

Massachusetts Department of Environmental Protection

Bureau of Water Resources - Wetlands

WPA Form 2 – Determination of Applicability

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

Franklin
Municipality

A. General Information

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



From:

Franklin
Conservation Commission

To: Applicant

Fairfield Residential Company LLC
Name
30 Braintree Hill Park, Suite 105
Mailing Address
Braintree MA 02184
City/Town State Zip Code
781-881-2303
Phone Number
rhewitt@ffres.com
Email Address

Property Owner (if different from applicant):

Bryn Smith
Name
106 Mendon Street
Mailing Address
Bellingham MA 02019
City/Town State Zip Code
Phone Number
Email Address (if known)

1. Project Location:

121 Grove Street
Street Address
42.07809
Latitude (Decimal Degrees Format with 5 digits after
decimal e.g. XX.XXXXX)
29
Assessors Map/Plat Number

Franklin
City/Town
71.42289
Longitude (Decimal Degrees Format with 5 digits after
decimal e.g. -XX.XXXXX)
001
Parcel/Lot Number

[How to find Latitude
and Longitude](#)

[and how to convert to
decimal degrees](#)

2. Date Request Filed:

07/06/2023

B. Determination

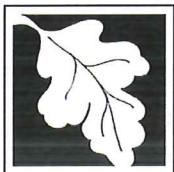
Pursuant to the authority of M.G.L. c. 131, § 40, the Conservation Commission considered your Request for Determination of Applicability, with its supporting documentation, and made the following Determination.

Project Description (if applicable):

Test pit work within buffer zone including wetland crossing and vegetation removal

Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

Test Pit Location Plan	06/23/2023
Title	Date
Title	Date
Title	Date



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B. Determination (cont.)

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Wetlands Protection Act and regulations:

Positive Determination

Note: No work within the jurisdiction of the Wetlands Protection Act may proceed until a final Order of Conditions (issued following submittal of a Notice of Intent or Abbreviated Notice of Intent) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

- ☐ 1. The area described on the referenced plan(s) is an area subject to jurisdiction under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.
- ☐ 2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

- ☐ 2b. The boundaries of Wetlands Resource Area(s) and Buffer Zone(s) listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

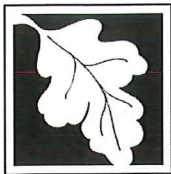
- ☐ 3. The work described on referenced plan(s) and document(s) is within an area subject to jurisdiction under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.
- ☐ 4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to jurisdiction under the Act. Therefore, said work requires the filing of a Notice of Intent
- ☐ 5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw:

Name

Ordinance or Bylaw Citation



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Municipality

B. Determination (cont.)

- ☐ 6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:
-
-

- ☐ 7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.58(4)(c) 2. for more information about the scope of alternatives requirements):

- ☐ Alternatives limited to the lot on which the project is located.
- ☐ Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
- ☐ Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
- ☐ Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

Negative Determination

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations are listed at the end of this document.

- ☐ 1. The area described in the Request is not an area subject to jurisdiction under the Act or the Buffer Zone.
- ☐ 2. The work described in the Request is within an area subject to jurisdiction under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent.
- ☒ 3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to jurisdiction under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any).

SEE ATTACHED

- ☐ 4. The work described in the Request is not within an Area subject to jurisdiction under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to jurisdiction under the Act.



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B. Determination (cont.)

- ☐ 5. The area described in the Request is subject to jurisdiction under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

Exempt Activity (site applicable statutory/regulatory provisions)

- ☐ 6. The area and/or work described in the Request is not subject to additional review and approval by:

Name of Municipality

Pursuant to a municipal wetlands' ordinance or bylaw.

Name

Ordinance or Bylaw Citation

C. Authorization

This Determination is issued to the applicant and delivered as follows:

- ☐ By hand delivery on ☒ By certified mail, return receipt request on

Date

11/06/2023

Date

9489 0090 00276064176701

Certified Mail Number

A copy of this Determination has been sent on the same date, considered the date of issuance, to the appropriate DEP Regional Office and the property owner (if not the applicant) in the manner as follows:

DEP

- ☒ By [eDEP DOA Submittal Platform](#) (Attach this form and supporting documents)

- ☐ By USPS mail

- ☐ By hand delivery

Date

Date

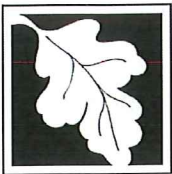
Property Owner (if not applicant)

- ☐ By mail

- ☐ By hand delivery

Date

Date



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C. Authorization (cont.)

This Determination is valid for **three years** from the date of issuance (except Determinations for Vegetation Management Plans which are valid for the duration of the Plan). This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

This Determination must be signed by a majority of the Conservation Commission. As noted above, a copy must be sent to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>) and the property owner (if different from the applicant) on the same date that the Applicant is issued this Determination.

Franklin

Issuing Authority

Signatures:

Signature

Signature

Signature

Signature

Signature

Signature

Signature

Printed Name

Printed Name

Printed Name

Printed Name

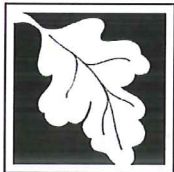
Printed Name

Printed Name

Printed Name

D. Appeals

The applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, 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 (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>) to issue a Superseding Determination of Applicability. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form (see 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 Determination. 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 Determination which is being appealed. To the extent that the Determination is based on a municipal ordinance or 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
**Request for Departmental Action Fee
Transmittal Form**

DEP File Number: _____

Provided by DEP

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

A. Request Information

1. Location of Project

a. Street Address _____

b. City/Town, Zip _____

c. Check number _____

d. Fee amount _____

2. Person or party making request (if appropriate, name the citizen group's representative):

Name _____

Mailing Address _____

City/Town _____

State _____

Zip Code _____

Phone Number _____

Fax Number (if applicable) _____

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Name _____

Mailing Address _____

City/Town _____

State _____

Zip Code _____

Phone Number _____

Fax Number (if applicable) _____

4. DEP File Number: _____

B. Instructions

1. When the Departmental action request is for (check one):

- ☐ Superseding Order of Conditions – Fee: \$120 (single family house projects) or \$245 (all other projects)
- ☐ Superseding Determination of Applicability – Fee: \$120
- ☐ Superseding Order of Resource Area Delineation – Fee: \$120

Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection
Box 4062
Boston, MA 02211

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





Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
**Request for Departmental Action Fee
Transmittal Form**

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

DEP File Number: _____

Provided by DEP

B. Instructions (cont.)

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a **copy** of this form and a **copy** of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).
4. 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.

121 Grove Street

ATTACHMENT
ADDITIONAL SPECIAL CONDITIONS

Additional Special Conditions:

1. The precise locations of the Intermittent Streams and associated inland Bank and Land Under Water north of flag BF2-74; east of BF2-2; east of flag WFA-69 and south of flag BF1-104; east of flag WFA-65; south of flag WFA-109; and east of flag WFB-64 were observed in the field by the Franklin Conservation Commission and are not included on the plan dated April 3, 2023 are not approved or verified through the Determination of Applicability. These Resource Areas shall be identified on any future permitting plans.
2. The Applicant shall identify all trees of more than three-inch caliper throughout all access routes, once confirmed, as noted in the Lucas Environmental, LLC. "RDA Supplemental Letter #2" dated October 11, 2023. The presiding Wetland Scientist, Engineer, or other certified individual shall be onsite during all scheduled work to confirm that trees of more than three-inch caliper are not removed, to the best extent practicable.
3. The Applicant shall seed and stabilize all test pit areas with New England Plant Conservation/Wildlife Mix, as noted in the Lucas Environmental, LLC. "RDA Supplemental Letter #2" dated October 11, 2023. If the proposed seed mix changes, the Applicant shall notify the Conservation Agent immediately.
4. The Applicant shall notify the Conservation Agent prior to any necessary vegetation removal within the 25-foot "No Touch Zone". Per Lucas Environmental, LLC. "RDA Supplemental Letter #2" dated October 11, 2023, no vegetation removal is proposed within the 25-foot "No Touch Zone", but is included in the Variance Request should it be required.
5. The Applicant shall notify the Conservation Agent immediately should the number of test pits proposed on the Test Pit Access Plan prepared by RJO'Connell & Associates, Inc. dated June 23, 2023 increases or shifts into the 25-foot "No Touch Zone". The Applicant should refrain from continuing work until receiving approval from the Conservation Agent. The Conservation Commission grants the Conservation Agent administrative approval to accept and approve any proposed changes.
6. The Applicant shall provide any documentation noting previous unpermitted test pit work from 2022 to the Conservation Agent prior to the start of work.

