you are requesting to keep a 50' upland review area just to keep that buffer area 50' from the edge of the vernal pool.

Mr. Ducsay said just to clarify – you are speaking about the alternate plan.

Ms. Simone stated yes – correct.

Mr. Ducsay said the alternate plan does not show grading – so clearly there is going to be some grading necessary beyond the edge of pavement shown on the plan establish the finished grade – if the Commission was willing to enact a distance they felt was appropriate we would certainly maintain that distance from that feature although this plan does not show the grading necessary to construct the pavement barrier around there at the finished grade.

Chairman de Jongh said on the original plan you've got a proposed retaining wall with a safety rail to the lower left hand corner of the building – he said he doesn't see that on the proposed alternative- is that necessary to have that in there.

Mr. Ducsay said that is the loading dock area that drops down approximately 4'; for safety purposed you typically you are going to have a railing on top of it so that same railing system is going to be in place.

Chairman de Jongh said it's missing on the alternative plans.

Mr. Ducsay said okay.

Chairman de Jongh said again just for the record the alternate plan while it is not the most desirable still does not in any way impede the operational success of that flow of traffic and the building can still function the way it is supposed to on the alternative plan.

Mr. Ducsay said it requires some architectural revisions as he had noted before – shifting the loading dock locations in order to facilitate the truck maneuvers – he said he was going to let the applicant speak briefly about the operations aspects.

Mr. Nosal stated it does impede the total operations of operations of Shred It and ours – the main goal is to be able to drive around the building with larger size trucks – they have quite a bit of box truck vehicles – being so tight to the building it would be a concern of hitting the building and maneuvering them around the building so

again this plan is the ideal operation plan that would work with the amount of vehicles that both of us are going to have on site.

Chairman de Jongh said as part of this application the Town of Cheshire engaged in the services of Mr. Ed Pawlak who is a noted specialist in the creation of vernal pools and he submitted a report to this Commission for its consideration and he knew that the alternative plan was not provided until later on today so he wasn't sure he (Mr. Pawlak) had the opportunity to review that – he said we were certainly interested in his (Mr. Pawlak's) comments on the activity being proposed and if you've had a change to look at that alternative – what his thoughts on it were.

Ed Pawlak, a registered soil scientist and certified professional wetland scientist and the owner of Connecticut Ecosystems; his office is located in West Hartford, CT; and he has been working as a consulting wetland scientist since 1989, addressed the Commission.

Mr. Pawlak thanked the Commission for allowing him to provide a third party review.

Mr. Pawlak said he submitted a letter dated May 10, 2016 to this Commission; he said he would go over the highlights of that and talked a little bit about the two plans that were submitted subsequent to the preparation of this letter.

Mr. Pawlak provided the Commission with his instruction to the project and talked about the meeting he had with Mr. Root and Mr. Overton that was on April 14; he was showed around the site and saw the two vernal pools.

Mr. Pawlak said once he was retained by the Town of Cheshire to do the third party review he had the opportunity on April 27 to return to the site and spend more time looking at these two resources in particular (the vernal pools).

Mr. Pawlak explained points he discussed in his May 10, 2016 letter submitted into the record.

Mr. Pawlak commented about the vernal pools and their support of the breeding of indicator species - 5 amphibians and the one invertebrate; he said the two areas in question meet the definition of a vernal pool.

Mr. Pawlak said he included some photographs that he took of the property and the two vernal pools; he described the soil types of the areas and noted recent clearing of vegetation on the remainder of the property and some areas fairly close to the wetland boundary; he said the deciduous wooded swamp does extend far off site to the west.

Mr. Pawlak said the referenced vernal pool is the vernal pool embedded in within the deciduous wooded swamp its part of the swamp; there are numerous indicators of a prior disturbance; he tried to document that with some of the photographs; there were large piles right adjacent to the vernal pool; pieces of asphalt and rusted metal pipe.

Mr. Pawlak said based upon the growth of the small trees there he estimated the disturbance occurred at least 25 years ago – that disturbance has been there for a while based upon the tree sizes.

Mr. Pawlak said he didn't know why that excavation took place but he has no reason to believe that they were looking to create a vernal pool.

Mr. Pawlak said when he was out there on the second occasion there was 11" maximum of depth of water in that pool and the temperature was 13 degree centigrade; he said it does appear the surface water elevation in that pool is an expression of a seasonal high ground water table throughout that area; he talked about other pools in the area none of which contained amphibian larva or egg masses but there appear to be at the same elevation so that historic excavation dug in to and exposed a seasonal high water table; he thought that was the cause for the second vernal pool.

Mr. Pawlak reported what he observed on the second inspection – many hundreds of Wood Frog tad poles in that reference pool and the 11 Wood Frog egg masses that Mr. Root observed earlier back in March.

Mr. Pawlak talked about the egg masses and the number of tad poles produced when they hatch out so it does meet the definition of a vernal pool.

Mr. Pawlak provided commentary about the impact pool as he described in this letter because the proposal is to impact it; he talked about the soil condition at the site and noted as he documented in

his letter and provided photographs; he mentioned that the area was likely the disturbance occurred at the same time in those depressions.

Mr. Pawlak said the pool – depression contained deeper water – it was 29” maximum depth – water temperate was 12 degree – it was a 25’ diameter pool at the time he inspected it.

Mr. Pawlak said there were some Wood Frog tad poles in that water at the time but far fewer in the reference pool; and is consistent with Mr. Root’s observation that there were only a few Wood Frog egg masses in that second pool; there were numerous mosquito larvae there and this does meet the definition of a vernal pool.

Mr. Pawlak said he does note in his letter that based on the monitoring of vernal pools that he has done over the years he found that Wood Frogs as adults show strong fidelity for the pool where they began their lives they return to that pool to breed but in a case like this – it’s possible that the preference that was shown in one year - it could flip in another year since the two bodies are so close to one another.

Mr. Pawlak said he did note that they could also attribute the large number of Wood Frog egg masses in the referenced pool to the fact that that pool is embedded in the deciduous wood swamp; he talked about looking at the landscape and where the Wood Frogs come from and their movements in the landscape; and encountering the vernal pool that’s embedded in that swamp.

Mr. Pawlak said he concluded his letter by noting that your (the Commission’s) letter do require since this Commission did determine that the proposed filling of this impact vernal pool is a significant activity that does require the applicants to prepare an alternative to eliminate that impact or minimize that impact and the applicant has done so.

Mr. Pawlak said the alternate plan as well as the plan to show a vernal pool creation – those were submitted after he completed and submitted this letter/report.

Mr. Pawlak said he received yesterday the vernal creation plan so he has not had a lot of opportunity to look at it in any kind of detail.

Mr. Pawlak said in general vernal pool creation is probably the most difficult type of mitigation to do as a general rule just because the hydrology of vernal pools is unique and you have to create a condition where you have standing water for a couple of months of the year – two months at minimum for metamorphosis to be completed; he talked about the vernal pool cycle and mitigation areas that go from a wet phase to a dry phase and the conditions needed so the amphibian larvae don't perish; he noted if the pool is too deep you have permanent fish population that becomes established that could preclude the successful breeding or development of salamanders or Wood Frogs.

Mr. Pawlak said this is a specific condition – unintentionally an operator of a backhoe dug into a seasonally high ground water table which apparently persists long enough to maintain water in those two pools to support a small Wood Frog population; he said there was no thought to the creation of the pools.

Mr. Pawlak talked about the unintentional creation of the pools that now allow Wood Frogs to breed there; eggs to hatch and the larvae to go through their metamorphosis and get out and come back in a few years.

Mr. Pawlak continued explaining details in his letter regarding the monitoring of the ground water levels as well as the bottom topography of those two existing vernal pools – to guide the design; he said this should be sufficient to guide the design of a good likelihood of a successful vernal pool creation; the details are important and he would like the opportunity to review the ground water data that is collected and submitted to the Commission with a written report to explain the grading that is proposed – why they chose the bottom elevations that they did based on the information described.

Mr. Pawlak said he thought these conditions are conducive to a successful vernal pool creation; he said he could say that in general without specifically commenting on that.

Chairman de Jongh asked about the Wood Frogs and their going back to the original area where they created the egg masses and the success of those two areas in close proximity with each other – the vernal pool that the applicant is talking about creating a mitigation project is not in close proximity so it was mentioned with the right information and the right details it should be a viable vernal pool –

what's the likelihood of it being successful in terms of those frogs deciding to go to this new mitigation area as opposed to where they were before.

Mr. Pawlak said that was a good question – he said the three areas – the two existing vernal pools and the proposed vernal pool creation area – they are all in close proximity – he said they can't be more than a couple hundred feet apart – he said when he was out in the field he could see the reference vernal pool and the impact pool area – he said it's not stuck out in a completely different location; he said they were close enough so that it wouldn't be a problem – there in the same neighborhood.

Mr. Norback said so approximation was considered in your statement that they'd have a strong viability.

Mr. Pawlak said if he were to guess that would be a secondary component - most important for any wetland creation – but particularly for vernal pools is the hydrology - getting it right – if you don't have the hydrology right it doesn't matter where you are putting it; these amphibians move all around the landscape – the migrations and the movements of these animals do cross the landscape – if you build it correctly they will ultimately be colonized in the way this impact pool was colonized and is being used as a breeding site and was never there before the disturbance 25 or so years prior.

Mr. Norback said so the data collect now should tell you further about its viability or should it be the end all be all.

Mr. Pawlak said it should serve as the basis of the design of the pool along with the topography of the two existing pools – which information should form the basis of the design – the grading.

Mr. Norback asked if there was a way to fail safe something like this with a cistern or something where you could augment the ground water in the unlikely event that the hydrology wasn't exactly what you'd hope for – have a water storage area that could be not part of the vernal pool but could serve the vernal pool if it ran out of water too fast.

Dr. Dimmick said actually whatever you want to do you want to make sure that you don't have to have any manmade intervention after the thing is done – if you happen to dig it a little too deep it's always

possible to through a little bit of dirt in it afterwards and bring it back.

Dr. Dimmick said he wanted to ask how the frogs get into these in the first place if there are manmade.

Mr. Pawlak said one of the basic things about Wood Frogs is the distances that they travel as they migrate across the landscape – particularly of the juveniles – the young frogs; they have been observed thousands of feet away from the pool that they emerged from.

Dr. Dimmick said so if they do have this urge to try to the pool they emerged from and they happen to fall into another pool on the way back they may decide it's far enough.

Mr. Pawlak stated yes – he said if there are a number of pools in the area they will pick the one they hit first – they do seem to have the ability to determine when water is too shallow – he said in his experience he rarely finds Wood Frogs breeding in water shallower than 6" in the first and second week in April; they have some way to determine when it's too shallow; but they don't always get it right.

Chairman de Jongh said one of the things they are going to need on the maps are the vernal pools – they are not shown relative to their locations; he said we need to get a better understanding of the proximities (of the vernal pools).

Ms. Simone said the reference vernal pool – we have the vernal pool that supposed to be filled but our maps don't locate the reference vernal pool; she said it would be helpful to have it shown on the maps so they could see exactly where its located.

Chairman de Jongh asked Mr. Pawlak when he would be able to provide us with a written summary of what he would feel the effectiveness of the mitigation project (understanding that the Commission has already received a written report).

Mr. Pawlak said he could turn that around quickly – in the matter of a couple of days once he receives the vernal pool creation plan with all the information he requested along with a written narrative of the creation plan.

Chairman de Jongh said going back to the recommendation or suggestion that this be somewhat of a staged project – would we be able to if this Commission so granted and whether it's the alternative plan or the original proposal depending on which we approve – he said his question is one that will allow deadline to be met with the proposed property users and still be able to stage that mitigation project – are we able to balance those two or would excavation of the property in anyway interfere with the creation of the mitigation project.

Mr. Milone made comment from his seat in the audience – it was not picked up on the tape.

Chairman de Jongh said his question is whether or not we permit construction of the project to take place on a staged basis would the mere construction interfere with the viability of that mitigation project.

Mr. Pawlak said provided that the clearing limits for that bulk of that plan are shown on the plans to that it's clear that they're not going to interfere in any way with this creation area; as long as the S&E controls are shown and the plan clearly shows here are the limits of where the first phase of that construction would be done – he didn't see that as impact – because if you look at where the vernal pool creation is proposed – its tucked into this peninsula of upland that extends into the wetlands and its tucked away from where they would be wanting to do that – if you wanted to call it the first phase of construction; he said you'd want to clearly see what are the limits of that phase one – what are the clearing limits – what are the grading limits – are the erosion controls going up at the edge of that so that can be completely separated from the creation – he said he didn't see that would interfere with this work that is shown here.

Chairman de Jongh said would typical sediment and erosion controls be sufficient or is this something special that needs to be done.

Mr. Pawlak said if the Commission approves it – since the applicant is proposing to create a basin you would want to see all of the traditional controls as well you would want to make sure or be assured by the applicants that there would be no opportunity for sediments to move from this construction site into this basin and that might include a diversion swale to carry sediment laden runoff during construction away from this depression.

Mr. Pawlak said you don't want this depression once created then to experience a sediment input – once those sediments are in a base depression they can interfere completely a lot of years going forward.

Dr. Dimmick said he had two questions of the applicant – if we were to grant this filling and then the creation of a mitigation wetland – would it be possible to allow that mitigation of wetland to open for educational study because this is the sort of thing – there are not too many examples on record of mitigation of vernal pools and their relative success or lack of – so for educational purposes it might be a useful thing if something like that could be studied in the future if they had access.

Mr. Nosal stated they'd open that up to the Commission.

Dr. Dimmick said the second one is that we have not yet looked carefully at the detention basin plans – he would like better input on that – in terms of sediment removal and water quality for the detention basins.

Mr. Norback said it was his understanding that the applicant is the excavator on the project; this could give better control over some of the (work).

Dr. Dimmick said it's a matter of the control over the guy operating the machinery among other things.

Mr. Pawlak said with regard to the sediments and then ultimately the water quality basin – the best development practices for vernal pools which was prepared in 2002 by Calhoun and Clemens – they made a point that when detention basins and water quality basins are proposed – their guides say within 750' of a known vernal pool – that you make provisions and design for an amphibian enclosure around that basin to prevent amphibians from migrating into it and depositing their eggs unintentionally; he said he heard the basin was designed as a dry bottom but he didn't know how long it would take for that to dry out and as a sediment basin whether it would be retaining water for extended periods of time so given that – it would be prudent to request that the applicant to design a low amphibian enclosure which would be essentially a permanent feature to prevent amphibians from accidentally finding that water.

Dr. Dimmick asked what the exclusion feature looked like.

Mr. Pawlak said he could give the Commission some guidance – he said he has seen low concrete barriers – he said the applicant may have some ideas in mind but it needs to be a permanent structure which will prevent Wood Frogs from hopping over it and accidentally breeding there.

Mr. Pawlak said he wanted to mention as well – that Dr. Dimmick mentioned an interest in this as possibly serving as an educational site – the Connecticut Association of Wetlands Scientists which he is a member initiated back in 2007 a vernal pool monitoring program – and since they have been monitoring approximately 40 vernal pool each spring and counting egg masses particularly on properties where development is proposed so that there's baseline egg masses and then going forward once development is created and constructed on the property we continue to monitor and count egg masses – all this requires the permission of the applicant to allow a volunteer – professionals to do this monitoring but he would encourage the Commission to request this of the applicant – it's purely voluntary – it's not something you can force upon an applicant.

Mr. Pawlak said he would make a point – and this is important for the applicant to hear that – we collect this data in order to ultimately help us guide development designs which allow development to occur on a property but also conservation of amphibian populations; we would never reveal the data that we collect in association with a particular project in any way that would embarrass an applicant or in any way identify a data set to a particular applicant; in the event that an amphibian population blinks out we don't in any way an applicant to feel that why did we let them on our property.

Chairman de Jongh asked if he was correct that there is only about a half dozen of these created vernal pools that have actually been studied closely.

Mr. Pawlak said he didn't have a number – he didn't have a number on that; he said there is not a good data set available; he said he knows the applicant has proposed three years on monitoring in this constructed pool; he said he thinks the association would be interested to pick up at that point to do additional monitoring if permission was granted.

Mr. Norback asked if the 40 you are monitoring – are any of those mitigation projects.

Mr. Pawlak stated no.

Dr. Dimmick said he only knew of about a half dozen – they are very rare so it's an opportunity to do something that has not really been done except in that one instance that he knew of.

Chairman de Jongh said this is really beyond what we have to look at – he said there are a couple of things that we need to make sure that the record that we have is complete – we talked about adding the information on the vernal pool which the applicant has decided to certainly do – we also need to make sure that Mr. Pawlak has the opportunity to review what he received yesterday afternoon.

Chairman de Jongh said we are certainly going to keep the public hearing open pending the receipt of his comments but the other thing that we need to make sure too is that relative to the phasing of the project – we've had discussion as to whether or not the project can be phased – it's not clear relative to what the applicant wants to do on this so he thinks we need to have a clear understanding of how we as a Commission are to look at this and maybe the applicant can be a little bit more precise as to how they would like to present this.

Mr. Milone said ideally what we would like to do hearing everything we've heard tonight and if the Commission is comfortable with it – is keep the hearing open because there is more information that we've asked for and we need to provide it – he said he thinks in a couple of areas – one to given time to review additional data on the physical conditions in the area of the proposed created vernal pool and refine that plan; secondly to provide some increased buffering for the area to be protected during the initial construction; and third to provide some barrier around the stormwater management basin and additional detail on how that basin is going to function.

Mr. Milone said they would ask that the Commission consider given the applicant's request if at all possible that maybe at the next meeting to close the hearing and possibly be ready to act on the applicant if they are comfortable at that point; because they would like to move forward quickly.

Mr. Milone said the applicant would like to stick ideally with the originally plan – not the alternative plan which gives him the most flexibility and the most desirable use of the property for the intended use; with the commitment that he would continue on and create the new vernal pool area with additional information after everyone is satisfied as to the details of that – maybe there would be some kind of bonding or something set for that creation so that’s insured and protected for the Commission’s purposes; he said this would be their hope and objective if at all possible.

Chairman de Jongh said he thinks that this Commission desires to move this along – the challenge that we have is if we close the public hearing at the next meeting – he thought they were restricted relative to state regulations – that we can’t make a decision the same night we close the public hearing – he thought they had to wait two weeks.

Dr. Dimmick said no we don’t; but it does take time for staff to draw things up because new information would be coming in at the next public hearing.

Chairman de Jongh said they wanted to move this process along as quickly as possible but we need to make sure that we have made all opportunities available for those who have comments or if this Commission is satisfied with the information they have received.

Mr. Milone said they will try to get as much of the information in advance of the next meeting so that staff has a chance to look at in advance.

Chairman de Jongh said they will keep this public hearing open pending receipts of the information from Mr. Pawlak as well as the additional details by the applicant’s engineer.

Chairman de Jongh asked if there were any public questions or comments; there were none.

Chairman de Jongh said this public hearing would be continued to Tuesday, June 7, 2016.

2.	Permit Application	APP	2016-014
	Cheshire Academy	DOR	4/05/16
	Academy Road	SW	4/27/16
	Site Plan	PH	5/17/16
		MAD	6/21/16

Michael Joyce registered professional engineering CT with Milone and MacBroom was present on behalf of Cheshire Academy. William Root, soil scientist of Milone and MacBroom was present.

Mr. Joyce addressed the Commission and staff.

Mr. Joyce explained he was here tonight on behalf of Cheshire Academy; Cheshire is here tonight for two purposes; two projects that have coincided into one application.

Mr. Joyce said last summer Cheshire Academy had a fire on campus just to the west of the existing running track; he showed on the plans the location of the development area and a portion of the campus.

Mr. Joyce said Cheshire Academy's campus is about 102 acres and it's currently divided by the big ravine that you see along Route 68 that's between Woodbury Court and the rest of the properties to the east.

Mr. Joyce said as he mentioned last summer there was a fire in the facilities building which is up closer to Route 10 – that building was an antiquated built on building that was added on over the years and became functionally obsolete to the academy; when it burnt down it was demolished.

Mr. Joyce said that particular site is not desirable to be putting back facilities maintained building within the heart of the campus – it's a very visible area; there are also some master planning efforts that have improvements slated for that some point down the road.

Mr. Joyce said the campus is fairly dense on the western portion of the campus between the ravine that leads to Honey Pot Brook and Route 10 and Route 68 –Academy Road to the south.

Mr. Joyce said Woodbury Court is still a public road to a certain point in the campus because of the two private properties are not owned by Cheshire Academy – he said there is not much room left on that side of the ravine left for development; it's been maxed out with the athletic fields, buildings and future planning.

Mr. Joyce said Cheshire Academy is looking at developing faculty housing on campus – they currently spend \$90,000 a year in rent off campus for housing for faculty members; they are looking to provide

a more centralized location for tenured facility who have been there for twenty years plus and there are several of those on campus.

Mr. Joyce said outside the two-family home that's up near Route 10 they wanted to be able to have something that was more secluded and away from some of the activity for some of the parents who don't have kids in the school systems anymore but are still teaching at the school.

Mr. Joyce said so in looking at that we discussed about a project that would consolidate some of the utility extensions that would be fed through the campus – he said this end of campus is not fed by sewers and it's not fed by water main frontage – there are water mains on campus.

Mr. Joyce said as part of the discussion they (Cheshire Academy) decided to make an investment an investment and look at the future as how we can use the balance of our 102 acres.

Mr. Joyce said they have an easement across the property of Kathy Ewing that's on Route 68 – that gives them access for whatever purpose what so ever; they (Cheshire Academy) use that driveway for access to maintain the baseball field that was before the Commission several years ago for approval so they have been using that – there's a gate that they monitor currently.

Mr. Joyce said prior to filing the application they did meet with the property owners at Cheshire Academy to discuss options associated with how we improve this area not only for the academy's access but also for their own use because they do have rights across that land as well.

Mr. Joyce explained their initial intent was to coordinate with Regional Water Authority – that process was moving forward to extend their existing water main from approximately Woodbury Court easterly along Route 68 to the property frontage near the Ewings property.

Mr. Joyce said they recently repaved Route 68 and put drainage improvements in – the costs and efforts to have DOT approve a reconstructed road again would be a significant cost to the academy that they can't support at this time.

Mr. Joyce said there is an existing water main on campus with good pressures – so they are going to extend this water main through the campus following an existing access road that works its way back to the campus.

Mr. Joyce said on April 27 they had a site walk with the Commission – we walked the route of the access road from Academy Road down to the project area and then through and over to where the sewer connection would be.

Mr. Joyce said the sewers also need to be connected to the town interceptor line – it bisects the campus; we received feasibility from the WPCA for that initial connection.

Mr. Joyce said this isn't the first time the Commission has seen activity as far as sewers in this area – back in 2005 we were before the Commission with an application to build a baseball field here and a bathroom building; he said as part of that application they proposed a sanitary sewer connection that was going to make a direct connect into the interceptor outside of the wetland area.

Mr. Joyce said following your (the Commission's) approval we then went back to final approval for WPCA at which time they required us to make a direct connection to the manhole that is actually in the wetlands.

Mr. Joyce said that project didn't move forward that's why it didn't come back to this Commission for a modification of that approval.

Mr. Joyce said what's shown on the plans in this area now is that modification – that's a modification required by WPCA for us to make a connection; he stated that is the shortest connection that we can make.

Mr. Joyce said going back a little bit further then that the wetlands along this area were originally identified in 2002 by Soil Scientist and Environmental Services – they were again identified this year as part of our site walk; there was additional flagging in the area of the detention basin that's proposed.

Mr. Joyce stated Mr. Root has gone out and verified the limits of the existing wetland flagging from the previous applications.

Mr. Joyce said as you notice in the field as you get near the pond the delineation of the watercourse and wetlands is pretty stark – we have a paved path that in between the tennis courts and the pond and the water edge is not too far from that area as well.

Mr. Joyce said after he gets done with the rest of the project details he'll ask Mr. Root to come up and describe some of the wetland investigation.

Mr. Joyce said working your way from Academy Road we met in the field prior to our initial application the area along this section of Route 68 and 70 is fairly overgrown – the drainage improvements or drainage conditions in this area were not very visible and DOT went forward with their improvements they then opened up and excavated and put a rip rap channel in here and dug out a depression at the inlet to the headwall that currently conveys this drainage system down across and into the south.

Mr. Joyce said a question was raised about the presence of wetlands in that area – we walked the field and Mr. Root made a presentation – and we'll ask him to make a presentation again tonight.

Mr. Joyce stated they've since submitted supplemental wetland delineation reports regarding this area and also the area of the valley which he'd describe in a minute and clarifications on the wetland flagging to the north on Honey Pot Brook.

Mr. Joyce explained approximately 1000' of roadway – 24' wide would be constructed as part of the application to get to the new facilities building which is 11,900' one story square footage size; they would have 13 faculty housing units that would be constructed opposite that area that's considered like a little neighborhood for that particular development.

Mr. Joyce said the storm drainage system has been designed as a zero increase in runoff – there's actually a decrease in runoff associated with it.

Mr. Joyce said some of the earlier comments received from staff and the Commission at our first presentation would that they should investigate the possibility of a dry bottom basin.

Mr. Joyce said prior to your initial meeting two weeks ago we submitted plans to staff that incorporated some of the comments

and questions that expressed at the site walk; they also changed the plans to indicate that the extension of the water main to the regulated area and to add additional wetland flagging delineation numbers that were not on the plans when originally submitted; we also modified the detention design to provide an underdrain to accommodate the dry bottom requirement the Commission was looking for.

Mr. Joyce said since then they have also met with the Fire Department – there were a couple of changes that they asked for is that they upsize the pipe from a 6” to a 8” to the area – same limits – same regulated impacted impact in the upland area and there are no direct impacts associated with that extension.

Mr. Joyce explained the other changes were along the access road and it's on the site plan – they asked for a pull off area – he said they originally wanted us to construct a 30' wide road for Fire Department access in and out the development; being a private road we convinced them that it was more appropriate for scale and access and use to keep it 24' and in response to that they wanted to have some pull off parking areas should people inclined to pull off and use that road at different times whether it be visitors to the faculty housing units a holiday or whatever it may be so they added additional parking on the site plan to show those areas so the 24' width would be unobstructed for the Fire Department to come around the driveway.

Mr. Joyce said additional parking spaces along the access road are going to be a reinforced turf area – there is no expectation that this is going to be a congregation for parking – we are accommodating the Fire Department request for this area; there is the parking area that exists for the staff in this area for the prosed facilities building and we assumed that different events that may be going where the faculty house units they will be available for parking as well during off peak worker hours; he said there is plenty of space to get off the road and not have to obstruct the Fire Department access.

Mr. Joyce said again these plans have been submitted to the department at a specific meeting we had regarding those improvements.

Mr. Joyce said the other changes that have occurred since then since the May 3<sup>rd</sup> submission are the water main, the parking spaces

both in the development and along here (shown on the plan) and the upsizing of the pipe.

Mr. Joyce stated the project includes approximately 20,000 SF of upland impact area within the 50' buffer and we have 15,000 SF of direct wetland impact associated with the sewer connection – its temporary – they will make the connection and come back out again; it's not a permanent filling of a wetland condition but it is a connection none the less.

Mr. Joyce said they have added hay bales and silt fence along the work limits to protect the area from the improvements; he said currently right now this path that works it away down is paved all the way to the pond; as walked in the field there's a path that's there today that is kind of wood chippy – gravelly – that works its way from the paved limits up through the woods – that's the route we are going to follow – the improved utilities and also the paving in this area on the way out; he said today its kind of a loose erodible surface – they are looking to stabilize that – a 10' wide path – we are not looking to have two way back and forth to the area – it will stay the same width as scene before.

Mr. Joyce said to the eastern portion of the project – as you walk into the site – it was difficult to get down into the lower areas because of the briars and the vegetation that was there – a lot of that was that type of vegetation; there were some larger trees but most of that scrub brush that you couldn't get through; that's the valley that we'd be filling as part of the application – we require a net fill of 23,000 yards – that includes the excavation that were going to do in this area to prepare for the faculty housing and intend to the use some of that for the preparation of the pad site for the facilities building – a total of 12,000 yards of earth moving would be going on during that operation; so they are not going to trucking material off the site in order to build the project.

Mr. Joyce explained they have two detention basins – one to divide and concur the drainage a little bit so it's a little bit large basin – the natural divide of the water shed for this area is roughly in this are through here (shown on the plan) and we've kept that so what drains through 68 today is going to the same area – that's an area that's paved in different ways – they've done a lot of millings over the years to stabilize the driveway – they had a hard time maintaining that use given that the property owners having to share that use – we've met with them – we've pulled the driveway away from there to give them

move green space away from their houses – they were pleased to hear that this would be a road maintained by the academy and no longer by them.

Mr. Joyce continued to show on the plan the location of the natural depression; he also showed the location of the eastern limit of grading and that they'd bring the building right up to the toe of the slope with drainage capabilities but we are not looking to eat into the vegetation that's on the hill – he said there was concern at one point about losing some natural buffer on that slope – but they are not touching that area.

Mr. Joyce talked about the location of the vegetation in the area shown on the plan and what areas would remain untouched.

Mr. Joyce said the project area of disturbance is about 7.5 acres of much is isolated as shown on the plan; he talked about a ropes course area on the site that is going to be removed as part of this property.

Mr. Joyce said they did have meetings with the applicant and the abutting property owners prior to the application to make sure they are on board; these are easement modifications that to happen – and the connection to the sewer main is actually on the adjoining property owner's (property) – they have submitted consent letters for both the activities on private properties; he said as part of the application they receive back from Cheshire Hillside Village that they do have CHFA approval of that easement to make that connection through the wetlands.

Mr. Joyce talked about the timing of the approval paperwork which might not be until after the approvals are granted – they can obtain a letter for Planning and Zoning should they require one and WPCA for the conditional approval until the deed is executed.

Mr. Joyce asked Mr. Root to come up and present his information about the wetlands.

Mr. Root addressed the Commission.

Mr. Root said he prepare an original wetland delineation report for this project on March 28 and then submitted an addendum dated May 3 which he included with some photographs of some of the areas that the Commission had asked about.

Mr. Root said as Mr. Joyce had indicated the first thing he did is rehang some wetland flags along Honey Pot Brook so the Commission could get a look at the boundary there and now if you've been in the field the flags WA1 to WA18 match up with the prior delineation that goes all the way up and around the pond.

Mr. Root said there's a nice watercourse area – there's vegetative wetlands shown in the photographs submitted; it's forested in places - there's a lot of Skunk Cabbage and Spice Bush and Red Maple and American elm trees and other shrubs.

Mr. Root said his first activity was to reflag the wetland boundary along Honey Pot Brook; the second activity that he undertook was to go through and re-explore the area along Academy Road and Mr. Joyce was saying from the time he was there originally and this time CONN DOT had done a lot of work along there and fixed all the drainage that was there and the result of that was the creation of a rip rap swale parallel to the road – to goes from a corrugated metal pipe that's right on Route 68 on the road and down into the culvert that then goes under Academy Road to another wetland area to the south.

Mr. Root said the last time he was there – there was water flowing through there and if you go to the east up the hill along 68 you'll come to a couple of driveways and then you'll see a small wooded swamp to the north of the road with a raised catch basin in there; he explained the cleanup of that area by CONN DOT and the result was the release of pent up waters from the wetland area which is just off the map to the east; the said when he was there – there was flowing water going through this armored rip rap swale.

Mr. Root said the question becomes is this short section between the two corrugated metal pipes qualify as an intermittent water course and he said he thinks he testified a few times before this Commission was the most tedious tasks that a soil scientist can get involved in is trying to decide what's an intermittent watercourse and what is a real and try to explain that to the Commission in a way it makes any sense.

Mr. Root explained the statue that contains a three part definition for intermittent watercourse which the idea is which that the channel that they try to identify had some connection to an underlying ground water system so it flows for longer than just a storm event –

it's not a run off channel that actually has some ground water connection and as a ground water connection that allows some hydric soils to develop and hydrophilic vegetation to take hold as well.

Mr. Root said it was difficult to judge this channel the first time he was there – before this work was done and it was all dry in there – it was not an intermittent watercourse – there was no channel in there at all – it looked like runoff from catch basins on the road – and now that the work has been done it's a rip rap channel so it's not flowing now; there is no hydrophilic vegetation or hydric soil but there is occasional flow after a storm event – how do you judge that.

Mr. Root state in his professional opinion he would not consider something like that to be an intermittent watercourse although he stated in his report often times you find areas naturally occurring between wetland A on the roadside and wetland B even though its south of the roadside – there is the possibility that you could begin to make connection between those which is the idea behind intermittent watercourse.

Mr. Root said you can make a connection but the Commission is qualified as anyone else to make that delineation – it's not a delineation that soil scientist are required to do – an ecologist can do it as well.

Dr. Dimmick said he thought our (the Commission's) question had not to do with that but rather with the small area immediately north of the culvert – not the one south of the culvert – north of the culvert where you've got saturated soils and hydrophilic vegetation – a very small patch of it.

Mr. Root said he didn't flag it as an intermittent watercourse and he would argue that it should not qualify as an intermittent watercourse.

Mr. Root said the next area he looked at in detail was a small trough – it's about 20' by 20' roughly from the cross culvert under Academy Road to the north to where there's a big Maple tree in that area; as his photographs show and as pointed out there are a few Skunk Cabbage plants in there and there are a few Soft Rush plants in there as well so there are some sparse hydrophilic vegetation there; he said now if you go down the Knot Weed is coming in and will strangle all those plants out; he said when he was there last year – he was in this area auguring looking for this because John Milone

said to him it looks like there's standing vegetation in there – it looks like its wetland vegetation – it was Phragmites or Cat Tails – it was not it was Japanese Knot Weed which is an upland plant.

Mr. Root said he didn't find any wetland soils the last time he was in that area; since the construction work has been done there has been a lot of spoils cast aside and as his photographs show and he described before when CONN DOT did those improvements to the drainage work they let a significant amount of water flow through and it stayed there quite a while – and there was a standing pool of water right at the inlet as the photographs show to the cross pipe so the soils that we are talking about now which are in a 20' by 20' up towards the tree – we are quite saturated and he was auguring in there and they are somewhat dark – it is able to support some hydrophilic vegetation when it was saturated when all the water was backing up there.

Mr. Root stated in his opinion it's a very disturbed soil – it's not a naturally occurring soil so if you wanted to map it you'd put it over into the Aquent – its disturbed – it could be called an Aquent soil because it was saturated at the time and it is able to support some hydrophilic vegetation.

Mr. Root said so the question comes down to does one Skunk Cabbage plant make a wetland or do you need something a little bit more than that.

Mr. Root said his general rule of thumb in areas like this that are disturbed that are essentially features that are a part of a roadway drainage system that don't have a physical link to another wetland system and are of such small size and of very significant wetland functions and values he tends not to flag those areas as wetlands as being very, very small and without a connections to other wetland areas.

Mr. Root said when he was out there he did mark the area could be considered an Aquent soil for the Commission – he said he had 4 flags in there and when they tallied it up it was about 20' by 20' about 400 SF.

Mr. Root stated in his professional opinion it would be to not to include it as a wetland soil or wetland area for the reasons that he stated – others might have a different opinion. He said he didn't think you'd have a different opinion about the functions and values

of the area or what contributions its making to wetland resources in the area but as far as the definition between me and the chairman its qualifying as a wetland area – there is some area for interpretation; his interpretation would be no.

Chairman de Jongh said one of the things that we're going to ask you to do Bill and if you don't feel comfortable doing it what this Commission may want to do is to hire an outside soil scientist paid for by the applicant but we need to get to ask this Commission to make a determination as to what is or isn't a wetland soil is well out of our purview; so we are going to put you or someone we hire at your expense to say definitively it is or it isn't and we need to get that piece on the record clarified professionally either by yourself or by someone else.

Chairman de Jongh said it's been somewhat evasive up to this point and he understood the topography changes or what have you but nobody up here on this side of the table is a soil scientist.

Mr. Root said he provide his conclusion that the area is too small and isolated for most soil scientist to consider including it with an intensive survey delineation work.

Mr. Root stated in his professional opinion it would not to include it a wetland delineation for purposes of an application like this.

Chairman de Jongh thanked Mr. Root.

Dr. Dimmick asked if we still have a state soil scientist.

Mr. Root said there is a state soil scientist now.

Dr. Dimmick said as an alternative to what the chair is saying he might be satisfied with a statement from someone stating that's standard policy = we have you (Mr. Root) stating that but if we had something one definitive from someone else with some kind of authority that that is the standard for delineation – it might help a little bit.

Dr. Dimmick commented on state law court decisions and countering testimony only with expert testimony.

Mr. Norback said if Mr. Root's opinion is more definitive and there have been some vagary here then we could accept it or are we struggling with the vagueness of it.

Dr. Dimmick said the problem is some experts would look at it and say it is a wetland and some would say it isn't a wetland.

Chairman de Jongh said the area in question is a small area and he didn't know how much impact it was going to have on the overall project. He said what he is struggling with is the vagueness of the commentaries that have been made up to this point – he said if they had a professional opinion and Mr. Root being a professional was willing to give us an opinion whether or not it is or it isn't he'd be satisfied.

Mr. Norback said that's what he's getting at and one of the challenges is as Mr. Root stated is some of the disturbance as of late is difficult – he said he would encourage a definitive statement from a certified soil scientist which we have one right here and everyone would feel better.

Dr. Dimmick said he would state his own opinion and say the area is of extremely low function and value as a wetland; if it is a wetland it's certainly not a very good one.

Mr. Joyce said speaking on behalf of the applicant and in an effort to move this forward – given the need for the alignment of the road and the area being impacted here and understanding Mr. Root opinion, he had no objection identifying this area as a regulated- as a wetland area for the purpose of moving the application forward in the right way to advance this; it's understood this is the alignment they have to pursue; the understand it's been a disturbed area; we agree that there's a low functional value to this area and what they are going to actually do is clean up this area – he said on behalf of Cheshire Academy he took no exception in moving forward and identifying the area that's been flagged in the field as regulated activity so we can move things forward; he said he didn't know how much they'd move forward with a third party determination with an area of such low function and value.

Chairman de Jongh thanked Mr. Joyce for his candor and said they'd move forward assuming that it's a regulated wetland and have that as part of our conservations.

**Dr. Dimmick said he wanted to get a statement from Bill that further investigation soil going up to where the building is going to be didn't show any wetland.**

**Mr. Root explained one of the areas he explored and that upon investigation he didn't find any there but did find a Yalesville's soil – red, sandy, shallow to dense contact – that's what this was; it's very, very dry.**

**Dr. Dimmick said we need to get that on the record.**

**Chairman de Jongh said he didn't see a need to keep the public hearing open on this but wanted to receive the calculations of what Mr. Root thought the impact was going to be as this project moves forward. He said apart from that he didn't think they were mission something.**

**Ms. Simone said they needed the square footage amount.**

**Mr. Joyce said we didn't have it on the plan but he thought the square footage amount was originally 350 SF of that area.**

**Chairman de Jongh closed this portion of the public hearing.**

## **VI. ADJOURNMENT**

**The public hearing was adjourned at 9:24 pm by consensus of Commission members present.**

**Respectfully submitted:**

**Carla Mills  
Recording Secretary  
Cheshire Inland Wetland and  
Watercourse Commission**