

January 15, 2025  
Revised March 31, 2025

Town of Franklin Conservation Commission  
355 East Central St  
Franklin, MA 02038

Re: Response to BETA Comments from letter dated January 3, 2025

Dear Conservation Commission:

Goddard Consulting, LLC, (Goddard) is pleased to submit this response letter on behalf of the Applicant to provide the information requested in the BETA peer review letter dated January 3, 2025. BETA's comments are summarized in the first column and responses are in second column.

Attached documents:

1. Updated WPA Form 3
2. Updated Resource Area Impact Summary Form
3. FEMA Flood Plain Map
4. Variance quests letter
5. Isolated Vegetated Wetland Replication Plan Revised 3-31-25
6. Goddard Consulting Report dated June 7, 2023

<b>BETA Comment</b>		<b>Goddard's Response</b>
#A1	185 square feet of BVW resource will be temporarily impacted and should be noted on WPA form 3	This temporary impact has been indicated on a new updated WPA Form 3 (see attached).
#A2	Suggested Plan edits	Guerriere and Halnon (G&H) shall address this comment.
#A3	Commercial/Industrial is the project type and should be corrected on the WPA Form 3. The project is not Buffer zone only and should be updated on Form 3. Temporary impacts to BVW should be added to Form 3.	These comments have been updated on the WPA Form 3 (see attached).
#A4	BETA states their opinion that the project due to filling 5,000 sf of bylaw only IVW should also file a 401-water quality certification	The IVWs that are proposed to be filled are permitted stormwater basins and would not be considered wetlands under the ACT and therefore a 401-water quality certification is not necessary.

		This is documented in the attached Goddard Consulting reports dated June 7, 2023 and March 2, 2023.
#W1	BETA states their opinion that the project due to disturbing 1 acre of land would trigger a Construction General Permit.	Land Thresholds are as follows: 25 acres of land disturbance or the creation of 5 acres of impervious area, which are not applicable to this project. Alteration of 5,000 sf of IVW. The IVW proposed to be impacted in this project are part of permitted stormwater management systems and would not be classified as IVWs under Army Corps and as result MEPA thresholds are not triggered.
#W2	Plan for drawdown and discharge	G&H to respond to this comment
#W3	Temporary and permanent IVW impacts should be shown on plans	G&H to respond to this comment
#W4	Retaining wall along Basin 2 to be shown on plans and dewatering and water control plan should created	G&H to respond to this comment
#W5	Maintenance access path and Buffer zone clearing should be shown on plans	G&H to respond to this comment
#W6	How will the IVW be protected during O&M activities?	G&H to respond to this comment
#W7	Details needed on how to remove invasive species within construction areas.	Invasive species shall be disposed of, off site at a proper landfill facility
#W8	Erosion control barriers should be shown on both sides of temporary access path	G&H to respond to this comment
#W9	Construction stockpile and snow storage should be shown on plans	G&H to respond to this comment
#W10	Quantify: vegetation needed to be cleared in the Buffer zone to access wetland mitigation area and the removal of stone walls. Will swamp mats be used to access upland island within mitigation area?	G&H to respond to this comment
#W11	Cross sections of altered and proposed replication areas and groundwater elevation data should be shown on plans	G&H to respond to this comment
#W12	Beta asked for the specific seed mix to be used in jurisdictional area to be listed and be native	New England Erosion Control Mix or equivalent native seed mix shall be used.

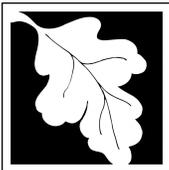
#W13	Demonstrate how hydrology will be maintained within the IVW.	G&H to respond to this comment
#W15	Applicant should submit a variance request for work within Buffer zone and explain how work avoids and minimizes impacts. Alternative analysis should be created per bylaw.	See attached variance requests
#W16	Resource area impact summary form should be updated to include the proposed impacts to BVW	Resource area impact summary form has been updated see attached.
#W17	FEMA flood Plain Map should be provided	FEMA flood Map is attached
#W18 and W19	The Narrative should be updated to include who is performing the work, description of work within jurisdictional areas and construction schedules	G&H to respond to this comment
#W20	Beta suggests restoration plantings for the access road for the wetland mitigation area.	G&H to respond to this comment

Sincerely,

Goddard Consulting, LLC.



Nicole Hayes, PWS  
Senior Wetland Scientist



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands

**WPA Form 3 – Notice of Intent**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

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MassDEP File Number

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Document Transaction Number

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Franklin

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City/Town

**Important:**  
 When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



Note:  
 Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

**A. General Information**

1. Project Location (**Note:** electronic filers will click on button to locate project site):

<u>124 &amp; 126 Grove Street</u>	<u>Franklin</u>	<u>02038</u>
a. Street Address	b. City/Town	c. Zip Code
Latitude and Longitude:		
<u>42.07488</u>	<u>71.41707</u>	
d. Latitude	e. Longitude	
<u>295</u>	<u>3, 4</u>	
f. Assessors Map/Plat Number	g. Parcel /Lot Number	

2. Applicant:

<u>Ryan</u>	<u>Lichwell</u>	
a. First Name	b. Last Name	
<u>New England Appliance Group (NEAG)</u>		
c. Organization		
<u>126 Grove Street</u>		
d. Street Address		
<u>Franklin</u>	<u>MA</u>	<u>02038</u>
e. City/Town	f. State	g. Zip Code
<u>508-298-7462</u>	<u>rlichwell@neag.com</u>	
h. Phone Number	i. Fax Number	j. Email Address

3. Property owner (required if different from applicant):  Check if more than one owner

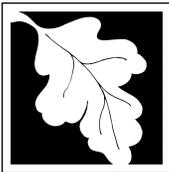
<u></u>	<u></u>	
a. First Name	b. Last Name	
<u></u>		
c. Organization		
<u></u>		
d. Street Address		
<u></u>	<u></u>	<u></u>
e. City/Town	f. State	g. Zip Code
<u></u>	<u></u>	<u></u>
h. Phone Number	i. Fax Number	j. Email address

4. Representative (if any):

<u>Nicole</u>	<u>Hayes</u>	
a. First Name	b. Last Name	
<u>Goddard Consulting, LLC</u>		
c. Company		
<u>291 Main Street Suite #8</u>		
d. Street Address		
<u>Northborough</u>	<u>MA</u>	<u>01532</u>
e. City/Town	f. State	g. Zip Code
<u>(508) 393-3784</u>	<u>nicole@goddardconsultingllc.com</u>	
h. Phone Number	i. Fax Number	j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

<u>\$1,050</u>	<u>\$512.50</u>	<u>\$537.50</u>
a. Total Fee Paid	b. State Fee Paid	c. City/Town Fee Paid



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 3 – Notice of Intent**

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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**A. General Information (continued)**

6. General Project Description:

This Notice of Intent is for the construction of an 85,150sf addition to the north side of the existing building, expansion of the driveway and parking lots, grading, and associated stormwater management system and the construction of a wetland replication area.

7a. Project Type Checklist: (Limited Project Types see Section A. 7b.)

- 1.  Single Family Home
- 2.  Residential Subdivision
- 3.  Commercial/Industrial
- 4.  Dock/Pier
- 5.  Utilities
- 6.  Coastal engineering Structure
- 7.  Agriculture (e.g., cranberries, forestry)
- 8.  Transportation
- 9.  Other

7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

- 1.  Yes  No      If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

8. Property recorded at the Registry of Deeds for:

Norfolk	
a. County	b. Certificate # (if registered land)
238, 1655	309, 330
c. Book	d. Page Number

**B. Buffer Zone & Resource Area Impacts (temporary & permanent)**

- 1.  Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
- 2.  Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.



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**B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)**

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
a. <input type="checkbox"/> Bank	1. linear feet	2. linear feet
b. <input type="checkbox"/> Bordering Vegetated Wetland	81 sf Temporary 1. square feet	81 sf and 15,729 creation of BVW for impacted local IVW
c. <input type="checkbox"/> Land Under Waterbodies and Waterways	1. square feet 3. cubic yards dredged	2. square feet

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
d. <input type="checkbox"/> Bordering Land Subject to Flooding	1. square feet 3. cubic feet of flood storage lost	2. square feet 4. cubic feet replaced
e. <input type="checkbox"/> Isolated Land Subject to Flooding	1. square feet 2. cubic feet of flood storage lost	3. cubic feet replaced
f. <input type="checkbox"/> Riverfront Area	1. Name of Waterway (if available) - <b>specify coastal or inland</b>	

2. Width of Riverfront Area (check one):

- 25 ft. - Designated Densely Developed Areas only
- 100 ft. - New agricultural projects only
- 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: \_\_\_\_\_ square feet

4. Proposed alteration of the Riverfront Area:

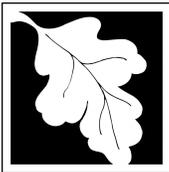
_____	_____	_____
a. total square feet	b. square feet within 100 ft.	c. square feet between 100 ft. and 200 ft.

5. Has an alternatives analysis been done and is it attached to this NOI?  Yes  No

6. Was the lot where the activity is proposed created prior to August 1, 1996?  Yes  No

3.  Coastal Resource Areas: (See 310 CMR 10.25-10.35)

**Note:** for coastal riverfront areas, please complete **Section B.2.f.** above.



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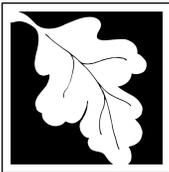
Franklin  
City/Town

**B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)**

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users:  
Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

<u>Resource Area</u>	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
a. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. <input type="checkbox"/> Land Under the Ocean	_____	
	1. square feet	
	_____	
	2. cubic yards dredged	
c. <input type="checkbox"/> Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. <input type="checkbox"/> Coastal Beaches	_____	_____
	1. square feet	2. cubic yards beach nourishment
e. <input type="checkbox"/> Coastal Dunes	_____	_____
	1. square feet	2. cubic yards dune nourishment
	<u>Size of Proposed Alteration</u>	<u>Proposed Replacement (if any)</u>
f. <input type="checkbox"/> Coastal Banks	_____	
	1. linear feet	
g. <input type="checkbox"/> Rocky Intertidal Shores	_____	
	1. square feet	
h. <input type="checkbox"/> Salt Marshes	_____	_____
	1. square feet	2. sq ft restoration, rehab., creation
i. <input type="checkbox"/> Land Under Salt Ponds	_____	
	1. square feet	
	_____	
	2. cubic yards dredged	
j. <input type="checkbox"/> Land Containing Shellfish	_____	
	1. square feet	
k. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above	
	_____	
	1. cubic yards dredged	
l. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	_____	
	1. square feet	
4. <input type="checkbox"/> Restoration/Enhancement	If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.2.b or B.3.h above, please enter the additional amount here.	
	_____	_____
	a. square feet of BVW	b. square feet of Salt Marsh
5. <input type="checkbox"/> Project Involves Stream Crossings		
	_____	_____
	a. number of new stream crossings	b. number of replacement stream crossings



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## C. Other Applicable Standards and Requirements

- This is a proposal for an Ecological Restoration Limited Project. Skip Section C and complete Appendix A: Ecological Restoration Limited Project Checklists – Required Actions (310 CMR 10.11).

### Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

- 1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to [http://maps.massgis.state.ma.us/PRI\\_EST\\_HAB/viewer.htm](http://maps.massgis.state.ma.us/PRI_EST_HAB/viewer.htm).

a.  Yes  No **If yes, include proof of mailing or hand delivery of NOI to:**

**Natural Heritage and Endangered Species Program  
Division of Fisheries and Wildlife  
1 Rabbit Hill Road  
Westborough, MA 01581**

August 2021  
b. Date of map

If yes, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.c, and include requested materials with this Notice of Intent (NOI); *OR* complete Section C.2.f, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

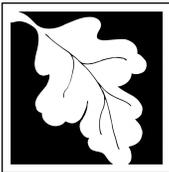
c. Submit Supplemental Information for Endangered Species Review\*

- 1.  Percentage/acreage of property to be altered:
  - (a) within wetland Resource Area \_\_\_\_\_ percentage/acreage
  - (b) outside Resource Area \_\_\_\_\_ percentage/acreage
- 2.  Assessor's Map or right-of-way plan of site

- 2.  Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work \*\*
  - (a)  Project description (including description of impacts outside of wetland resource area & buffer zone)
  - (b)  Photographs representative of the site

\* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see <http://www.mass.gov/eea/agencies/dfg/dfw/natural-heritage/regulatory-review/>). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

\*\* MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.



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## C. Other Applicable Standards and Requirements (cont'd)

(c)  MESA filing fee (fee information available at [http://www.mass.gov/dfwele/dfw/nhosp/regulatory\\_review/ mesa/ mesa\\_fee\\_schedule.htm](http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/ mesa/ mesa_fee_schedule.htm)).  
Make check payable to "Commonwealth of Massachusetts - NHESP" and **mail to NHESP** at above address

*Projects altering 10 or more acres of land, also submit:*

(d)  Vegetation cover type map of site

(e)  Project plans showing Priority & Estimated Habitat boundaries

(f) OR Check One of the Following

1.  Project is exempt from MESA review.  
Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, [http://www.mass.gov/dfwele/dfw/nhosp/regulatory\\_review/ mesa/ mesa\\_exemptions.htm](http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/ mesa/ mesa_exemptions.htm); the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

2.  Separate MESA review ongoing. a. NHESP Tracking # \_\_\_\_\_ b. Date submitted to NHESP \_\_\_\_\_

3.  Separate MESA review completed.  
Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

3. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?

a.  Not applicable – project is in inland resource area only      b.  Yes     No

If yes, include proof of mailing, hand delivery, or electronic delivery of NOI to either:

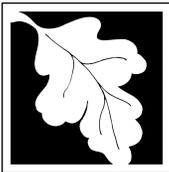
South Shore - Cohasset to Rhode Island border, and the Cape & Islands:

Division of Marine Fisheries -  
Southeast Marine Fisheries Station  
Attn: Environmental Reviewer  
836 South Rodney French Blvd.  
New Bedford, MA 02744  
Email: [DMF.EnvReview-South@state.ma.us](mailto:DMF.EnvReview-South@state.ma.us)

North Shore - Hull to New Hampshire border:

Division of Marine Fisheries -  
North Shore Office  
Attn: Environmental Reviewer  
30 Emerson Avenue  
Gloucester, MA 01930  
Email: [DMF.EnvReview-North@state.ma.us](mailto:DMF.EnvReview-North@state.ma.us)

Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.



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**C. Other Applicable Standards and Requirements (cont'd)**

- 4. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?
  - a.  Yes  No If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.
  - b. ACEC

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- 5. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?
  - a.  Yes  No
- 6. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?
  - a.  Yes  No
- 7. Is this project subject to provisions of the MassDEP Stormwater Management Standards?
  - a.  Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:
    - 1.  Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)
    - 2.  A portion of the site constitutes redevelopment
    - 3.  Proprietary BMPs are included in the Stormwater Management System.
  - b.  No. Check why the project is exempt:
    - 1.  Single-family house
    - 2.  Emergency road repair
    - 3.  Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

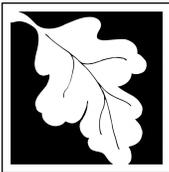
**D. Additional Information**

- This is a proposal for an Ecological Restoration Limited Project. Skip Section D and complete Appendix A: Ecological Restoration Notice of Intent – Minimum Required Documents (310 CMR 10.12).

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

**Online Users:** Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

- 1.  USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)
- 2.  Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.



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**D. Additional Information (cont'd)**

3.  Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

4.  List the titles and dates for all plans and other materials submitted with this NOI.

124/126 Grove Street

a. Plan Title

Guerriere & Halnon, Inc

b. Prepared By

11/05/2024

d. Final Revision Date

Stormwater Report

f. Additional Plan or Document Title

Dale McKinnon

c. Signed and Stamped by

1"=80'

e. Scale

11/05/2024

g. Date

5.  If there is more than one property owner, please attach a list of these property owners not listed on this form.

6.  Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.

7.  Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.

8.  Attach NOI Wetland Fee Transmittal Form

9.  Attach Stormwater Report, if needed.

**E. Fees**

1.  Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

016265, 016266

2. Municipal Check Number

016264

4. State Check Number

New England Appliance Group

6. Payor name on check: First Name

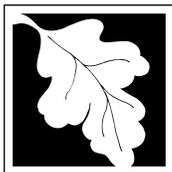
10/28/2024

3. Check date

10/28/2024

5. Check date

7. Payor name on check: Last Name



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**NOI Wetland Fee Transmittal Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**Important:** When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



**A. Applicant Information**

1. Location of Project:

124 & 126 Grove Street

a. Street Address

016264

c. Check number

Franklin

b. City/Town

\$512.50

d. Fee amount

2. Applicant Mailing Address:

Ryan

a. First Name

New England Appliance Group

c. Organization

126 Grove Street

d. Mailing Address

Franklin

e. City/Town

MA

f. State

02038

g. Zip Code

508-298-7462

h. Phone Number

i. Fax Number

rlichwell@neag.com

j. Email Address

3. Property Owner (if different):

a. First Name

b. Last Name

c. Organization

d. Mailing Address

e. City/Town

f. State

g. Zip Code

h. Phone Number

i. Fax Number

j. Email Address

**B. Fees**

Fee should be calculated using the following process & worksheet. **Please see Instructions before filling out worksheet.**

**Step 1/Type of Activity:** Describe each type of activity that will occur in wetland resource area and buffer zone.

**Step 2/Number of Activities:** Identify the number of each type of activity.

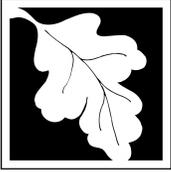
**Step 3/Individual Activity Fee:** Identify each activity fee from the six project categories listed in the instructions.

**Step 4/Subtotal Activity Fee:** Multiply the number of activities (identified in Step 2) times the fee per category (identified in Step 3) to reach a subtotal fee amount. Note: If any of these activities are in a Riverfront Area in addition to another Resource Area or the Buffer Zone, the fee per activity should be multiplied by 1.5 and then added to the subtotal amount.

**Step 5/Total Project Fee:** Determine the total project fee by adding the subtotal amounts from Step 4.

**Step 6/Fee Payments:** To calculate the state share of the fee, divide the total fee in half and subtract \$12.50. To calculate the city/town share of the fee, divide the total fee in half and add \$12.50.

To calculate filing fees, refer to the category fee list and examples in the instructions for filling out WPA Form 3 (Notice of Intent).



**Massachusetts Department of Environmental Protection**  
 Bureau of Resource Protection - Wetlands  
**NOI Wetland Fee Transmittal Form**  
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**B. Fees** (continued)

Step 1/Type of Activity	Step 2/Number of Activities	Step 3/Individual Activity Fee	Step 4/Subtotal Activity Fee
4a. each building including site	\$1,050	1	\$1,050
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
<b>Step 5/Total Project Fee:</b>			<u>\$1,050</u>

**Step 6/Fee Payments:**

Total Project Fee:	<u>\$1,050</u>
State share of filing Fee:	a. Total Fee from Step 5 <u>\$512.50</u>
City/Town share of filing Fee:	b. 1/2 Total Fee <b>less</b> \$12.50 <u>\$537.50+Bylaw Fee</u>
	c. 1/2 Total Fee <b>plus</b> \$12.50

**C. Submittal Requirements**

- a.) Complete pages 1 and 2 and send with a check or money order for the state share of the fee, payable to the Commonwealth of Massachusetts.

Department of Environmental Protection  
 Box 4062  
 Boston, MA 02211

- b.) **To the Conservation Commission:** Send the Notice of Intent or Abbreviated Notice of Intent; a **copy** of this form; and the city/town fee payment.

**To MassDEP Regional Office** (see Instructions): Send a copy of the Notice of Intent or Abbreviated Notice of Intent; a **copy** of this form; and a **copy** of the state fee payment. (E-filers of Notices of Intent may submit these electronically.)

Town of Franklin Conservation Commission

**RESOURCE AREA IMPACT SUMMARY**

The Franklin Wetlands Protection Bylaw  
Franklin Town Cod Section 181

124-126 GROVE ST, FRANKLIN, MA

RESOURCE AREA	TEMP ALTERATION	PERM ALTERATION	CREATION/RESTORE
0-100-ft Buffer Zone (IVW and BVW)	6,265 sf	0-25'= 21,799 25-100'= 102,215 Total= 124,014 sf	22,653 sf
BVW	81 sf	0	81 sf
IVW	637 sf	7066 sf	15,729 sf as BVW
Bank	0	0	0
Land Under Water Bodies	0	0	0
Floodplain	0	0	0
Riverfront Area	0	0	0



March 31, 2025

Franklin Conservation Commission  
Franklin Municipal Building  
355 E. Central Street  
Franklin, MA 02038

Re: Request for two Variances  
124 & 126 Grove Street  
Franklin, Massachusetts, 02038

Dear Conservation Commission:

#### Variance Request #1

On behalf of the applicant, Goddard Consulting LLC, is requesting a variance not to mitigate for the proposed impacts to the 25-100-ft buffer zone. This request is a result of site constraints, lack of available space and lack of resource area to build buffer zone off of.

The 0-25-ft No Disturb IVW and BVW buffer zone impacts will be mitigated greater than 1:1 and are described herein.

#### Conservation Commission's Ability to Grant Request

The bylaw states in Section 4 and 5 of the Town of Franklin Conservation Commission Regulations dated October 2019 that a waiver for buffer zone impacts may be issued if there are no significant adverse impacts on the functions and characteristics of the impacted resource area.

#### Proposed Impacts

The proposed project will impact two local bylaw jurisdictional IVWs that have formed within existing, permitted, stormwater basins. These local bylaw jurisdictional areas also have a locally jurisdictional 0-100-ft IVW Buffer zone.

The total amount of the 25-100-ft IVW and BVW buffer zones cannot be replicated (124,014 sf) on site due to site constraints, lack of available space and lack of wetland resource area to build buffer zone off of.

The Franklin Wetland Bylaw/Regulations do not state a mitigation ratio for buffer zone impacts but instead focuses on no significant adverse impacts to the functions and characteristics of the impacted resource area.

#### Proposed Mitigation for BVW and IVW 0-25-ft No Disturb Buffer Zone Impacts

Every reasonable aspect has been taken to avoid, minimize and mitigate for work within the local isolated stormwater basin wetlands. Proposed mitigation measures for work within the isolated vegetated wetlands (IVW) will be greater than a 2:1 wetland replacement. This wetland replacement will be in the form of Bordering Vegetated Wetland (BVW) creation not IVW replacement since the BVW resource is considered a better, more desirable wetland resource over IVW with greater

functions and values consisting of better wildlife habitat, stormwater retention, prevention of pollution, protection of public and private water supply and flood control.

Work within the 0-25-ft no disturb IVW and BVW buffer zone will be mitigated more than 1:1 by the creation of new buffer zone associated with the creation of new Bordering Vegetated Wetlands to be located in the southern section of the site (see enclosed plans). The amount of the 0-25-ft IVW and BVW no disturb buffer zone proposed to be impacted is 21,799 sf and the amount of new BVW buffer zone created will be 22,653 sq (greater than a 1:1 mitigation ratio).

This new buffer zone creation will be performed by the re-shaping of the wetland replication area with finger like projections (see enclosed plans). These projections will be located within existing mature up-land forested buffer zone to compensate for the loss of the buffer zone associated with the on-site stormwater basin.

The buffer zones associated with the stormwater basins, for the most part consists of shrub scrub uplands, grassed slopes, and or disturbed areas like pavement. The newly created buffer zone will be located within mature upland forested areas in the southern section of the site. The forested areas will provide better functions and values (wildlife habitat, stormwater retention, prevention of pollution, protection of public and private water supply and flood control) than the existing IVW buffer zone and therefore create a betterment.

To prevent impacts to the adjacent forested buffer zone, work on the finger like projections will occur from the inside of the proposed wetland replication area. Work from the wetland replication area will start at the furthest extent of the finger-like projections so that all work is completed within the finger while moving back towards the center of the restoration area. This is to ensure that the mature trees surrounding the finger-like projections stay intact.

#### Alternatives Analysis

1. One alternative which was inspected was moving the proposed building addition to the southern section of the site. This alternative was not chosen since this would impact the BVW resource area and greater amounts of BVW buffer zone, rather than the lesser valued IVW and IVW buffer zone resources.
2. The impacts to all functions, values and wetland characteristics of each IVW and BVW on site were minimized by the project by placing the proposed building on the northern side of the existing building since IVW will be impacted not BVW which offers better wildlife habitat, stormwater retention, prevention of pollution, protection of public and private water supply and flood control. Furthermore, the proposed retaining wall will reduce the amount of impacts to the IVW located in Basin 2, as well as the corresponding IVW buffer zone.
3. Mitigation of the IVW and BVW 0-25-ft No Disturb Buffer Zone will be mitigated by the creation 22,653 sf of BVW buffer zone to be located in the southern section of the site, a greater than 1:1 mitigation ratio.

In conclusion, the project has been designed to avoid, minimize and mitigate for the on-site BVW and IVW resource areas and their corresponding buffer zones. The project mindful that BVW is a better functioning resource area than IVW, has chosen to construct the building in the northern section of the site rather than the southern section to protect the higher valued resource area and

buffer zone. In addition, the project will create better functioning buffer zone by replicating BVW and BVW buffer zone habitat. All impacts to the 0-25-ft BVW and IVW buffer zones will be mitigated greater than a 1:1 mitigation ratio (22,653 sf).

This creation of a mature forested BVW buffer zone will not cause a significant impact to the functions and characteristics of the wetland resources but will protect the existing on-site resources and buffer zones. Better wildlife habitat will be created near the BVW resource than that which is associated with the existing IVW resource and buffer zones since the new BVW buffer zone area will have a tree layer, shrub layer and herbaceous layer that will provide enhanced wildlife habitat for overwintering, feeding, nesting, breeding, and cover. Stormwater retention, prevention of pollution, protection of public and private water supply and flood control will also be enhanced by the retention of storm water, reduction in storm flow, and the uptake of pollutants via the multi-layered vegetated strata located within the proposed BVW buffer zone creation area.

### Variance Request #2

On behalf of the applicant, Goddard Consulting LLC, is requesting a variance for: permission not to count, flag and mitigate for the trees 1" dbh or greater within the proposed wetland replication access path.

To ensure the least number of trees are impacted a small skid steer machine such as a bobcat will be utilized to create the wetland replication area and proposed BVW buffer zone. A specific path in the field will be flagged and utilized to avoid large trees when and wherever possible. The section of stone walls that need to be accessed to access the proposed buffer zone area will be moved, stacked and then re-constructed once the area has been completed.

# Isolated Vegetated Wetland Replication Plan

for

124 & 126 Grove Street

(Map: 29, Lots: 3 & 4)

Franklin, MA 02038

## **DATE:**

October 31, 2024

Revised 3-31-25

## **ADDRESSED TO:**

Franklin Conservation Commission

Franklin Municipal Building

Franklin, MA 02038

## **PREPARED BY:**

Goddard Consulting LLC

291 Main Street, Suite 8

Northborough, MA 01532

## **PREPARED FOR:**

Ryan Lichwell

New England Appliance Group

126 Grove Street

Franklin, MA 02038

## **A. EXISTING CONDITIONS**

The Project Site, 124 & 126 Grove Street, Franklin, MA 02038 (Map: 295, Lots: 3 & 4) The site is comprised of two parcels and is approximately 37.49-acres. The site is primarily developed. The interior of the site is comprised of an existing 269,105sf industrial/commercial building, truck parking and turnarounds, and car parking lots. The southern portion of the site is primarily forested. The property is bordered by commercial/industrial developments to the south and east, and single-family house lots to the north and west on with frontages on Grove Street.

As approved in the ORAD (DEP File #159-1290), several wetland resource areas are located on the locus site. A BVW exists in the southern portion of 126 Grove Street. An intermittent stream, originating in the southern BVW, flows east through 126 and 124 Grove Street, and eventually off the property. Additional BVW is located 124 Grove Street and directly connects to the intermittent stream. An Isolated Vegetated Wetland (IVW) exists within the northern portion of 126 Grove Street. A second IVW is located south of the existing building on 126 Grove Street. These IVWs are only jurisdictional under the Franklin Wetland Bylaw and Regulations.

According to the MassGIS data layers for NHESP, the property is not located within any Estimated Habitat of Rare Wildlife / Priority Habitat of Rare Species. No potential or certified vernal pools or Outstanding Resource Waters (ORW) are mapped within the site. The property does not fall within a jurisdictional FEMA Flood Zone. The site is not located in an Area of Critical Environmental Concern (ACEC).

## **B. PROPOSED CONDITIONS**

The applicant proposes an 85,150sf addition to the north side of the existing commercial building on-site. South of the proposed building, additional truck parking, and turnaround space is proposed for additional access to the existing loading bays and building. A retaining wall is proposed bordering the proposed parking expansion south of the existing building. In order to construct the proposed project, portions of the 25, 50 and 100-foot Buffer Zones will inevitably be impacted. The addition to the building and the truck parking expansion will result in the filling of +/- 7,066 sf of Isolated Vegetated Wetland. The project has been designed minimize impacts to BVW. Alternative designs would result in a far greater impact on BVW.

As mitigation, a greater than 2:1 (15,729sf) replication area is proposed to the south of the parking lots within a BVW system. This replication area will result in the net gain of 8,663 sf of wetland. A temporary access path is proposed in the southern portion of the site to access the wetland replication areas. Due to the presence of an upland island, the access path will need to temporarily impact BVW ( $\pm 81$ sf) to excavate the wetland replication area. This path has been designed for the least amount of tree removal and temporary BVW impacts. The wetland replication area and the temporarily impacted BVW will be seeded and planted with appropriate native species as described in Section D. Shrub and tree quantities have been selected based on DEP spacing guidelines. 90 trees and 201 shrubs will be planted within the proposed isolated vegetated wetland replication areas. The proposed tree species include Red Maple / *Acer rubrum*, Black Tupelo / *Nyssa sylvatica*, Swamp White Oak / *Quercus bicolor*, and Yellow Birch / *Betula alleghaniensis*. The proposed shrub species include Common Winterberry / *Illex verticillata*, Highbush Blueberry / *Vaccinium corymbosum*, Northern Spicebush / *Lindera benzoin*, Silky Dogwood / *Cornus amomum*, Speckled Alder / *Alnus incana*, and Sweet Pepperbush / *Clethra alnifolia*.

## **C. GENERAL INSTALLATION PROCEDURES**

**Supervision:** All work within the restoration areas shall be supervised by a qualified wetland scientist. The supervisor shall submit monitoring reports to the Franklin Conservation Commission as described below. Reports shall contain details of all work performed and photographs of completed conditions.

**Timing:** The installation of the plantings should be accomplished during the spring or fall growing seasons (between April 16 and May 31 or between September 16 and October 30).

**Stake Limits of Work:** Prior to planting, the limits of work will be staked, and wetland flags confirmed. Erosion control barriers shall be installed along the limits of work for the replication area. These will remain in place until the replication areas have stabilized, and approval is received from the Franklin Conservation Commission. The wetland scientist shall have the authority to require additional erosion control measures if deemed necessary.

**Identify Plants in Replication & BVW Impact Area:** The wetland scientist shall identify, and flag native species found within the replication and the BVW impact areas that may be dug up and stockpiled for use as additional plantings.

**Excavation:** A storage area for soil and leaf litter from the BVW impact area will be prepared prior to excavation, outside of any resource areas or buffer zone. Wetland soil from the impact zone will be excavated and transported to the replication area. The upland soils immediately surrounding the BVW impact area will be transplanted to the edges of the replication area to create a natural transition. Large trees should be avoided when excavating.

An excavator or backhoe will remove existing soils in the entirety of the soils in the replication zone, to a depth at which redoximorphic features become visible in the C-horizon at the soil's surface and at least one foot below the proposed final grade. This removal will be supervised and directed by the wetland scientist. Topsoil and subsoil shall be removed from the area to either be reused or removed from the site. Subsoil of the C-horizon will be loosened prior to final grading to ensure the soils aren't compacted before topsoil placement.

Once existing soils have been removed to the proper depth determined by the wetland scientist, the organic soils from the BVW impact areas will be placed into the replication zone. If the soil from the impact area is not sufficient, supplemental soil shall be imported and sourced from composted organic materials and shall consist of a 50:50 mix of loam and organic material with an organic content between 12% and 20%. Topsoil shall be placed within the replication area to a depth of 6-12", to be determined by the wetland scientist. Placement of the soil shall be such that no equipment drives over or compacts the placed soil. Final grading will mimic topography with areas of pooling and flooding during heavy rain events, and surface water during wetter seasons.

**Planting:** Plantings will be installed according to the plan. The precise siting of plants may be determined by the wetland scientist or landscaper in the field prior to installation. All plantings (reference the planting list in section D) shall be distributed randomly throughout the area with trees spaced at 12-15' on center, shrubs spaced at 8-10' on center, and herbaceous species 3' or less on center. Shrubs shall be placed in clumps of 3-

4 of the same species. Same species will be placed in groupings that more closely mimic natural conditions. All plantings will be removed from burlap sacks, wire cages, and plastic containers prior to planting. Trees will be planted on mounds, while shrubs and herbaceous species will be planted in depressions. Each plant will have its roots loosened prior to planting to encourage root growth away from the planting bulb. Plants will be adequately watered immediately following planting. Leaf litter will be spread throughout the area if it is available. Any significant disturbances shall be seeded with a wetland seed mix as specified in the Planting List tables in Section D.

**Restoration Monitoring**

a. **Seasonal monitoring reports** shall be prepared for the enhancement areas by a qualified wetland scientist for a period of 2 additional years after installation or every year until a COC is issued by the Franklin Conservation Commission. This monitoring program will consist of early summer and early fall inspections and will include photographs and details about the vitality of the enhancement area. Monitoring reports shall be submitted to the Commission by the end of each year. Monitoring reports shall describe, using narratives, plans, and color photographs, the physical characteristics of the enhancement area with respect to stability, survival of vegetation and plant mortality, aerial extent and distribution, species diversity and vertical stratification (i.e., herb, shrub, and tree layers).

b. **At least 75% of the surface area** of the restoration areas shall be re-established with indigenous plant species within two growing seasons. If the enhancement area does not meet the 75% re-vegetation requirement by the end of the second growing season after installation, the applicant shall submit a remediation plan to the Commission for approval that will achieve enhancement goals, under the supervision of a Wetland Scientist. This plan must include an analysis of why the areas have not successfully re-vegetated and how the applicant intends to resolve the problem.

**D. PLANTING LIST**

<b>Wetland Replication Area (15,729 SF)</b>			
<b>Common Name</b>	<b>Scientific Name</b>	<b>Number</b>	<b>Size</b>
<b>Trees (90)*</b>			
Red Maple (FAC)	<i>Acer rubrum</i>	21	4-5'
Yellow Birch (FAC)	<i>Betula alleghaniensis</i>	21	4-5'
Black Tupelo (FAC)	<i>Nyssa sylvatica</i>	24	4-5'
Swamp White Oak (FACW)	<i>Quercus bicolor</i>	24	4-5'

<b>Common Name</b>	<b>Scientific Name</b>	<b>Number</b>	<b>Size</b>
<b>Shrubs (201)*</b>			
Highbush Blueberry (FACW)	<i>Vaccinium corymbosum</i>	36	1 or 2 gal. pots
Silky Dogwood (FACW)	<i>Cornus amomum</i>	33	1 or 2 gal. pots
Northern Spicebush (FACW)	<i>Lindera benzoin</i>	33	1 or 2 gal. pots
Common Winterberry (FACW)	<i>Ilex verticillata</i>	33	1 or 2 gal. pots
Sweet Pepperbush (FAC)	<i>Clethra alnifolia</i>	33	1 or 2 gal. pots
Speckled Alder (FACW)	<i>Alnus incana</i>	33	1 or 2 gal. pots
<b>Seed Mix</b>			

New England Wetland Plants WETMIX or equivalent*	7 lbs.
--------------------------------------------------	--------

\*Species selection dependent on nursery availability.

**E. CONCLUSION**

This mitigation will enhance the Bordering Vegetated Wetlands over current conditions and will improve the functions and values of the BVW. All local, state, and federal statutory interests and performance standards have been protected and will be met by the project, as described above.

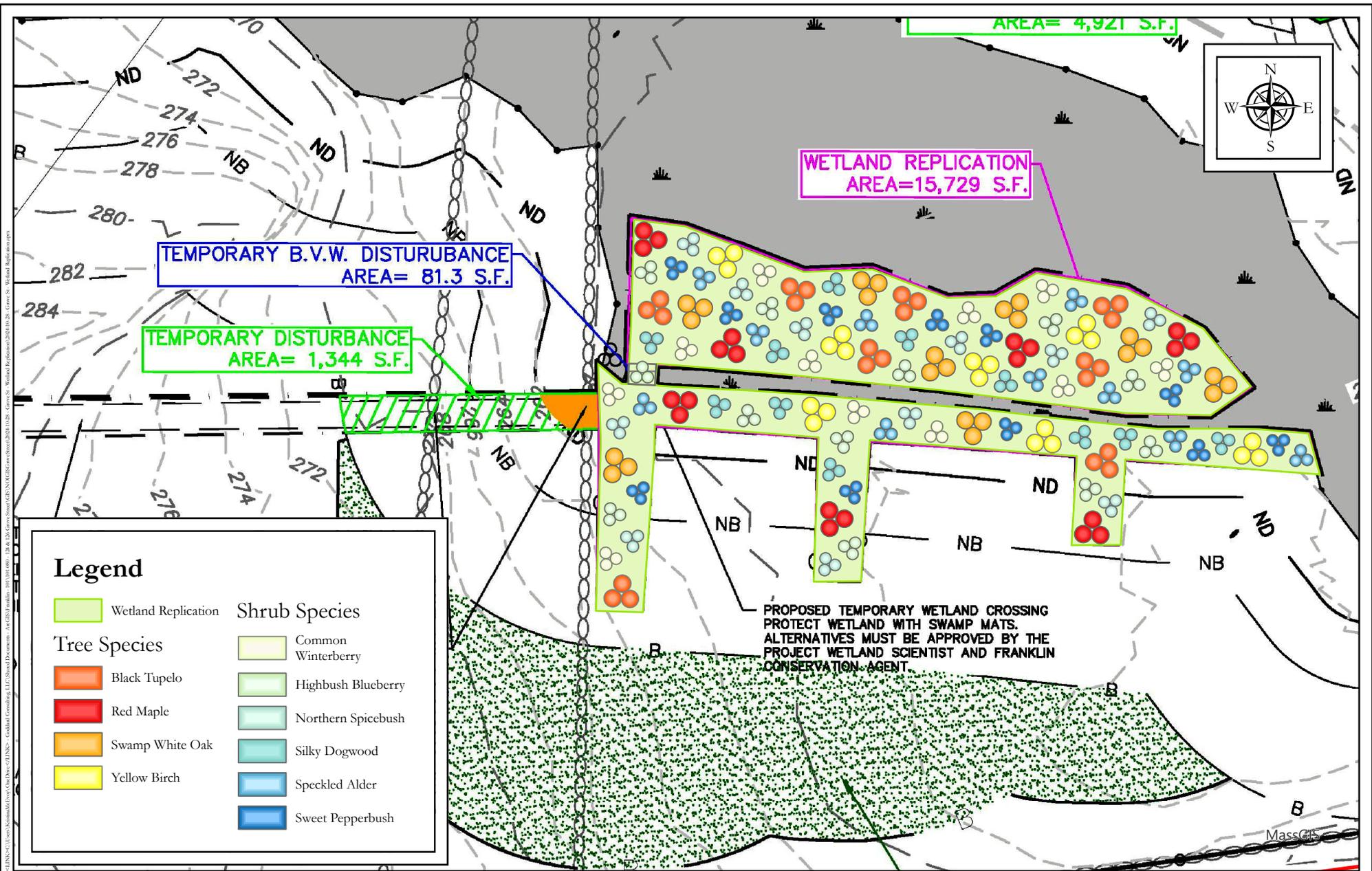
Sincerely,  
Goddard Consulting, LLC



Tom Schutz, WPIT  
Wetland Scientist



Kristina McEvoy  
Wetland Scientist



## Isolated Vegetated Wetland Replication Plan

0 25 50 Feet

1" = 50'

Date: 04/01/2025

124-126 Grove Street  
Franklin, MA 02038

71.4214667°W, 42.0739717°N

Parcel ID: 295-3; 295-4

June 7, 2023

Franklin Conservation Commission  
Municipal Building  
355 E. Central Street  
Franklin, MA 02038

Re: Isolated Wetland/Stormwater Basin Analysis  
126 Grove Street, Franklin, Massachusetts

Dear Franklin Conservation Commission,

### Introduction

The property, 126 Grove Street, has three existing detention ponds: one on the north side of the existing building, one on the south side, and one along the front. These man-made permitted stormwater areas would not be considered jurisdictional under the Act however are considered jurisdictional under the local wetland bylaw in the presence of hydric soil and wetland vegetation. The applicant is not proposing any work in Basin 1 (right now) but would like to fill in Basin 2 and modify Basin 3 for a proposed parking lot and building expansion project (more details to follow in a future Notice of Intent). This report will discuss regulatory implications, the important functions associated with wetlands, identify the functions offered by the on-site stormwater basins, and discuss mitigation for this potential project.



Photo 1. Red highlighted areas of concern; basin to the north, south and front of the building

### Why the Basins Are Not Protected Under the Act

In March of 2023, Goddard Consulting did an analysis of two out of the three stormwater basins in question, to see if these areas qualified as a wetland resource or stormwater basin under the Massachusetts Wetlands Protection Act (see appendix A). After lengthy research of past historical aerial photographs and permitting records, it was determined that the area for the southern detention basin (Basin 2) was created around the same time as the construction of the first on-site building (between 1978-1985). And according to aerial photos this area was not located within a wetland. The year 2001 is the earliest instance where both the southern and northern detention basins appear to be functional.

The northern detention basin (Basin 3) was created sometime between 1997-2001. Both basins were created after the MA Wetland Protection Act and after the 1996 Stormwater Provision and, therefore, would have been permitted through a Notice of Intent.

Two prior Orders of Conditions have been issued for improvement features on the existing stormwater basins. The OOC issued in 2000 (DEP File #159-686) approved the expansion and modification of the two detention ponds on site to detain the increased flow rate caused by the additional impervious area. The south detention pond (Basin 2) was approved for improvements with the addition of water quality features (i.e. sediment traps). Both ponds were expanded and undercut to provide additional recharge to ground water. The OOC issued in 2003 (DEP File #159-812) approved modification of the existing northern detention pond to accommodate for the expansion of a parking lot. The modification of both detention basins included water quality improvements, flood control, and groundwater recharge enhancement. Since these basins were created in uplands and permitted through NOI's after the stormwater provision, Goddard Consulting believes that these detention basins are non- jurisdictional under the Massachusetts Wetlands Protection Act.

#### Jurisdiction and Functions of Wetlands

Since the local bylaw takes jurisdiction over all areas that have wetland soils and 50% or more wetland vegetation it is important to identify what in relation to the wetlands is protected and why.

Under the Massachusetts Wetlands Protection Act and local wetland bylaws; wetlands are protected because of the valuable functions/statutory interests they provide which may include public or private water supply, ground water supply, flood control, storm damage prevention, prevention of pollution, protection of fisheries, and wildlife habitat.

Not all wetlands have all these functions or offer the same quality of habitat. For example, a small wetland located within a highly developed area may not contribute as much to stormwater prevention, fisheries, and/or offer the same wildlife habitat as a large pristine wetland with an adjoining river. The larger wetland with the river will offer higher quality habitat with several different vegetational cover-types providing greater amounts and varieties of animal's food, shelter, breeding and overwintering opportunities as well as aid in larger amounts of stormwater prevention and even offer potential fisheries. Whereas the smaller wetland still provides stormwater protection and wildlife habitat; however, less valuable and in lesser amounts than the larger riverine system.

The areas of concern are the three stormwater basins the applicant would like to fill. The issue is that the basins collect stormwater and as a result portions of the basins have wetland species growing within and some basins have areas of hydric soils. Since the local wetland bylaw takes jurisdiction over all areas that have hydric soils and 50% or more wetland indicator species, the Commission is reserving the right to claim jurisdiction over parts of the basins that have hydric soils and wetland vegetation under the local wetland bylaw.

As described above it is the functions of the wetlands that are important (i.e. stormwater protection, etc.). These functions will be protected in the case of development and re-location of the basins.

#### Basin Analysis

##### Basin 1.

On May 24, 2023, Goddard Consulting performed an analysis to determine the species and soils present within the three basins and inspect potential wetland functions offered by the basins. Each of the three basins were delineated as well as the areas within the basins that have hydric soils and wetland species (see Figure 1).

The small basin in the front of the building (see photo 1 and 2 and 3) contains areas of riprap and sandy soils normally associated with man-made detention ponds and is vegetated with maintained lawn species with a small area of wetland rush species.

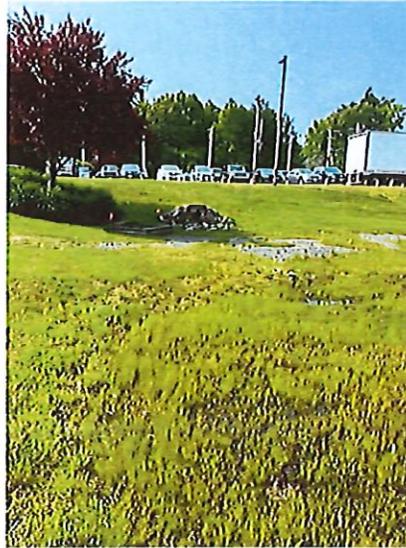


Photo 2. Basin 1., in front of building looking west. The basin consists of rip rap near the culvert and sandy soils. The basin is vegetated with lawn species and a small area of wetland rushes located in the foreground.



Photo 3. Basin 1., looking west; observing all of the detention basin except the culvert shown in the other photo. Culvert is located to the left of this photo.

Basin 1. is flagged with series DB1-1 through DB1-9 and is approx. 5,500 sq ft in size. The basin consists of rip rap and sandy soils (mucky, hydric soils were not observed within the basin). It is vegetated with upland lawn species with white clover (*Trifolium repens*, FacU) and a small area of wetland sedge (*Eleocharis ovata*, Obl). Eighty percent of the vegetative coverage consisted of little blue stem (*Schizachyrium scoparium*, FacU) and red fescue (*Festuca rubra*, FacU) ten percent clover and ten percent wetland sedge (approx. 500 sq ft in size) (see Figure 1). No bylaw “wetland” area was flagged within this detention basin since no hydric soils were observed and a majority of the basin was vegetated with upland species.

This basin provides three out of the eight important wetland functions/statutory interest which include: flood control, storm damage prevention and prevention of pollution.

Basin 2.

Basin 2., is located to the south of the building (see photo 1,4,5,6) and was flagged with series DB2-1 DB2-16.



Photo 4. Detention basin 2., looking south at the middle of the basin.

The soils observed within the basin includes sandy soils and areas of mucky hydric soils. The hydric soils are located within the western section of the basin (see photo 5 and 6). Vegetation within the sandy soils include sedges (*Eleocharis ovata*, OBL) and (*Carex vulpinoidea*, OBL), rushes (*Juncus effusus*, FACW) and loosestrife (*Decodon verticillatus*, OBL). Vegetation within the hydric soil area includes dominants of sensitive fern (*Onoclea sensibilis*, FACW), poison ivy (*Toxicodendron radicans*, FAC), willow (*Salix spp*, FAC) and cattail (*Typha latifolia*, OBL). The area of hydric soils and wetland vegetation was flagged with series W1-11. The basin is approx. 33,000 sf and consists of 77% upland species similar to that found in basin 1 and 23% of wetland species (7,700 sf) and of that 14% is invasive loosestrife (see Figure 1).



Photo 5. Basin 2, area of hydric soils with loosestrife within flagged area W1-11.



Photo 6. Basin 2, area of hydric soils, surface water and wetland vegetation within flagged area W1-11.

Basin 2., provides four out of the eight important functions/statutory interest which include: flood control, storm damage prevention, prevention of pollution, and wildlife habitat.

### Basin 3

Basin 3., is located to the north of the building (see photo 1,7,8) and was delineated with DB3-1-DB3-23. The soils observed within the basin includes sandy soils and areas of mucky hydric soils. The hydric soils are located within the western section of the basin (within the forebay area). Vegetation within the sandy soils include tussock sedges (*Carex stricta, Obl*) and rushes (*Juncus effusus, FacW*). Vegetation within the hydric soil area consists of cattail (*Typha latifolia, Obl*). The area of hydric soils and wetland vegetation was flagged with series W2-1-6. This entire basin is approx. 12,000 sq ft of that 75% is upland species and 25% is wetland species (3,000) sq ft (see Figure 1).



Photo 7. Basin 3, area of sandy soils with tussock sedges

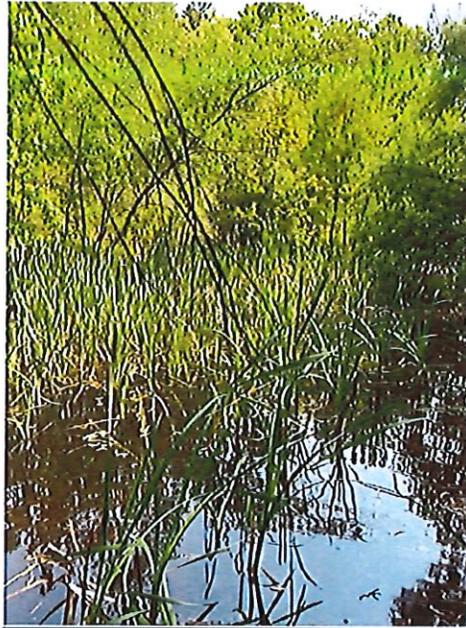


Photo 8. Basin 3, area of hydric soil, surface water and cattails within flagged area W2-1-6.

Basin 3 provides four out of the eight important functions/statutory interest which include: flood control, storm damage prevention, prevention of pollution, and wildlife habitat.

As determined by the basin analysis each of the stormwater basins are functioning as intended and are naturally protecting flood control, storm damage prevention and prevention of pollution. These functions will continue when the stormwater basins are re-located under-ground.

Basins 2 and 3 also provides wildlife habitat which is a result of the vegetation, soils and hydrology offered to wildlife for overwintering, feeding, shelter, breeding and hydration opportunities. This function however is subject to maintenance and can be destroyed at any time. Maintenance of the basins include vegetation removal, sediment and soil removal and dewatering to keep the main functions of the stormwater basin (the protection of flood control, storm damage prevention, prevention of pollution) performing efficiently. Maintenance is required under the stormwater operation and maintenance plan and as a result, the on-site basin's wildlife habitat features can be destroyed regularly.

#### Conclusion

Basins 3 is proposed to be filled and Basin 2 modified for the future expansion of the existing parking/building area. In the end the new modified Basin 2 and new underground Basin 3 will continue to treat and protect the same amount of stormwater (if not greater) presently being treated on-site and as a result the functions of flood control, storm water damage and prevention of pollution will be protected.

Since the local bylaw takes jurisdiction over all areas that have hydric soil and wetland vegetation; the parts of these basins that have hydric soils and wetland vegetation would be jurisdictional (see Figure 1). These locally jurisdictional areas were flagged with series W1-11 in Basin 2 and W2 1-6 in Basin 3 (Basin 1 did not have areas of hydric soil). As determined by the basin analysis the stormwater basins are functioning as intended and are protecting flood control,

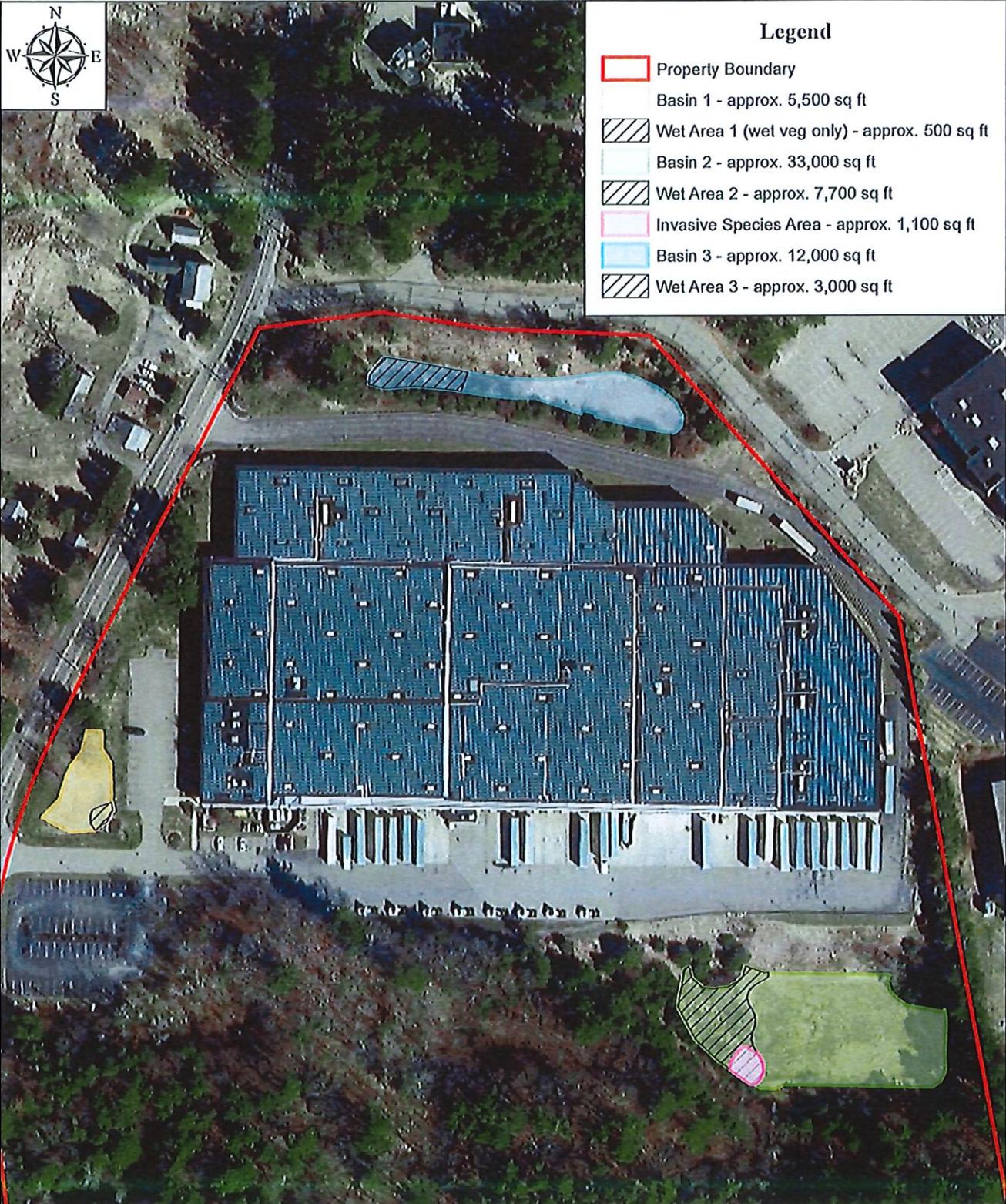


storm damage prevention and prevention of pollution. These important functions will continue to be protected even after the stormwater basins are filled/modified. The function of wildlife habitat within the stormwater basins is temporary and can and will be destroyed when regularly needed maintenance of the basins are performed and therefore this function should not be required to be re-created within the new proposed stormwater areas.

In conclusion, the modifications of the basins will continue to offer all the functions the basins are contributing (protecting flood control, storm damage prevention and prevention of pollution) and as a result the project should be allowed to be permitted.

Goddard Consulting, LLC

Nicole Hayes, PWS  
Senior Wetland Scientist



Legend	
	Property Boundary
	Basin 1 - approx. 5,500 sq ft
	Basin 2 - approx. 33,000 sq ft
	Basin 3 - approx. 12,000 sq ft
	Invasive Species Area - approx. 1,100 sq ft
	Wet Area 1 (wet veg only) - approx. 500 sq ft
	Wet Area 2 - approx. 7,700 sq ft
	Wet Area 3 - approx. 3,000 sq ft

Date: 5/30/2023

GC Job Number:  
101-80

### Basin Determination Overview

0 75 150  
Feet



124-126 Grove Street, Franklin MA 02038

1 in = 150 ft

Map: 295, Lot: 4

Figure 1



March 2, 2023

Franklin Conservation Commission  
Municipal Building  
355 E. Central Street  
Franklin, MA 02038

Re: Non-Jurisdictional Stormwater Basins  
126 Grove Street, Franklin, Massachusetts 02038

Dear Franklin Conservation Commission,

Goddard Consulting is pleased to submit this letter on behalf of the Applicant, Key Boston Inc, to summarize our findings on the non-jurisdictional status of the detention ponds at 126 Grove Street.

We received the following documentation, which served as a basis for our review:

- WPA Form 5 - Order of Conditions, issued on 4/6/2000
- WPA Form 5 - Order of Conditions, issued on 9/22/2003

#### Introduction

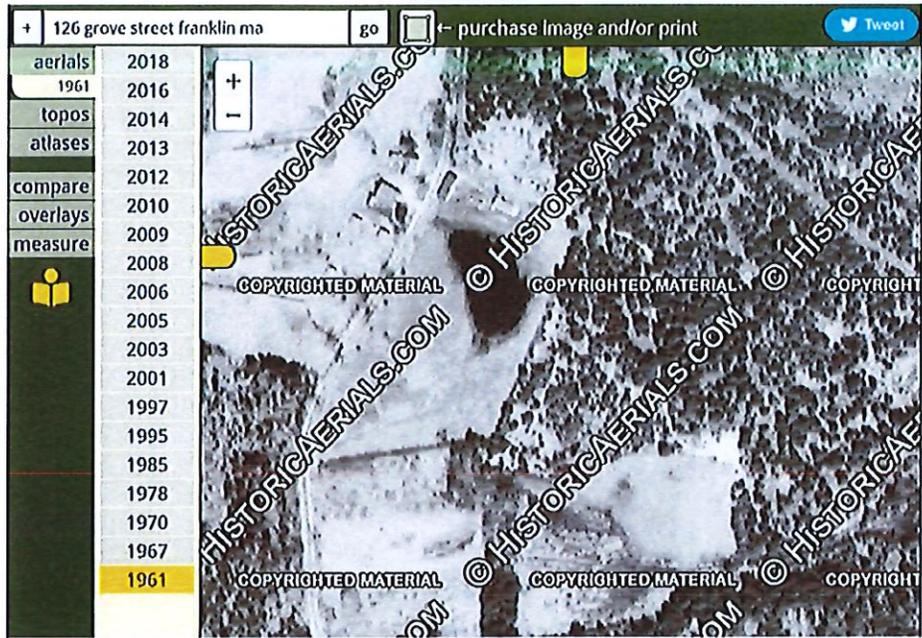
The property, 126 Grove Street, has two existing detention ponds: one on the north side of the existing building, and one on the south side. After extensive file review and research using MassMapper, historical aerials, and prior Order of Condition (OOC) documents, we have determined that the stormwater basins on site are non-jurisdictional under the WPA and the Town Bylaw. The following provides a brief overview of the aerial history and prior OOC documents related to the development changes on the locus site.

#### Historical Aerials Overview

The following summarizes the landscape / development changes on the locus site.

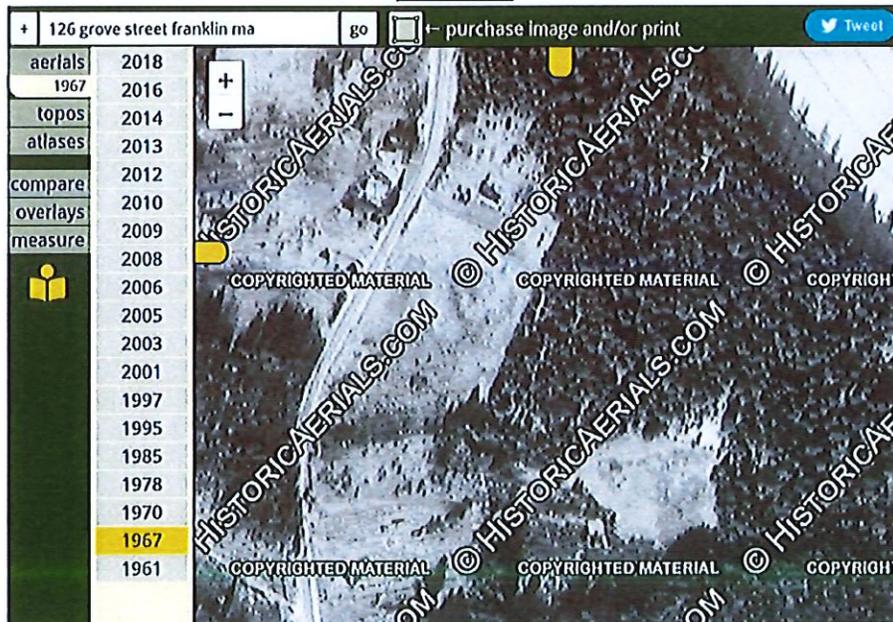
- 1961: An isolated wetland is present on site (see exhibit A).
- 1967: The wetland is no longer present (see exhibit B).
- 1967-1978: The wetland re-naturalizes (see exhibit C).
- 1978-1985: A building with an associated road was constructed in the same vicinity as the wetland. There looks to be a detention pond south of the building (see exhibit D).
- 1985-1995: A building addition with an associated road occurred. There looks to be a detention pond forming south of the building (see exhibit E).
- 1995-2001: The aerial imagery shows another building addition with associated road located north of the building. Note the northern and southern detention ponds are more prominent (see exhibit F and G).
- 2001-2003: Another addition was constructed on the northern portion of the building (see exhibit H).
- 2004-2005: Additional parking lot was constructed located southeast of the building. Both basins look functional (see exhibit I).

**Exhibit A**



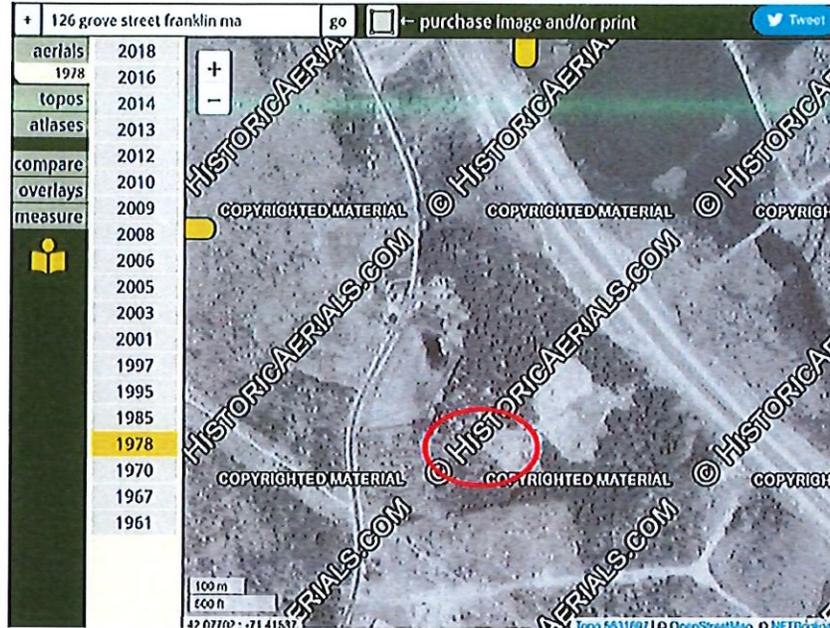
Historic aerial imagery from 1961 is the earliest available imagery that shows what appears to be a natural, undisturbed wetland onsite (before any construction activity).

**Exhibit B**



Historic aerial imagery from 1967 shows what appears to be the earliest instance of disturbance on the locus site. Note that the absence of a dark spot indicating the wetland is no longer present.

### Exhibit C



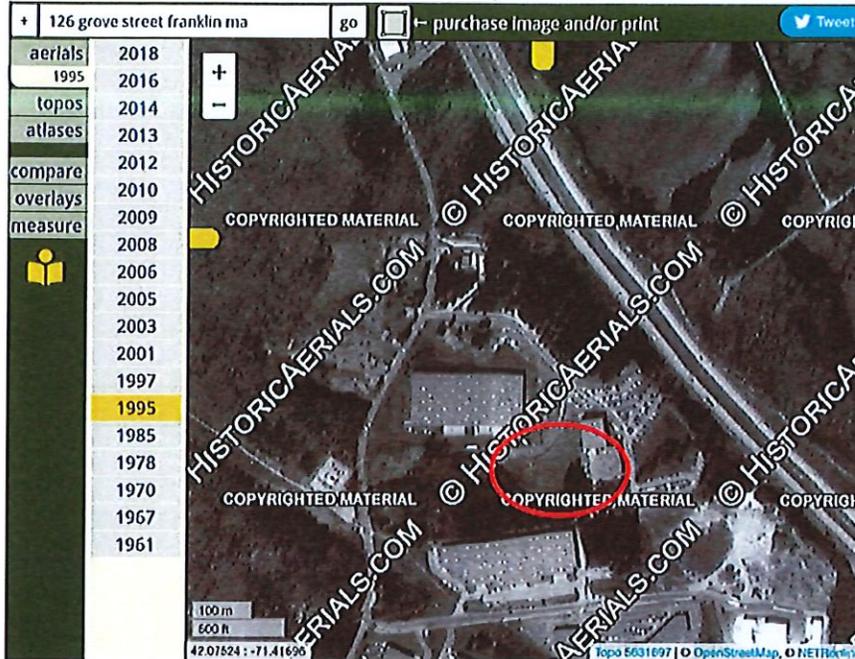
Historical aerial imagery from 1978 shows what appears to be the wetland re-naturalizing, indicated by the dark spot in the same location as in Exhibit A. Note the future location of the southern basin appears to be dry (circled in red).

### Exhibit D



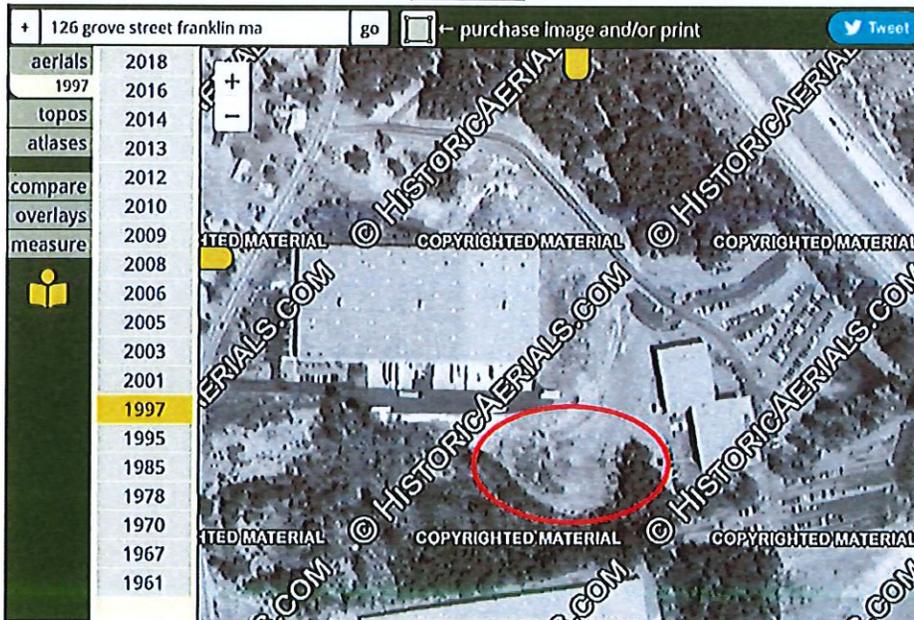
Historical aerial imagery from 1985 shows a building with associated road constructed sometime between 1978-1985 in the same proximity as the wetland. Note the southern area in the same location as the present-day detention basin is not located in a wetland.

**Exhibit E**



Historic aerial imagery shows a building addition and road addition. Note the southern area in the same location as the present-day detention basin is not located in a wetland.

**Exhibit F**



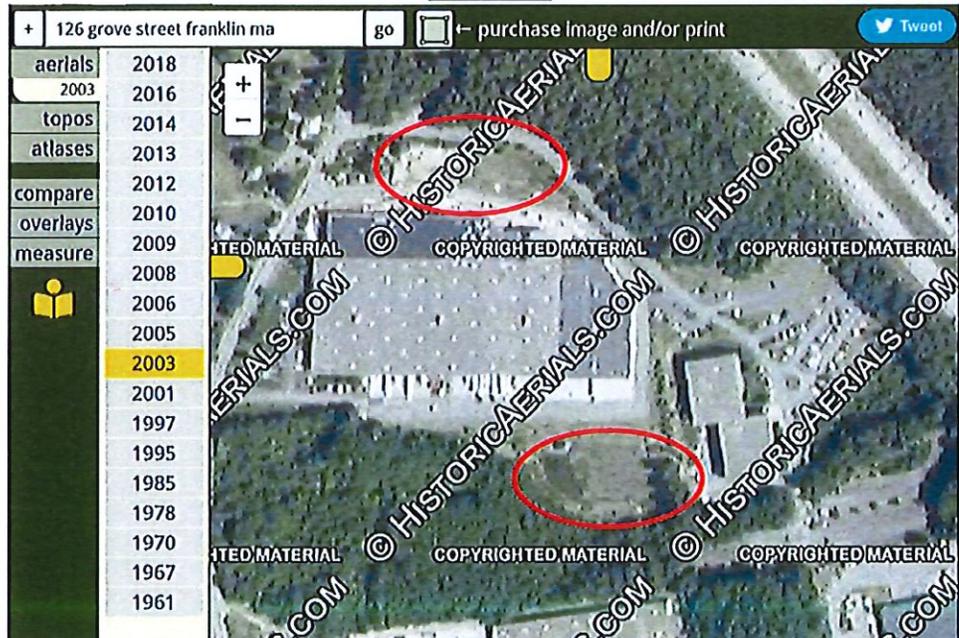
Historic aerial imagery from 1997. Note the southern area in the same location as the present-day detention basin is not located in a wetland.

**Exhibit G**



MassMapper aerial imagery from 2001 shows another addition to the building with another road addition. North and south detention basins are clearly present. This appears to be the earliest instance when both basins look to be functional.

**Exhibit H**



Historical aerial imagery from 2003 shows another addition was constructed on the northern portion of the building. North and south detention basins are present and look to be functional.

### Exhibit I



MassMapper aerial imagery from 2005 showing additional parking lot space (southwest of the building). Notice both detention basins filled with water and functional.

### Historic Aerial Imagery Summary

The area for the southern detention basin was created around the same time as the construction of the first building (between 1978-1985). The area was not located within a wetland. 2001 is the earliest instance when both the southern and northern detention basin appear to be functional. The northern detention basin was created sometime between 1997-2001. As shown above, both basins were created after the MA Wetland Protection Act and after the 1996 Stormwater Provision and, therefore, would have been permitted through a Notice of Intent.

### Prior Orders of Conditions (OOCs)

Two prior Orders of Conditions have been issued for improvement features on the existing stormwater basins. The OOC issued in 2000 (DEP File #159-686) approved the expansion and modification of the two detention ponds on site to detain the increased flow rate caused by the additional impervious area. The south detention pond adjacent to the BVW on site was approved for improvements with the addition of water quality features (i.e. sediment traps). Both ponds were expanded and undercut to provide additional recharge to ground water. The OOC issued in 2003 (DEP File #159-812) approved modification of the existing northern detention pond to accommodate for the expansion of a parking lot. The modification of both detention basins included water quality improvements, flood control, and groundwater recharge enhancement.



### Conclusion

In conclusion, the land disturbance began sometime between 1978-1985 with the construction of a small building and potential area for basin. The area that was cleared near the existing southern basin was not located within in a wetland. The Wetlands Protection Regulations were implemented in 1986. The southern detention basin was constructed around the same time as the building. The northern detention basin was created sometime between 1997-2001. The Orders of Conditions from 2000 and 2003 approved work on the existing northern and southern detention basins. For these reasons, Goddard Consulting believes that the detention basins on site are non-jurisdictional.

Sincerely,

Goddard Consulting, LLC  
Zoe Krouner  
Wetland Scientist



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

BK 14178 PG 377

DEP File No. 021  
[Redacted Box]  
for DEP use only

13

# WPA Form 5 - Order of Conditions

Franklin Town Code Chapter 181, Wetlands Protection Act

## A Applicant Information

## OFFICIAL COPY

From: Franklin Conservation Commission  
Conservation Commission

The Notice of Intent for this project was filed on:  
February 22, 2000  
Date

For: SE159-686  
Project File Number

The public hearing was closed on:  
March 23, 2000  
Date

To: Key Boston, Inc., D/B/A The Boston Group  
Applicant Name  
126 Grove Street, Box 247  
Mailing Address  
Franklin  
City/Town  
MA 02038  
State Zip Code

Title and Date of final Plans and Other Documents:  
Modification of Site Plan - February 14, 2000

The project site is located at:  
126 Grove Street, Franklin, MA  
City/Town 55 Parcel # 2  
Assessors Map/Pct #

RECEIVED AND RECORDED  
NORFOLK COUNTY  
REGISTRY OF DEEDS  
DEDHAM, MA  
CERTIFY  
*Barry T. Hannon*  
BARRY T. HANNON, REGISTER

and the property is recorded at the Registry of Deeds for:  
Norfolk 6353 200  
County Book Page  
Certificate (if registered land)

049895  
00 MAY 26 AM 9:14

## B Findings

Findings pursuant to the Massachusetts Wetlands Protection Act:

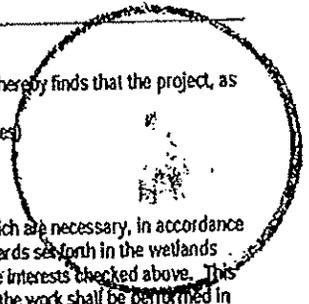
Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this commission finds that the area in which work is proposed is significant to the following interests of the Wetlands Protection Act (check all that apply):

- Public Water Supply
- Private Water Supply
- Groundwater Supply
- Flood Control
- Land Containing Shellfish
- Fisheries
- Storm Damage Prevention
- Prevention of Pollution
- Protection of Wildlife Habitat

Furthermore, this Commission hereby finds that the project, as proposed, is:  
(check one of the following boxes)

Approved subject to:

- the following conditions which are necessary, in accordance with the performance standards set forth in the wetlands regulations, to protect those interests checked above. This Commission orders that all the work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.





# WPA Form 5 - Order of Conditions

Franklin Town Code Chapter 181, Wetlands Protection Act

## B Findings (cont)

Denied because:

- the proposed work cannot be conditioned to meet the performance standards set forth in the wetlands regulations to protect those interests checked above. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect these interests, and a final Order of Conditions is issued.
- the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(b)(c).

### General Conditions

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - (a) the work is a maintenance dredging project as provided for in the Act; or
  - (b) the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or

COPY  
debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.

7. This Order does not become final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to this Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of the work.

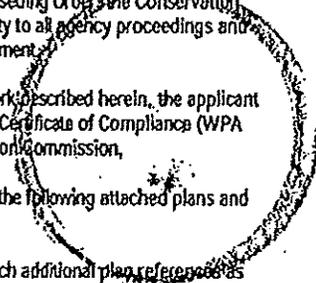
9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,  
"Massachusetts Department of Environmental Protection"  
[or, "MA DEP"] "File Number  
SE159-686  
Project File Number

10. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.

11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.

12. The work shall conform to the following attached plans and special conditions:

Final Approved Plans (attach additional plan references as needed):  
Modification of Site Plan  
File  
February 14, 2000  
Date  
Louis L. Gueriere  
Signed and Stamped by  
Conservation  
On file with





# WPA Form 5 - Order of Conditions

Franklin Town Code Chapter 181, Wetlands Protection Act

**B** OFFICIAL COPY OFFICIAL COPY

Findings as to municipal law, bylaw, or ordinance

13. Any changes to the plans identified in Condition # 12 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.

Furthermore, the  
Franklin Conservation Commission  
Conservation Commission

14. The Agent or members of the Conservation Commission and Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.

hereby finds (check one that applies):  
 that the proposed work cannot be conditioned to meet the standards set forth in a municipal law, ordinance, or bylaw, specifically  
Franklin Wetlands Protection Bylaw, Chap. 181  
Name and citation of municipal law, bylaw, or ordinance

15. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

16. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall serve as the limit of work (unless another limit of work line has been noted in the plans of record) and be maintained until a Certificate of Compliance has been issued by the Conservation Commission.

that the following additional conditions are necessary to comply with a municipal law, bylaw, or ordinance, specifically  
Franklin Wetlands Protection Bylaw, Chap. 181  
Name and citation of municipal law, bylaw, or ordinance

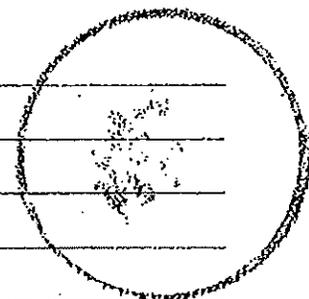
17. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary.

The Commission orders that all the work shall be performed in accordance with the said additional conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

Special Conditions (Use additional paper if necessary)

SEE ATTACHMENT 1 FOR SPECIAL CONDITIONS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



# WPA Form 5 - Order of Conditions

Franklin Town ~~Code~~ Chapter 181, Wetlands Protection Act

**B** OFFICIAL COPY OFFICIAL COPY

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Date April 6, 2000

This Order must be signed by a majority of the conservation commission. The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate regional office of the Department of Environmental Protection.

Signatures

*[Handwritten signatures of conservation commission members]*

On this 10th

Day of April  
Month 2000  
Year

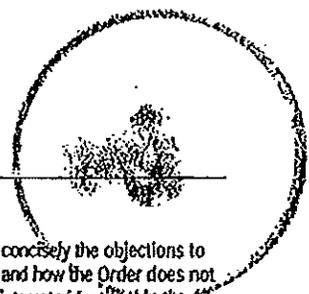
before me personally appeared  
ANDY TOLLAND

to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

*[Handwritten signature: Kurt E. Anderson]*  
*[Handwritten date: June 2, 2006]*  
My commission expires

This Order is issued to the applicant as follows:

- by hand delivery on \_\_\_\_\_  
Date
- by certified mail, return receipt requested, on \_\_\_\_\_  
Date



## C Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate Department of Environmental Protection Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Appendix E: Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the conservation commission and to the applicant, if he/she is not the appellant.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40 and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection -- Wetlands

BK 14178PG381

# WPA Form 5 - Order of Conditions

Franklin Town Code Chapter 181, Wetlands Protection Act

## D Recording Information

OFFICIAL COPY

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information shall be submitted to the

Franklin Conservation Commission  
Conservation Commission

on the form below, which must be stamped by the Registry of Deeds.

Detach on dotted line and submit to the Conservation Commission.

To: \_\_\_\_\_  
Conservation Commission

Please be advised that the Order of Conditions for the project at

Project Location \_\_\_\_\_ DEP File Number \_\_\_\_\_

has been recorded at the Registry of Deeds of

County \_\_\_\_\_

and has been noted in the chain of title of the affected property in

Book \_\_\_\_\_

Page \_\_\_\_\_

in accordance with the Order of Conditions issued on

Date \_\_\_\_\_

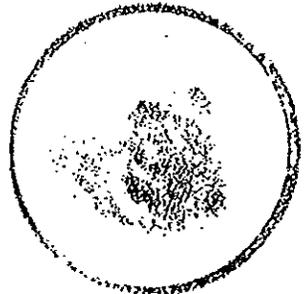
If recorded land, the instrument number which identifies this transaction is

Instrument Number \_\_\_\_\_

If registered land, the document number which identifies this transaction is

Document Number \_\_\_\_\_

Signature of Applicant \_\_\_\_\_



BK 14178 PG 382

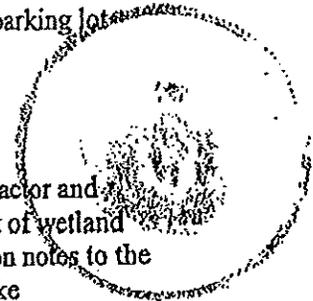
NOT AN OFFICIAL COPY  
ATTACHMENT 1  
NOT AN OFFICIAL COPY

KEY BOSTON  
126 GROVE STREET

SE159-686

ADDITIONAL SPECIAL CONDITIONS TO ORDER OF  
CONDITIONS

18. Erosion control barriers must be installed, inspected and approved by a Professional Engineer, submitted in writing, signed and stamped, before any work commences.
19. An extra 10% of siltation barriers or haybales must be stored on site in the event of an emergency or storm.
20. The applicant will provide an as built drawing with the written request for a Certificate of Compliance inspection.
21. The Commission must receive a written report in April and October from an engineer or wetland scientist with respect to a project's conformance to Orders of Conditions until such time as there is a Certificate of Compliance.
22. A trash receptacle must be placed every 50 ft. along the edge of the parking lot and maintained.
23. The area must be cleaned up before any site work commences.
24. The applicant shall secure a clerk of the works to supervise the contractor and inspect the site regularly whenever construction in or within 100 feet of wetland resource areas. The clerk of the works will provide weekly inspection notes to the Commission, and be on site during and after storm events so as to take responsibility for the proper functioning of drainage and erosion control systems for the project. The applicant shall provide that person's phone number for the Commission.



BK 14178PG383

N O T

N O T

25. As acknowledged and agreed to by the Applicant during the portion of the public hearing held on March 23, 2000, this Order of Conditions is being issued in part on account of the Applicant's representation that the portion of the site shown as the area below the match line on sheet 1 of 9 on a plan entitled Site Information Plan, dated December 13, 1999, will remain as open space (the "Open Space Area"), except for (A) existing parking and driveway facilities and (B) the sanitary sewer and other underground utilities, and stormwater management facilities approved by the Conservation Commission pursuant to this Order. Therefore, because the creation of additional impervious surfaces in the Open Space Area may negatively impact the conservation values protected by the Wetlands Protection By-Laws, new or additional structures, improvements or alterations that result in the creation in the aggregate of more than 5,000 square feet of additional impervious surfaces shall be prohibited in the Open Space Area unless first approved in writing by the Conservation Commission, regardless of whether such activities are within 100 feet of then-existing wetlands resource areas. This condition has been irrevocably agreed to by the Applicant during the public hearing and shall not be construed as derogating from any requirement in Massachusetts Wetlands Protection Act of the Franklin Wetlands Protection By-Laws, including the requirement of obtaining a determination of non-applicability or order of conditions, whichever is appropriate, for alterations in the resource area).

SECRET: *[Signature]*  
Franklin Town Clerk





Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

DEP File Number

for DEP use only

# WPA Form 5T- Order of Conditions

Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40

## A Applicant Information

C O P Y

From: Franklin Conservation Commission  
Conservation Commission

The Notice of Intent for this project was filed on:  
May 30, 2003  
Date

For: SE159-812  
Project File Number

The public hearing was closed on:  
July 31, 2003  
Date

To: Key Boston, Inc. DBA The Boston Group  
Applicant Name  
126 Grove Street  
Mailing Address  
Franklin  
City/Town  
MA 02038  
State Zip Code

Title and Date of final Plans and Other Documents:  
2003 - Site Plan Modification - May 12, 2003  
Rev. July 7, July 15 & July 23, 2003

The project site is located at:  
126 Grove Street, Franklin  
City/Town 055 002  
Assessors Map/Plot # Parcel/lot #

RECEIVED AND RECORDED  
NORFOLK COUNTY  
REGISTRY OF DEEDS  
DEDHAM, MA  
CERTIFY  
William P. O'Donnell  
WILLIAM P. O'DONNELL, REGISTER

and the property is recorded at the Registry of Deeds for:  
Norfolk 6353 200  
County Book Page  
Certificate (if registered land)

## B Findings

Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this commission finds that the area in which work is proposed is significant to the following interests of the Wetlands Protection Act (check all that apply):

- Public Water Supply
- Private Water Supply
- Groundwater Supply
- Flood Control
- Land Containing Shellfish
- Fisheries
- Storm Damage Prevention
- Prevention of Pollution
- Protection of Wildlife Habitat

Furthermore, this Commission hereby finds that the project, as proposed, is:  
(check one of the following boxes)

Approved subject to:  
 the following conditions which are necessary, in accordance with the performance standards set forth in the wetlands regulations, to protect those interests checked above. This Commission orders that all the work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

6



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

**WPA Form 5<sup>CL</sup> - Order of Conditions**

Massachusetts Wetlands Protection Act, M.G.L. c. 131A § 40

**B Findings (Cont.)**

Denied because:

- the proposed work cannot be conditioned to meet the performance standards set forth in the wetlands regulations to protect those interests checked above. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect these interests, and a final Order of Conditions is issued.
- the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(b)(c).

**General Conditions**

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
  - (a) the work is a maintenance dredging project as provided for in the Act; or
  - (b) the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or

**C O P Y**

debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.

7. This Order does not become final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
8. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to this Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of the work.

9. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,  
"Massachusetts Department of Environmental Protection"  
[or, "MA DEP"] "File Number  
SE159-812  
Project File Number

10. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before the Department.
11. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
12. The work shall conform to the following attached plans and special conditions:

Final Approved Plans (attach additional plan references as needed):

2003 - Site Plan Modification

Title  
May 12, 2003 Rev. July 7, July 15 & July 23, 2003

Dated  
Walter P. Watson

Signed and Stamped by  
Conservation

On file with



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

# WPA Form 5<sup>AN</sup> Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131A §40

## **B** Findings<sup>C</sup> (Cont.)<sup>Y</sup>

C O P Y

Findings as to municipal law, bylaw, or ordinance

13. Any changes to the plans identified in Condition # 12 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.

Furthermore, the

Franklin Conservation Commission

*Conservation Commission*

hereby finds (check one that applies):

14. The Agent or members of the Conservation Commission and Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.

that the proposed work cannot be conditioned to meet the standards set forth in a municipal law, ordinance, or bylaw, specifically

Franklin Wetlands Protection Bylaw, Chap. 181

*Name and citation of municipal law, bylaw, or ordinance*

15. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

16. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall serve as the limit of work (unless another limit of work line has been noted in the plans of record) and be maintained until a Certificate of Compliance has been issued by the Conservation Commission.

that the following additional conditions are necessary to comply with a municipal law, bylaw, or ordinance, specifically

Franklin Wetlands Protection Bylaw, Chap. 181

*Name and citation of municipal law, bylaw, or ordinance*

17. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary.

The Commission orders that all the work shall be performed in accordance with the said additional conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

Additional conditions relating to municipal law, bylaw, or ordinance:

Special Conditions (Use additional paper if necessary)

SEE ATTACHMENT 1 FOR SPECIAL CONDITIONS



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection -- Wetlands

# WPA Form 5<sup>C.T.</sup> Order of Conditions

Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40

## **B** Findings (cont.)<sup>C</sup> COPY

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

August 14, 2003

Date

This Order must be signed by a majority of the conservation commission. The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate regional office of the Department of Environmental Protection.

Signatures:

*[Handwritten signatures of three conservation commission members]*

On this 14th

day of August

Month  
2003

Year

before me personally appeared

MARC COHEN *Craig Jesse, etc*

to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

*[Signature of Elizabeth J. Cassidy]*  
Elizabeth J. Cassidy

Notary Public  
My Commission Expires  
March 12, 2010

My commission expires

This Order is issued to the applicant as follows:

by hand delivery on

Date

by certified mail, return receipt requested, on

Date

## **C** Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate Department of Environmental Protection Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Appendix E: Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the conservation commission and to the applicant, if he/she is not the appellant.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, §40 and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands

# WPA Form 5<sup>th</sup> - Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. Ch. 131, §40

## **D** Recording Information

C O P Y

This Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information shall be submitted to the

Franklin Conservation Commission

*Conservation Commission*

on the form below, which must be stamped by the Registry of Deeds.

Detach on dotted line and submit to the Conservation Commission.

To:

*Conservation Commission*

Please be advised that the Order of Conditions for the project at

*Project Location*

*DEP File Number*

has been recorded at the Registry of Deeds of

*County*

and has been noted in the chain of title of the affected property in

*Book*

*Page*

in accordance with the Order of Conditions issued on

*Date*

If recorded land, the instrument number which identifies this transaction is

*Instrument Number*

If registered land, the document number which identifies this transaction is

*Document Number*

*Signature of Applicant*

NOT  
AN ATTACHMENT NOT  
OFFICIAL OFFICIAL  
COPY KEY BOSTON, INC. Y  
126 GROVE STREET

SE159-812

ADDITIONAL SPECIAL CONDITIONS TO ORDER OF  
CONDITIONS

18. Erosion control barriers must be installed, inspected and approved by a Professional Engineer, submitted in writing, signed and stamped, before any work commences.
19. An extra 10% of siltation barriers or haybales must be stored on site in the event of an emergency or storm.
20. The applicant will provide an as built drawing with the written request for a Certificate of Compliance inspection.
21. The Commission must receive a written report in April and October from an engineer or wetland scientist with respect to a project's conformance to Orders of Conditions until such time as there is a Certificate of Compliance.