

Town of Franklin



Conservation Commission

**October 19, 2023
Meeting Minutes**

As stated on the agenda, this meeting is available to be attended in person and via the Zoom platform. In an effort to ensure citizen engagement and comply with open meeting law regulations, citizens will be able to dial into the meeting using the provided phone number, or citizens can participate by using the Zoom link provided on the agenda. This meeting will be held in the Council Chambers, second floor of the Municipal Building, for citizens wishing to attend in person.

Commencement

Vice Chair Meghann Hagen called the above-captioned meeting to order this date at 7:00 PM as a remote/virtual/in-person meeting. Members in attendance: Jeff Livingstone, Jeffrey Milne, Richard Johnson, Michael Rein, Meghann Hagen, Mark LePage. Absent: None. Also present: Breeka Li Goodlander, Conservation Agent; Tyler Paslaski, Administrative Assistant.

Note: Documents presented to the Conservation Commission are on file.

Ms. Hagen thanked Ms. Goodlander and the DPW for today's event held at DelCarte which was a cleanup of the turtle nesting habitat. Chair Livingstone will be arriving later in the meeting.

GENERAL BUSINESS

Minor Buffer Zone Activities: 37 Elm Street

Mr. Ken Steinhardt of 37 Elm Street addressed the Commission. He reviewed that they are looking to put in a shed on the property and to elevate it slightly with a concrete base.

Ms. Goodlander stated that she has no concerns. She stated that it is an existing disturbed area; it is within 50 ft. to 100 ft. to the wetland area.

There was a motion made by Mark LePage to approve the Minor Buffer Zone Activity for 37 Elm Street. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-1. Roll Call Vote: Johnson-Yes; Milne-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

Minor Buffer Zone Activities: 57 Daniels Street

Ms. Lynn Davis of 57 Daniels Street addressed the Commission. She said her request is to modify the buffer zone. She said she has two large trees exceeding the roof line/peak. She said an arborist looked at them and recommended they come down. She said that if the trees fall down, they will come down on the house. She said there is another tree with branches reaching into windows of the house. She would like to take that tree down as well.

Ms. Goodlander stated that she had no concerns. She noted that the arborist stated that the trees were hazardous. She noted that the wetland boundary is actually about 25 ft. to 30 ft. to the east of where the Xs are, so these trees are within the 25 ft. to 50 ft. buffer zone; the wetland boundary has shifted. She said

the conditions include stumps left in place. Ms. Goodlander and Ms. Davis said they would be left 6 ft. high. Ms. Davis said the trees are a little threatening right now.

There was a motion made by Richard Johnson to approve the Minor Buffer Zone Activity for 57 Daniels Street. The motion was seconded by Mark LePage and accepted with a roll call vote of 5-0-1. Roll Call Vote: Johnson-Yes; Milne-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

PUBLIC HEARINGS

Public Hearing – ANRAD – 1 Paddock Lane

Ms. Goodlander stated that the applicant requested a continuance; they are waiting for the survey data.

There was a motion made by Richard Johnson to continue the public hearing for the ANRAD for 1 Paddock Lane. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-1. Roll Call Vote: Johnson-Yes; Milne-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

Public Hearing – NOI – 100 Financial Park

Ms. Connie Lu of Highpoint Engineering (via Zoom) on behalf of the applicant addressed the Commission. She shared her screen and provided an update. She stated that they were last before the Commission in September. Since then, they went through BETA's peer review letter. She said the only outstanding item is stormwater. She said they are in the process of stormwater and traffic review and revisions with the Planning Board and BETA. She said they are getting close on stormwater. She said they are submitting their next set of plans tomorrow morning; they should have an update to the Commission within the next week. She gave an update on the changes which she said are minor overall. She said she does not expect any changes to impacts in the resource areas. She reviewed stormwater changes and said they are making the raingardens easier to maintain and have more storage. She said they have received traffic comments regarding the site entrance. She said these are fine details that she does not think will impact the buffer zones. She said if there are any changes, she would submit a revised summary for the areas. She said once the stormwater and traffic changes are wrapped up, she will submit updated plans to the Commission.

Ms. Goodlander said she had no comments.

There was a motion made by Mark LePage to continue the public hearing for the NOI for 100 Financial Park to November 2, 2023, at 7:02 PM. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-1. Roll Call Vote: Johnson-Yes; Milne-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

Public Hearing – NOI – 15 Liberty Way

Ms. Goodlander stated that the applicant requested a continuance. She said the applicant approved Ms. Goodlander providing an update. She said the applicant is looking to replicate and or restore some wetland features on an existing town-owned sewer easement so she had suggested the applicant contact the water and sewer department to ensure that any replication or restoration on a sewer easement would be feasible. She said they did a site walk, and she included an email correspondence to the Commission members. She said that DPW was not comfortable with them replicating or planting any woody vegetation within the actual limits of the sewer main on the periphery of the easement. She said it would have to be mow-able vegetation. Ms. Hagen asked if there are other locations on the site that can be looked at for restoration. Ms. Goodlander said potentially, but it may impact other existing resources. She said that is something she can pass back to the applicant.

There was a motion made by Richard Johnson to continue the NOI for 15 Liberty Way. The motion was seconded by Mark LePage and accepted with a roll call vote of 5-0-1. Roll Call Vote: Johnson-Yes; Milne-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

Public Hearing – NOI – 0 Upper Union Street Solar

Ms. Colleen DeBenedetto of Valta Energy, on behalf of the applicant VS Union Solar Smart LLC, addressed the Commission. She stated that she wanted to provide an update and request a continuation of the hearing.

Mr. Andrew Thibault of Goddard Consulting (via Zoom) provided an update. He stated that on September 28, he met Ms. Goodlander and Mr. Jonathan Niro of BETA on the site to review the wetland delineation. He stated that they revised a few flags at the pinch point on the roadway. He stated that the 25 ft. buffer zone that they are working with at their pinch point, the road that is going in between, would have a little bit more of an encroachment now. He said so, they are working to find a few more areas of mitigation. He visited the site this week to review to maintain the 2:1 ration of mitigation. He said they intend to attend the next Commission meeting with significant discussion and revised materials.

Ms. Goodlander had no comments.

There was a motion made by Michael Rein to continue the NOI for 0 Upper Union Street Solar to November 2, 2023, at 7:04 PM. The motion was seconded by Richard Johnson and accepted with a roll call vote of 5-0-1. Roll Call Vote: Johnson-Yes; Milne-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

Ms. Hagen stated that Chair Livingstone wanted to attend any public hearing that was not being continued. Ms. Goodlander explained the legend on the agenda as to what items are being continued as requested by the applicant. Ms. Hagen confirmed that the Commission could go out of order regarding the agenda items. Ms. Goodlander noted that Chair Livingstone indicated he would be arriving in about 20 minutes.

Public Hearing – ANRAD – 124-126 Grove Street

Ms. Goodlander stated that the applicant requested a continuance. She stated that the applicant should have been out surveying this week or early next week.

There was a motion made by Mark LePage to continue the ANRAD for 124-126 Grove Street to November 2, 2023, at 7:05 PM. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-1. Roll Call Vote: Johnson-Yes; Milne-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

Public Hearing – ANRAD – Tri-County Regional Vocational Technical HS

Ms. Goodlander stated that the applicant requested a continuance. She stated that BETA provided a peer review letter.

Mr. Jonathan Niro of BETA Group addressed the Commission and provided an update. He stated that they conducted their site visit at the school earlier this month; it took about two days to finish the entire ANRAD. He noted the location of the property off Pond Street. He said the property is fairly built out with buildings, fields, and parking lots. He said that interspersed are wooded areas and wetland complexes, which are provided hydrology by stream courses as well as drainage outfalls that funnel stormwater into these wooded areas. He stated that largely, about 80 percent flagged they concurred with. He said there were a handful of flags that they noted in the report that they have recommended moving upgradient from the current location. He noted they observed what they believed would qualify as an additional stream that was not picked up. He said it was almost entirely within a wooded area of the site.

He discussed the location. He said they found some fringe wetland along a segment of the stream course which they identified as features that should be delineated and flagged in the field. He stated that they looked at the eastern end of the site which there is a solar field that was put in around 2016. He said much of the permitting predates BETA's involvement working with the Town Planning Board and Commission. He said based on the site visit that this area was sort of written off as having some non-jurisdictional stormwater features. He said they were able to walk around the arrays and that area, and they found significant areas of standing water and very established hydrophytic vegetation and very wet species growing out from under the arrays and standing water up to 1 ft. deep and clearly developed depleted hydric soils. He said those were located along the majority of the rows of panels. He said they also observed larger and deeper areas of standing water at the south end of the arrays. He reviewed the areas in the southern areas and explained what they consider a fairly sizable emerging wetland well vegetated with cattails and soft rush. He stated that they did hear a call from a wood frog which are indicator species of vernal pools. He stated that there was a swale connecting to that draining the area which would be a stream connecting to what they feel is a vegetated wetland. He stated that they noted the observation in the solar field. He said the applicant can provide evidence that these were constructed as stormwater features in accordance with MassDEP stormwater handbook. He said that given the age of the development, these could be considered non-jurisdictional under the Act but still jurisdictional under the bylaw. And without that evident, they would likely be jurisdictional under both the Act and the bylaw, at least that area at the southwest. He stated that they observed similar conditions in the north and northwest along the fence line. He noted a possible discussion with the applicant regarding the moving of flags and a detailed discussion regarding the solar area if the applicant wishes the ANRAD to cover the entirety of the property. He said that at the applicant's request, BETA submitted an amendment of the scope. He said BETA will go out for a day with the applicant to take a look at all the areas and hope to come to an agreement. He requested the applicant submit any information they have on the history of the development of the area. He said they found the plans to be generally administratively complete. He said they wanted clarification on a handful of areas and the solar array area.

Commission members asked questions. In response, Mr. Niro stated that the applicant had indicated some of the areas were designed as stormwater basins; however, if that was not included in the report and he was just walking around the area, they look like fairly established wetlands. Ms. Goodlander reminded the Commission that this is an ANRAD. Mr. Niro reviewed regulations regarding jurisdictional and non-jurisdictional areas for both the Act and bylaw.

There was a motion made by Richard Johnson to continue the ANRAD for Tri-County Regional Vocational Technical HS to November 2, 2023, at 7:06 PM. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-1. Roll Call Vote: Johnson-Yes; Milne-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

Vice Chair Hagen called for a six-minute recess.

Chair Livingstone entered the meeting.

The meeting resumed at 7:47 PM.

Public Hearing – RDA – 121 Grove Street

Mr. John Shipe for Fairfield Residential and Mr. Chris Lucas of Lucas Environmental addressed the Commission. Mr. Shipe stated that they would like to perform some soil investigations on the property. He said it is about 30 acres of land with a farmhouse and formerly agricultural use land. He said they all walked it in the spring, and a resource area delineation was issued in May of this year. He said around mid-June he spoke with Ms. Goodlander that they wanted to do some test pits in the anticipation of

potentially developing the land. He said they were asked to file an RDA which they did in early July. He said they were before the Commission in July at a hearing. He said then the developers needed to address some other permitting concerns which have been resolved; therefore, they now want to resume the conversation. He said that in late August/September they submitted some supplemental information, and a peer review was performed; they responded to the peer review. He said that their hope is to get the Commission to agree, so they can move forward in performing the test pits.

Mr. Lucas provided a summary. He said the RDA was filed July 6, and they received initial comments from Ms. Goodlander which they responded to. He said they filed a supplement on September 26 to provide additional information including identifying the approximate location of six intermittent streams that were not previously delineated; they are now shown on the plan. He stated that they have also identified the access routes shown on a separate plan. He said they received BETA's comment letter dated October 4 which they responded to and addressed their comments. He reviewed the provided plans and discussed and pointed out the resources and buffers of the wetland systems. He reviewed the test pit locations and noted their relation and distance to wetlands. He showed and reviewed the test pit access plan. He noted that they will not be clearing vegetation or damaging any wetlands areas. He stated that they are proposing the use of a rubber track mounted excavator. He noted that if needed, they can adjust slightly the test pit areas in the field for instance to avoid a large diameter tree. He addressed BETA's technical comments as provided in their response. He noted that they are formally requesting a variance from the bylaw regulations for the test pit work to cross the wetlands and to cross the 25 ft. no-disturb zone. Regarding the location, he explained that there is no other way to get up there; this is the best location to cross because they are not altering vegetation. He stated that they believe they have satisfied all BETA's and the Commission's comments; they hope to receive a determination this evening. He reminded the Commission that the test pits are so they can complete the design for the NOI for the project.

Commission members asked questions. In response, Mr. Shipe reviewed that the test pits will inform the design. He said that if there was an area where a large stormwater basin would be constructed, there may need to be two test pits in that area. He said that they develop projects and that they like to have a mix of infiltration and basins rather than a very large basin for the stormwater management system. He said that this requires pockets of multiple test pits. He stated that the rubber track machinery is the least impactful. Mr. Lucas said that according to BETA, there are six intermittent streams not yet flagged. He showed them on the map. Ms. Hagen explained that previously, the Commission has required applicants, including residents, to flag all resources.

Mr. Johnson confirmed this was just for test pits. He stated that there is an abundance of delineation of where the wetlands and streams are to accommodate the test pits; as the project goes forward after the test pits, it is needed that all these things are marked on the plans. He said the plans are quite thorough as to where things are. He stated that doing test pits is something the Commission should look favorably on.

Chair Livingstone stated that historically the Commission has asked applicants to delineate all resources; mainly this is to create a consistent record between the ORAD and the delineation such as if there are any additional parties in the future. He said there is the tendency to err on the side of caution in terms of more delineation as opposed to less delineation. He said that standing back arm's length from this project, the Commission tries to have a balanced perspective and tries to understand what the applicants are trying to do. He stated that in this case, the Commission does understand that it is mid-October, winter is coming, construction needs to start, and this has gone a couple of months longer than the applicant had originally planned. He stated that the Commission is mindful of this, so there was an independent discussion about process, and if there is something we can do administratively or some sort of modification to meet the

needs of the Commission without asking the applicant to defer another two weeks and then come back to another meeting. He stated that there was an idea proposed by Ms. Goodlander that we think we can do.

Ms. Goodlander discussed the idea that she receives administrative approval from the Commission and that the applicant shall delineate the intermittent streams as identified in the ORAD and required in the ORAD for any future permit filings prior to the start of work. She stated that the Commission could do a negative determination with conditions. Ms. Goodlander reviewed that the applicant would delineate, and she would get a plan, and then she would review it. She stated that it is the applicant's project, but she is fine going out and just reviewing. She stated that she trusts Mr. Lucas to identify these streams and delineate them accurately. She stated that the streams need to be on the plan, so they would have a complete finalized plan.

Chair Livingstone stated that this is what the Commission came up with, but they do not know if it will work for the applicant. Mr. Lucas stated that if we have to review, survey, and put it on a plan, we are looking at a couple of weeks. Mr. Shipe said that it sounded like walking it on Friday and start working on Monday; however, if what the Commission's expectations are is that it gets flagged, then a surveyor visits the property, locates the locations, and plots it, that is multiple days. He stated that instead, if it is Mr. Lucas walking out there with colored tape and hanging the flags, and Ms. Goodlander going in later in the day and saying that looks good, that is great.

Ms. Goodlander asked if the applicant had a Trimble unit. She said it could happen in a day; the applicant could go out in the morning, flag in GPS with a Trimble unit and R1 unit, and she could go out in the afternoon and review, then it could be reflected in a plan. Discussion commenced on the proposed idea. Mr. Lucas noted that these are only test pits. He suggested a condition could be warranted that the streams would be delineated and flagged for a future filing as they plan to file a future NOI.

Chair Livingstone reviewed the objective. He stated that it does make sense what Mr. Lucas is suggesting because we are looking for consistency with the ORAD and to allow the applicant to get the work started. Commission members agreed. Ms. Hagen noted two intermittent streams relatively close to where the test pits are. She asked if the applicant could flag those to ensure that no resource areas are touched. Mr. Lucas explained that they would be 50 ft. to 70 ft. to 75 ft. from the stream. Ms. Hagen said that it should be clearly conditioned that it will be delineated through the NOI process. Mr. Shipe said they fully understand that. Ms. Goodlander confirmed the conditioning language. She said that she recommends the applicant provide documentation as part of this RDA for the previous test pits that were unpermitted to bring the applicant into full compliance.

Mr. Shipe explained that previously they did 15 or 16 test pits early summer/spring 2022 that provided an idea of where they found ledge, types of soils, and groundwater.

Ms. Goodlander read aloud the condition:

- The precise locations of the Intermittent Streams and associated inland Bank and Land Under Water north of flag BF2-74; east of BF2-2; east of flag WFA-69 and south of flag BF1-104; east of flag WFA-65; south of flag WFA-109; and east of flag WFB-64 were observed in the field by the Franklin Conservation Commission and are not included on the plan dated April 3, 2023 are not approved or verified through the Determination of Applicability. These Resource Areas shall be identified and/or approximated on any future permitting plans relating to a notice of intent.

Discussion commenced regarding that the Commission expressed concern over excessive tree removal. Ms. Goodlander provided and discussed two condition options regarding tree removal. Mr. Shipe requested clarification. Chair Livingstone reviewed the tree removal process and condition.

Ms. Goodlander read aloud additional conditions:

- The Applicant shall identify all trees of more than three-inch caliper throughout all access routes, once confirmed, as noted in the Lucas Environmental, Inc. "RDA Supplemental Letter #2" dated October 11, 2023. The residing engineer/wetland scientist or person conducting the test pits shall be onsite during all scheduled work to confirm that trees of more than three-inch caliper are not removed to the best extent practicable.
- The Applicant shall seed and stabilize all test pits areas with New England Plant Conservation/Wildlife Mix, as noted in the Lucas Environmental, Inc. "RDA Supplemental Letter #2" dated October 11, 2023. If the proposed seed mix changes, the Applicant shall notify the Conservation Agent immediately.
- The Applicant shall notify the Conservation Agent prior to any necessary vegetation removal within the 25 ft. "No Touch Zone". Per Lucas Environmental, Inc. "RDA Supplemental Letter #2" dated October 11, 2023, no vegetation removal is proposed within the 25 ft. "No Touch Zone", but is included in the Variance Request should it be required.
- The Applicant shall notify the Conservation Agent immediately should the number of test pits proposed on the Test Pit Access Plan prepared by RJO'Connell & Associates, Inc. dated June 23, 2023, increases or shifts into the 25 ft. "No Touch Zone". The Applicant should refrain from continuing work until receiving approval from the Conservation Agent. The Conservation Commission grants the Conservation Agent administrative approval to accept and approve any proposed changes.
- The applicant shall provide documentation for the unpermitted test pit work that occurred in 2022 prior to the start of work.

Chair Livingstone said that he thinks all those conditions sound good. Mr. Shipe asked questions regarding the conditions. He said they were okay with the conditions.

Mr. Shipe said about 20 minutes ago there was talk about an administrative type of approval that was a segue toward our starting pretty quickly and asked if that was still going on. Ms. Goodlander said, to clarify, once the Commission votes a negative determination for the RDA, the applicant can feasibly start immediately; there is no administrative approval for accepting a plan that has been delineated because we have moved past that situation. She said the only time-sensitive condition was that she just receive that documentation. She confirmed that she wants the old test pit documents before they start work to bring the applicant to compliance.

There was a motion made by Mark LePage to close the public hearing for the RDA for 121 Grove Street with conditions as stated. The motion was seconded by Richard Johnson and accepted with a roll call vote of 6-0-0. Roll Call Vote: Livingstone-Yes; Johnson-Yes; Milne-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

There was a motion made by Jeff Livingstone for a negative determination for the RDA for 121 Grove Street with conditions as stated. The motion was seconded by Michael Rein and accepted with a roll call

vote of 6-0-0. Roll Call Vote: Livingstone-Yes; Johnson-Yes; Milne-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

Public Hearing – NOI – 3 Mount Street

Ms. Amanda Cavaliere of Guerriere and Halnon (via Zoom) addressed the Commission on behalf of the applicant. She stated that since the last hearing, they received BETA comments and she provided a response letter. She said it appears that all except three items were addressed; those three items they would like to defer to the Commission for further discussion and conditional approval. She reviewed the three items. She discussed the first item regarding updating the existing conditions on the plan. She shared her screen and explained that they did an update on lot 4. She noted some trees that had been removed near the septic field; they have been removed from the existing conditions plan. She said there are no trees to be removed in the leach area. She said they will stake out the limits of the septic system in the field before its constructed to make sure there are no impacts in areas beyond showing on the plan. She reviewed that the second comment relates to the construction schedule. She said they plan to have erosion control staked out and inspected before construction starts; she requested conditional approval on the schedule and to be able to provide that once they have a contractor assigned to the project. She discussed the third BETA comment associated with the alternatives analysis provided with the application packet. She said BETA deferred to the Commission to make sure the information provided was adequate.

Ms. Goodlander said she had no comments. She read aloud recommended conditions for approval.

- SC20 Erosion Control Barriers
- SC21 Extra Siltation Barriers
- SC22 As-Built Plan
- SC24 Work Performed According to Plan
- SC25 Referencing Order of Conditions
- SC26 Provision of Plans and Order of Conditions
- SC27 Approved Changes
- SC28 Notification Prior to Work
- SC29 Right to Impose Additional Conditions
- SC30 Errata as Changes
- SC31 Compliance Contact Information
- SC32 Weekly Monitor Reports – this is bi-monthly/every other week monitoring reports
- SC33 Use of Clean Fill
- SC34 No Straw Bales
- SC35 Stockpile Maintenance
- SC36 Cleaning Vehicles
- SC37 Remedy Upon Problem Identification
- SC38 Barrier as Limit of Work
- SC39 Limit of Work Marked
- SC40 No Construction Materials
- SC41 Inspections and Disposal of Sediments
- SC44 Removal of Barriers
- SC46 Stockpile Location
- SC47 Removal of Sediment
- SC48 No Refueling
- SC49 Emergency Repairs
- SC50 Leaks and Spills
- SC51 Building Permit Sign-Off, with a scheduled pre-construction meeting to be held in conjunction with SC20

- SC52 The Applicant shall provide a revised existing condition plan to reflect current vegetative cover on Lot 4 to the Conservation Agent prior to the start of work.
- SC53 The Applicant shall provide a Construction Sequence and Schedule, including requirements of the Town of Franklin Wetlands Protection Bylaw and associating Regulations, and receive approval thereof from the Conservation Agent prior to the start of work.

Ms. Cavaliere said it sounds good.

There was a motion made by Mark LePage to close the public hearing for the NOI for 3 Mount Street. The motion was seconded by Michael Rein and accepted with a roll call vote of 6-0-0. Roll Call Vote: Livingstone-Yes; Johnson-Yes; Milne-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

There was a motion made by Mark LePage to approve the NOI for 3 Mount Street with conditions as stated. The motion was seconded by Michael Rein and accepted with a roll call vote of 6-0-0. Roll Call Vote: Livingstone-Yes; Johnson-Yes; Milne-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

Public Hearing – NOI – 0 Bent Street

Mr. Chris Lucas of Lucas Environmental addressed the Commission for proposed work to include the construction, operation, and maintenance of a telecommunications facility and associated access within the 0- to 25-ft., 25- to 50- ft., and 50- to 100-ft. buffer zones to BVW and vernal pool. He stated that attending the meeting via Zoom are Mr. Steven Kelleher, owner/applicant of KJS Realty, Inc., and Mr. Ben Messersmith of ProTerra Design Group, LLC. He stated that a MassDEP file number has been issued. He said that DEP has no comments on this project. He showed and explained the location of the site/project. He said the site is primarily developed. He stated that they completed delineation. He showed and reviewed the BVW and isolated vegetated wetland areas on the property. He noted the remainder of the site is forested upland. He reviewed the erosion control plan. He stated the compound area is 3,600 sq. ft. and would have a 6 ft. chain link fence. He stated the proposed tower is a 190 ft. tall galvanized steel structure; with the lightening rod, the structure is 197 ft. tall. He said that any equipment will be located within the fenced compound area. He stated that access would be a 12 ft. long gravel driveway with a turnaround. He stated that electrical power is required for the site which will be with an overhead transmission line. He said there will be minor tree clearing on the project. He reviewed the proposed stormwater management system. He explained the location of the buffer zones. He said all of it was located outside the 100 ft. buffer zone. He noted a little work within the buffer to wetland A. He said they have roughly 8,500 sq. ft. to the buffer zone in impact for a total of 68,000 sq. ft. of buffer zone on the site. He said there is no work within any wetlands; they are solely limited to the buffer zones. He said there was no work within 25 ft. of a resource area. He noted that for the alternatives, they are limited to where they can get into the site which he pointed out on the plans.

Commission members asked questions. In response, Mr. Lucas and Mr. Messersmith reviewed the location and amount of work proposed in the 25 ft. to 50 ft. and 50 ft. to 100 ft. buffer zones. Mr. Lucas said the total disturbance in the 100 ft. buffer is 8,545 sq. ft.

Ms. Goodlander said she is still working through the NOI review. She asked that the impacts be broken out on the impact resource summary sheet. She said she would like to note that the Commission usually conditions no straw bales; she noted biodegradable compost socks. She noted that under local bylaw, flood plain, that is ILSF or BLSF, does have a buffer. She said she thinks the applicant is outside of that but asked language be put in the NOI for proof that it is outside of potential work. She recommended continuance.

Mr. Milne asked about water issues on Bent Street and noted a previous applicant in the area. He stated that the town was going to look at a culvert. Mr. Lucas stated that they fully meet the stormwater management standards which will be confirmed by BETA. Mr. Messersmith stated that the real impervious area of around 1,300 sq. ft. is within the fenced compound; they will be providing groundwater recharge and addressing stormwater runoff. Ms. Goodlander said there has been identified a historic drainage infrastructure for Emily Drive to the south, and there is a cul-de-sac on the north end of Bent Street, but they are not town-owned infrastructure.

Mr. Romuald Zulawnik, 95 Bent Street, stated that his bedroom is going to be right across the street from where this is. He provided three pages of photographs showing flooding. He said there has always been water on Bent Street, and more was added when Emily Street was put in; all the water flows into his house. He said he does not know how this project is going to make life better for him and his neighbors. He said he does not know how the applicant can do something like this without making the water worse. He described how bad the water around his house gets. He discussed a pipe under his and his neighbor's property; he is concerned how heavy equipment is going to go over this pipe without damage to the pipe. He said if the pipe is damaged, it will make the situation worse. Ms. Goodlander said she can have Derek look at it. She reviewed that when the roads were constructed, there was never any legal agreement or easements; it is a historic problem. She said Bent Street is a town road now. Mr. Zulawnik explained the location of the underground concrete culvert under his driveway on his property. Ms. Hagen asked if Mr. Lucas has noticed the cement pipe at the entrance of the lot. Mr. Lucas said he has not been on the site; another member of his office has been there. Mr. Kelleher said they could do something to protect it; either encase it or put a slab of steel over it during construction. Mr. Lucas noted that they have Zoning Board of Appeals approval for the project as well.

Ms. Goodlander discussed a crane situation in the area. She said the operators of the crane did not realize there was a septic because it was not on the plan. She said that if you bridge it and protect it, it is less likely to happen. Mr. Kelleher said they could talk about a possible permanent solution to encase it to address the integrity of the culvert.

Ms. Gail Perciaccante, 20 Emily Drive, asked how the ZBA already approved this. She questioned that the residents are supposed to get notification of ZBA hearings through an abutter's list. Ms. Goodlander said she does not know about the ZBA procedures. She suggested contacting the building commissioner or ZBA chair. Ms. Perciaccante said this project is not in a designated wireless communications zone and she is wondering how it was approved.

Mr. Jason Haynes, 6 Emily Way, asked what are the future plans such as more towers being built. He said he thinks the area is a lot more wet than what is being shown. He described walking in the area and said he is concerned about building and heavy machinery in those spots as there is a lot of water back there. He said he is also concerned about water runoff and said he also was not contacted by the ZBA. Ms. Hagen said one tower is proposed at this time; any future towers would have to go through the same process of approval.

Chair Livingstone explained abutter notifications and location of abutters.

Mr. Kelleher stated that he owns the land and when he bought it, he was thinking of three house lots. He then talked with the town about building a tower to handle in one place all the town's communication systems. He said the project has been approved for a couple of years. He said the town will have exclusively the top 40 ft. He discussed how he purchased the property and said they went through the proper channels with the ZBA.

Mr. LePage reviewed the water problem in the area. He noted the catch basin proposed for the project. He asked if there should be more water management around the tower. Mr. Lucas said that they are meeting the stormwater management standards for what is there now on the site. Mr. Kelleher stated that there is a drainage easement on the piece of property he purchased. He noted that the middle of the land that he has is wet. He explained the height of Lincoln Street which is where the water is coming down from.

Ms. Samantha Magraw, 97 Bent Street (via Zoom), said her property abuts the access road the applicant is proposing to put in. She commented about the wetlands and water that drains. She said that when she bought the property, the fence was not in the right spot, and she plans to move that to where it is supposed to be. She said that area is constantly flooded. She said she is not able to mow on that side of the land; it is like a swamp over there for 10 months of the year. She said there are definitely issues with water there.

Mr. Romuald Zulawnik, 95 Bent Street, asked if this goes through and they put the tower in, and then we get inundated with more water and more problems, what do we do. He asked where the wildlife is going to go.

Mr. Dan Stoupe, 20 Emily Drive, said the bottom line is this is a disaster for his house, his wife, and himself. He said he will now see the hideous looking tower out his window in the front of his house. He described the area and the water drain off. He said the first pond was full, the second was inches full, and the third one dry but muddy. He said there are a lot of animals in the area and diverse animal groups that will be disturbed. He discussed the access way is going to be in the wetlands area. He reviewed the tower area and the spillways collecting the rainwater from the cement pad. He said there was no information in the NOI about how deep it was going to be. He discussed the town's new stormwater tax. He said that it is funny that out of all of Franklin there was no other place for a tower except in this rural residential area. He said he is worried about the transmitting of 5G from the tower as it interferes with aircraft, and there are lots of aircraft flying through this area. He asked if there was an EMI study done. He said this was a bad location.

Ms. Hagen said many of the residents' concerns do not fall under Conservation. The role of the Commission is to uphold the Wetlands Protection Act and local bylaws in regard to conservation land and protecting resources. She said work within buffer zones will be addressed by the Commission.

Mr. Rein asked that the NOI process be discussed. Ms. Hagen reviewed the next steps. She said the Town's consultant BETA will do a site review and collect their own data to assess the site to make sure it is known where all the resources are. She said she thanked the residents for coming in and voicing their concerns. She said this hearing will be continued. Mr. Lucas confirmed there will be no work in the wetland. Ms. Hagen noted that they were looking at 85 sq. ft. in the 0 ft. to 25 ft. buffer zone, so it is not a large area that they are looking at for the variance, and an additional 60 sq. ft. in the 25 ft. to 50 ft. buffer zone.

Mr. Lucas asked if the Commission would be doing a site walk and what is BETA's schedule. Ms. Goodlander said she would coordinate with Mr. Lucas.

There was a motion made by Mark LePage to continue the NOI for 0 Bent Street to November 2, 2023, at 7:09 PM. The motion was seconded by Michael Rein and accepted with a roll call vote of 6-0-0. Roll Call Vote: Livingstone-Yes; Johnson-Yes; Milne-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

GENERAL BUSINESS (continued)

Permit Modifications/Extensions: None

Certificates of Compliance: None

Violations/Enforcement: 305 Union Street

Ms. Goodlander stated that she had no updates.

There was a motion made by Richard Johnson to extend the violation/enforcement for 305 Union Street for 30 days. The motion was seconded by Jeffrey Milne and accepted with a roll call vote of 6-0-0. Roll Call Vote: Livingstone-Yes; Johnson-Yes; Milne-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

Minutes: None

Discussions: None

Chair and Commission Comments: Fall Event, Commission Schedule

Ms. Hagen said possibly the date of November 12 for a morning event at 10 AM may work for the fall event such as a cider and stroll and a guided walk at DelCarte. She said she was going to contact a few food trucks and see who could do cider and donuts. Discussion commenced on possible volunteers for cider and donuts. Ms. Hagen said they have funds to do this. Ms. Goodlander stated that she could bring back Mike Downey for the walk. Commission members confirmed November 12 works. Ms. Hagen discussed a kid's activity and getting kids out into the open spaces, so they are going to set something up on a Tuesday or Thursday morning with a walk down to the river; they will have a snack, she will read a story, and they will hike back. Mr. LePage said he would follow up with Big Apple for November 12.

Ms. Hagen reviewed the Commission schedule for the remainder of the year. She said she will be away for the meeting on December 28. She asked if the Commission can procedurally go from December 14 to January 11. Ms. Goodlander said she will bring the 2024 schedule next time. Ms. Hagen confirmed the Commission would not be meeting on December 28.

Ms. Goodlander reviewed the Touch a Truck event and said it went well. Discussion commenced on kindness rocks.

Open Seat Q&A

Ms. Hagen reviewed the typical meeting agenda. She explained that Commission members must be residents. She reviewed the proposed Friends of Franklin conservation group which will have opportunities to volunteer regarding conservation. She asked each of the Commission member candidates to introduce themselves.

Mr. Jeff Lyons, 239 Daniels Street, reviewed his background, current career, and interests. He said he is willing to learn and would like to get involved.

Chair Livingstone explained that Commission members really do not need to have a background in conservation. He reviewed that MACC provides classes and information on conservation. He said new commission members usually go to some of the classes, and it is an easy way to learn.

Ms. Heather Tasci, 43 Chestnut Street, stated that she had a background in Planning and understands municipal processes. She said she would like to protect the town's natural resources.

Mr. Roger Trahan, 1 Green Street, reviewed his career. He said he knows a lot of the streams and ponds in town and is interested in continuing to protect them. He reviewed his time on the Agricultural

Commission. He noted that part of the role of a commission is to educate the public of what you do and how it benefits them.

Chair Livingstone reviewed some of the ways the Commission has operated over his 13 years on the Commission. He said over the years the Commission became more of an educational body. He stated what it is like going to the MACC meetings and explained that Franklin Commission members are told how progressive Franklin is. He explained that he brought up at one of the last MACC meetings that the MACC Board should work with the Consumer Protection Agency of Massachusetts to get laws passed dictating that realtors who represent properties have an obligation to first discover and then inform potential buyers of violations or restrictions that impact the property; this is not how it works now.

Ms. Hagen asked Mr. Trahan if he would have difficulty being a Commission member and having to possibly vote against people who he may have worked with on another committee. He said no.

The candidates asked questions and made comments. Commission members provided feedback regarding the role of the Commission.

Ms. Hagen said the next round is with Town Administrator Jamie Hellen. Ms. Goodlander said Mr. Hellen asked for up to two applicants to go to him. Chair Livingstone requested members send comments to Ms. Goodlander, then they will talk about it, and make a recommendation to send to Mr. Hellen. Chair Livingstone discussed that he did not like the way a former Commission chair was making appointments without input from all Commission members. He said he wants to make sure all Commission members feel represented and included in the decision.

Ms. Goodlander stated that Schmidt's Farm is not open to the public; the event is for board staff involved in the acquisition. She explained that it would probably be years before it would be open to the public as there is still a lot to be done.

Executive Session: None.

There was a motion made by Richard Johnson to adjourn the meeting. The motion was seconded by Jeffrey Milne and accepted with a roll call vote of 6-0-0. Roll Call Vote: Livingstone-Yes; Johnson-Yes; Milne-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

The meeting adjourned at 10:33 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary