

May 30, 2025

Ms. Breeka Lí Goodlander, Agent
Town of Franklin Conservation Commission
355 East Central Street
Franklin, MA 02038

Re: 260 Daniels Street
MassDEP File No. 159-XXXX
Notice of Intent Peer Review

Dear Ms. Goodlander:

BETA Group, Inc. (BETA) is pleased to provide peer review services for the Notice of Intent (NOI) proposing approval for the filling and regrading of a single-family home lot to establish a lawn area (the Project) at **260 Daniels Street in** Franklin, Massachusetts (“the Site”). This letter is provided to present BETA’s findings, comments, and recommendations.

BASIS OF REVIEW

The following documents were received by BETA and will form the basis of the review:

- Notice of Intent entitled **Notice of Intent – 260 Daniels Street, Franklin Massachusetts**; prepared by Guerriere & Halnon, Inc.; dated May 7, 2025. Inclusive of:
 - Local Forms;
 - WPA Form 3;
 - Wetland Border Report;
 - Figures (Site Locus, NHESP Map, NRCS Soil Map, and FEMA Flood Map); and
 - Abutters Information.
- Plan (2 Sheet) entitled **Plot Plan; 260 Daniels Street, Franklin, Massachusetts**; prepared by Guerriere & Halnon, Inc.; dated March 13, 2025; stamped and signed by Robert E. Constantine, II, MA PLS No. 49611 and Dale Mackinnon, MA P.E. No. 34575.

Review by BETA included the above items along with the following, as applicable:

- Site visit on May 20, 2025
- **Massachusetts Wetlands Protection Act 310 CMR 10.00** effective October 24, 2014
- **Wetlands Protection Chapter 181 From the Code of the Town of Franklin**, dated August 20, 1997
- **Conservation Commission Bylaws Chapter 271 From the Code of the Town of Franklin**, dated July 11, 2019
- **Town of Franklin Conservation Commission Regulations**, dated October 3, 2019
- **Town of Franklin Best Development Practices Guidebook**, dated September 2016

SITE AND PROJECT DESCRIPTION

The 0.73-acre Site consists of one (1) parcel identified as Map 219 Lot 168-000 in Franklin, Massachusetts. The Site is bounded to the north by Daniels Street, to the west by Milliken Avenue, to the south by

undisturbed Town-owned land, and to the east and west by residential homes. Existing improvements at the Site consist of a single-family home and associated site features. The Site is generally flat with slight topographic relief towards the west.

Areas Subject to Protection and Jurisdiction under the Massachusetts Wetlands Protection Act (M.G.L. ch.131 s.40) and its implementing regulations at 310 CMR 10.00 (collectively “the Act”) and the Town of Franklin Wetlands Protection Bylaw (Chapter 181) and its associated Regulations (collectively “the Bylaw”) present at the Site include Bank to an intermittent stream and the 25-foot, 50-foot and 100-foot Buffer Zones.

The Site is not located within a Zone I, a Zone II, or Interim Wellhead Protections Area, and there are no Surface Water Protection Areas (Zone A, B, or C), or Outstanding Resource Waters (ORWs). There are no Areas of Critical Environmental Concern (ACEC) present, and the most recent Natural Heritage and Endangered Species Program (NHESP) mapping does not depict any Priority Habitat of Rare Species or Estimated Habitat of Rare Wildlife at the Site. There are no NHESP-mapped Certified Vernal Pools (CVPs) or Potential Vernal Pool (PVP) located on or within 100 feet of the Site.

According to the FEMA Flood Insurance Rate Map (FIRM) community panels number 25021C0309E dated July 17, 2012, the Site is not located within a mapped flood zone.

Natural Resource Conservation Service (NRCS) soil maps of the Site indicate the presence of Charlton-Hollis-Roc outcrop complex with a Hydrologic Soil Group (HSG) rating of B and Woodbridge fine sandy loam with a HSG rating of C/D.

The Applicant seeks approval for the filling and regrading of the backyard of the existing house to establish a lawn area. Proposed work includes the following activities (collectively referred to as the “Project”):

- Installation of erosion controls;
- Grading of the existing disturbed slope;
- Placement of loam along the slope;
- Stabilization of the slope by placement of hydroseed and an erosion control blanket; and
- Installation of plantings along the slope.

Tree removal, placement of 1,228 cubic yards of soil, and grading has already occurred at the Site within the Buffer Zones Resource Areas¹ without a valid Order of Conditions (OOC) or Negative Determination. Further impacts to the Buffer Zones are proposed as a part of this filing.

The following unpermitted Resource Area impacts have already occurred:

- 344 sf of impacts to the 50’ Buffer Zone; and
- 5,116 sf of impacts to the 100’ Buffer Zone.

The following additional Resource Area impacts are proposed:

- 652 sf of impacts to the 50’ Buffer Zone; and
- 518 sf of impacts to the 100’ Buffer Zone.

ADMINISTRATIVE AND PLAN COMMENTS

The plan set (as identified above) is missing information and requires additional information for clarity.

¹ Buffer Zone is protected as a Resource Area under the Bylaw.

Table 1. NOI Plan

NOI Plan Requirements	Yes	No
Scale of 40'=1" or larger	✓	
North Arrow (with reference)	✓	
Topographic contours (2' intervals)	✓	
Existing Conditions Topography (with source and date of survey)		✓ (See Comment A2.a)
Proposed Topography	✓	
Existing and Proposed Vegetation		✓ (See Comment A2.b)
Existing Structures and Improvements	✓	
Resource Areas and Buffer Zones labeled	✓	
Location of Erosion Controls	✓	
Details of Proposed Structures	✓	
Construction Sequence and Schedule		✓ (See Comment A2.c)
Registered PLS Stamp (Existing Condition Plans Only)	✓	
Assessors' Reference	✓	
Abutting Property Assessors' Reference	✓	
Survey Benchmark	✓	
Accurate Plan Scale	✓	

PLAN AND GENERAL COMMENTS

- A1. MassDEP has not issued a file number for this Project as of this writing.
- A2. The Plan should be revised to include the following:
 - a. The source and date of survey of existing conditions topography;
 - b. Existing vegetation including the existing tree line; and
 - c. A Construction Sequence and Schedule with all proposed activities in jurisdictional areas in accordance with Section 7.18.1.14 of the Bylaw Regulations.

WETLAND RESOURCE AREAS AND REGULATORY REVIEW

BETA conducted an onsite review of existing conditions and proposed work areas on May 20, 2025. The Project proposes impacts to onsite Areas Subject to Jurisdiction under the Act and Bylaw including the 25-50' and 50-100' Buffer Zones to BVW. The Project proposes installation of erosion and sedimentation controls including compost filter tubes and erosion control blankets and also proposes the planting of native vegetation along the slope as mitigation for the Project.

The NOI notes that work is taking place within “previously disturbed areas”; however, these areas were disturbed through unpermitted tree removal, filling, and grading activities. Therefore, although this review assesses both the completed and proposed work in light of compliance with the Act and Bylaw, the Commission may deliberate on whether a Notice of Violation / Enforcement Order is warranted in the event that they feel that the existing fill should be partially or entirely removed. Based on this deliberation, the Commission can direct the Applicant on which portion(s) of the Project can be approved and what mitigation is required. The Site is not presently stable, and it is therefore recommended that the Commission direct the Applicant to install erosion and sedimentation controls.

Based on our review of the NOI submittal and Project plans, the Applicant is required to provide the Conservation Commission with additional information to describe the Site, the work, and the effect of the work on the interests identified in the Act and the Bylaw.

RESOURCE AREA AND BOUNDARY COMMENTS

BETA conducted a Site visit on May 20, 2025 to assess existing conditions and to review Resource Area delineations, focusing on the definitions and methodologies referenced under the Act and the Bylaw. Review of Resource Area delineations included all flagged areas on the Site.

- W1. BETA concurs with the delineation of Bank associated with the stream as depicted on the plan and concurs with its status as intermittent. Based on field observations, it appears that that no wetlands (isolated or bordering) are present within 100 feet of the Site. However, BETA recommends that flags 1, 2, 3, 5, 6, 7, 8, and 9 not be formally approved under the OOC as part of this filing due to the flags being located offsite.

CONSTRUCTION COMMENTS

- W2. The Applicant should provide an Erosion & Sedimentation Control Plan which includes contact information of the person(s) responsible for inspection and maintaining erosion control, and all other requirements listed in Section 7.12.1 of the Bylaw Regulations.
- W3. The location where each of the seed mixes are proposed to be applied should be included on the plans.
- W4. The western slope is proposed to remain as a 2V:1H slope; however, it is recommended that this be regraded to 3V:1H to support long-term stability.

MITIGATION COMMENTS

- W1. Filling and grading work that was observed at the Site was not permitted under the Act or Bylaw. Based on a review of historic aerial imagery, the filling and grading occurred between 2021 and 2025. No MassDEP filing for this property was found on the Energy & Environment Affairs Data Portal. Further information should be provided on the work already performed (e.g., number and size of trees cut) to inform mitigation design. BETA defers the Commission regarding actions to mitigate for the unpermitted work.
- W2. The Applicant has provided a planting plan; however, specific locations of species has not been provided. The planting plan should be updated to show the location where specific species will be installed.
- W3. Migration of sediment from the already performed work was observed within the Buffer Zone, although no sediment has been discharged to the intermittent stream. It is recommended that the sediment be removed during Site stabilization efforts to prevent further migration towards the stream.
- W4. Japanese knotweed (*Fallopia japonica*) was observed to be sprouting within the Buffer Zone within the area disturbed by the unpermitted work. It is strongly recommended that these species be removed and that the Site be monitored for continued growth, as the imported soil may have caused this issue. BETA defers to the Commission on the requirement for a long-term invasive species control plan.

WPA PERFORMANCE STANDARDS COMMENTS

The Project does not propose any work within Resource Areas Subject to Protection under the Act; however, the Project does propose work within Buffer Zone and local the Buffer Zone Resource Area.

BYLAW REGULATORY COMMENTS

- W5. BETA defers to the Commission on the approval of the Project Narrative due to several Bylaw requirements being absent from the current Project Narrative (Bylaw Regulation Section 7.9.1.) including who is performing the work and when the proposed activity will be done. This information could be submitted prior to construction as part of a Special Condition.

STORMWATER MANAGEMENT

The Project proposes work on an existing single-family home and is therefore not subject to the Massachusetts Stormwater Standards.

REVIEW SUMMARY

Based on our review of the NOI submittal and Project plans, the Applicant is required to provide the Conservation Commission with additional information to describe the Site, the work, and the effect of the work on the interests identified in the Act and the Bylaw.

If we can be of any further assistance regarding this matter, please contact us at our office.

Very truly yours,

BETA Group, Inc.



Anna Haznar
Staff Scientist



Jonathan Niro, PWS
Project Manager

cc: Amy Love, Town Planner
Bryan Taberner, AICP, Director of Planning & Community Development
Matt Crowley, P.E., BETA