

October 4, 2023

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

**Re: 121 Grove Street
Request for Determination of Applicability Peer Review**

Dear Ms. Goodlander:

BETA Group, Inc. (BETA) has reviewed documents and plans for the proposed soil test pits located at **121 Grove Street** in Franklin, Massachusetts (the Site). This letter is provided to present BETA's findings, comments, and recommendations.

BASIS OF REVIEW

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

- Request for Determination of Applicability submittal entitled **121 Grove Street RDA Submittal**; dated July 6, 2023; prepared by R J O'Connell & Associates, Inc; signed by Brian J. McCarthy.
- Plans (1 Sheet) entitled **Test Pit Location Plan**; dated June 23, 2023, prepared by R J O'Connell & Associates, Inc; unstamped.
- Letter entitled **LE Supplemental Letter #1**; dated September 26, 2023; prepared by Lucas Environmental, LLC.; signed by Christopher M. Lucas.

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

- **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 Site is bounded to the north and west by Franklin State Forest, to the east by Grove Street, and to the south by an electric transmission line right-of-way. A walking path associated with Franklin State Forest bisects the northern portion of the Site. Improvements located within the eastern portion of the Site along Grove Street include a single-family dwelling, accessory buildings, gravel and paved driveways, and lawn areas. The remainder of the Site consists of mixed hardwood uplands vegetated with species including Eastern white pine (*Pinus strobus*), American beech (*Fagus grandifolia*), and red oak (*Quercus rubra*); palustrine and emergent wetland complexes; and maintained fields. Topographic relief at the Site generally follows a west-to-east orientation.

MassGIS environmental data layers mapped within or near the Site include the following:

Table 1 – GIS-Mapped Areas

Mapped Resource On or Within Proximity to the Survey Area	Yes	No
Area of Critical Environmental Concern		✓
NHESP Certified Vernal Pool		✓
NHESP Potential Vernal Pool		✓
NHESP Estimated Habitat of Rare Wildlife		✓
NHESP Priority Habitat of Rare Species		✓
Outstanding Resource Waters		✓
FEMA Floodplain		✓
Surface Water Protection Area (Zone A, B, or C)		✓
Interim Wellhead Protection Area		✓
Zone I Wellhead Protection Area		✓
Zone II Wellhead Protection Area	✓	

As depicted on the plan, and as described in the RDA application, the following Resource Areas exist within 100 feet of the Site:

- Bordering Vegetated Wetland (BVW);
- Isolated Vegetated Wetland¹ (IVW); and
- Bank and Land Under Water (LUW) (to intermittent streams).

Proposed work consists of the advancement of 38 test pits within upland areas throughout the Site (the Project). The Project will require two (2) crossings over Resource Areas consisting of historically mowed BVW and an existing culverted intermittent stream at the northern crossing, and a BVW/intermittent stream complex at the southern crossing. These crossings will also require access through the Bylaw 25-foot No Disturb Zone.

ADMINISTRATIVE AND PLAN COMMENTS

A plan has been submitted depicting the proposed test pit locations and the Resource Areas as approved under an Order of Resource Area Delineation (ORAD) issued on May 11, 2023. A revised plan was submitted on September 26, 2023 depicting proposed access routes and intermittent stream channels that were not approved under the ORAD.

BETA is of the understanding that the plan requirements under the Bylaw Regulations apply to Notices of Intent (NOIs) and not RDAs; however, the submitted plans generally appear to be appropriate for the proposed work with the exception of Comment A1 below.

PLAN AND GENERAL COMMENTS

- A1. BETA recommends that the Applicant depict the Buffer Zones associated with the IVW located at the northern extent of the Site.

¹ IVWs are protected under the Bylaw as Freshwater Wetlands.

- A2. The supplemental plans depict the intermittent streams identified by BETA during the ANRAD process but were not confirmed under the ORAD. The Conservation Commission may consider a condition of the Determination of Applicability (DOA) to state that the precise locations of these streams are not approved through the DOA.

WETLAND RESOURCE AREAS AND REGULATORY REVIEW

BETA has conducted a regulatory review of the submitted documents and plans, focusing on compliance with Resource Area definitions and Performance Standards set forth in the Act and the Bylaw. The Project is proposed within Buffer Zone but requires two (2) Resource Area crossings over BVW and intermittent streams for access.

The Project consists of test pits that will be conducted in upland areas, and the BVW crossings identified above will be advanced using best management practices such as a rubber-tracked machinery to limit soil disturbance. However, as noted in this letter, the Applicant should submit a copy of the RDA application to MassDEP under the Act due to the proposed BVW crossing.

At this time, the Applicant has not provided the Conservation Commission with sufficient information to describe the Site, the work, and the effect of the work on the interests identified in the Act and the Bylaw.

CONSTRUCTION & MITIGATION COMMENTS

- W1. BETA recommends that the Applicant propose the application of native seed and/or other methods of stabilization following the advancement of test pits due to their proximity to Resource Areas. This could be considered by the Conservation Commission as a condition of the DOA.
- W2. Portions of the test pits are located within forested areas at the Site. It is recommended that, as noted by the Applicant, impacts to vegetation be limited through the careful planning of access routes in the field. The Commission could consider requiring a review of the flagged access route prior to conducting the test pits so that removal of mature trees is avoided.
- W3. The Applicant should confirm if access to test pits TP-1 through TP-3 can be accomplished off of the Grove Street right-of-way to avoid a second Resource Area crossing.

WPA PERFORMANCE STANDARDS COMMENTS

The Applicant is proposing test pits within Areas Subject to Jurisdiction under the Act including the 100-foot Buffer Zone.

- W4. The Applicant has filed the RDA under the Bylaw only and maintains that an Act filing is not required due to the Buffer Zone exemption cited at 310 CMR 10.02(b)(2)g². However, Resource Area crossings are required for the test pits; therefore, it is recommended that the Applicant also submit the RDA filing to MassDEP and provide the Conservation Commission with proof of submission.

² "Activities that are temporary in nature, have negligible impacts, and are necessary for planning and design (e.g., installation of monitoring wells, exploratory borings, sediment sampling and surveying and percolation tests for septic sewers provided that resource areas are not crossed for site access)..."

BYLAW REGULATORY COMMENTS

The Applicant is proposing test pits within Areas Subject to Protection/Jurisdiction under the Bylaw including the Buffer Zone Resource Area.

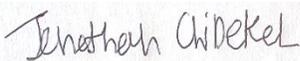
- W5. Although Section 1.2 of the Bylaw states that the advancement of test pits for the purposes of preparing an application to the Conservation Commission do not constitute an alteration, the Project will entail the removal of vegetation up to four (4) inches in caliper diameter³ and the crossing of Resource Areas for access. Accordingly, the Applicant should provide a Variance request for the Resource Area crossings per Section 5 of the Bylaw Regulations, notwithstanding the historically disturbed condition of portions of the crossings. No existing crossing appears to be present at the southern crossing. As required by the Bylaw Regulations, this Variance request should discuss alternatives.
- W6. The Applicant should clarify if any removal of vegetation is required within the 25-foot No Alteration Zone for access based on present-day Site conditions. It is recommended that any vegetation removal be avoided within the 25-foot No Disturb Zone. If this vegetation removal is required, it is recommended that this information be included in the Variance request. The southern crossing may require removal of tall herbaceous vegetation based on the location proposed by the Applicant.

REVIEW SUMMARY

Based on our review of the RDA submittal and Project plans, the Applicant should provide additional information to describe the Site, the work, and the effect of the work on the interests identified in the Bylaw and the Act, including the filing of the RDA with MassDEP under the Act.

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

Very truly yours,
BETA Group, Inc.



Jonathan Chidekel
Staff Scientist



Jonathan Niro
Project Scientist

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

³ Removal of vegetation with a Diameter at Breast Height in excess of one (1) inch is considered an alteration under the Section 1.2 of the Bylaw Regulations.