

October 2, 2023

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

**Re: Lot 1A Prospect Street
MassDEP File No. 159-1272
Notice of Intent Peer Review Update**

Dear Ms. Goodlander:

BETA Group, Inc. (BETA) has reviewed the revised documents and plans submitted for the project entitled: **Lot 1A Prospect Street** located 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:

- Letter entitled **Re: 0 Prospect Street Notice of Intent (Wall Street Development)**; prepared by Ecotec, Inc.; dated September 6, 2023.
- **Riverfront Area Restoration Planting Specifications: Lot 1A Prospect Street Franklin, MA**; prepared by Ecotec, Inc.; dated September 6, 2023.
- **Construction Sequence Lot 1A Prospect Street – Franklin, MA DEP File No. 115-1272**; revised August 28, 2023.
- WPA Form 3 revised September 6, 2023.
- Plan set (1 Sheet) entitled **Proposed House Location Plan "Lot 1A – Prospect Street" Franklin, Massachusetts**; prepared by GLM Engineering Consultants, Inc.; dated June 12, 2023 and revised September 1, 2023; stamped and signed by Robert S. Truax MA P.E. No. 56567 and Joyce E. Hastings MA P.L.S. No. 39393.

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

- Site visit on July 27, 2023
- **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

PEER REVIEW UPDATE—OCTOBER 2, 2023

The Applicant has provided revised materials pursuant to BETA's August 9, 2023 peer review letter. BETA's original comments from the August 9, 2023 peer review letter are included in plain text, and BETA's most recent comment updates are provided in **bold** and are prefaced with "**BETA2:**". The most recent responses

provided in this letter reflect observations made and discussed during the August 29, 2023 Site visit attended by BETA, Ecotec, Inc., and the Franklin Conservation Commission Agent, as well as a review of the most recent information submitted by the Applicant. The Applicant provided a letter with supplemental information in lieu of providing written responses to each of BETA's original comments; therefore, responses attributed to the Applicant are not included in this letter.

BETA's responses in this letter note that the provided Alternatives Analysis for work in RA under the Act and the Bylaw Regulations does not meet the requirements of 310 CMR 10.58(4). Regardless of work not being proposed under 310 CMR 10.58(4), it is BETA's understanding that the Bylaw requires the Alternatives Analysis to provide the information required under the Act Regulations. The Applicant has, however, listed alternatives to the proposed work and BETA defers to the Commission to determine if the listed alternatives are sufficient to document compliance of the work with the provisions of the Bylaw. The Applicant should also provide a revised Resource Area Impact Summary Form documenting revised impact values, which could be conditioned if the Commission chooses to approve the Project as proposed.

SITE AND PROJECT DESCRIPTION

The approximately 47,643-square foot (sf) Site includes one (1) parcel located at 0 Prospect Street in Franklin, Massachusetts, further identified by the Franklin Assessor's Office as Assessor's Parcel 309-018-000. The Site is bounded to the east by Prospect Street, to the north by a combination of forested and cleared areas, to the south by wetlands and an unnamed perennial stream, and to the west by an inactive gravel mine. Existing improvements at the Site include a compacted dirt access road and cleared areas consisting of soil and debris piles.

Resource Areas Subject to Protection 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"), as well as the Town of Franklin Wetlands Protection Bylaw (Chapter 181) and its associated regulations (collectively "the Bylaw") present at or within 100 feet of the Site include Bordering Vegetated Wetlands (BVW), Bank (to an unnamed perennial stream), and Riverfront Area (RA) associated with the unnamed perennial stream.

The Site is located within a Zone II Wellhead Protection Area but is not located within any Zone I or Interim Wellhead Protection Areas. There are no Surface Water Protection Areas (Zone A, B, or C), Outstanding Resource Waters (ORWs), or 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 or Potential Vernal Pools located within 100 feet of the Site.

According to the FEMA Flood Insurance Rate Map (FIRM) community panel number 25021C0312E, dated July 17, 2012, the Site is not located within the 100-year floodplain. A Flood Zone A is mapped to the north and east of the Site with no Base Flood Elevation (BFE) provided.

Natural Resource Conservation Service (NRCS) soil maps of the Site indicate the presence of Scarboro and Birdsall soils with a Hydrologic Soil Group (HSG) rating of A/D, Canton fine sandy loam with a HSG rating of B, Swansea muck with a HSG rating of B/D, and pits, sand and gravel with no HSG rating provided.

The Applicant seeks approval for construction of one (1) new single-family home and associated Site work. According to the NOI, proposed work includes the following activities (collectively referred to as the "Project"):

- Removal of the existing concrete blocks;

- Removal of existing previously dumped debris and soil piles;
- Installation of erosion controls and sediment track-out controls;
- Installation of the private well;
- Construction of the single family home;
- Installation of an onsite septic system;
- Installation of a paved driveway;
- Restoration of degraded RA;
- Vegetation clearing and grubbing; and
- Grading.

All work is proposed within RA and/or Buffer Zone with the exception of the paved driveway, a portion of the home, and the septic system. The Project will result in temporary and permanent impacts within the RA and the Buffer Zone and therefore requires compliance with the relevant provisions of the Act and the Bylaw.

BETA2: All previously proposed work is still proposed under the current Project iteration; however, limits of work have been adjusted per BETA’s peer review comments.

ADMINISTRATIVE AND PLAN COMMENTS

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

Table 1. NOI Plan

NOI Plan Requirements	Yes	No
Scale of 40’=1” or larger	✓	
North Arrow (with reference)	✓ (BETA2)	
Topographic contours (2’ intervals)	✓	
Existing Conditions Topography (with source and date of survey)	✓ (BETA2)	
Proposed Topography	✓	
Existing and Proposed Vegetation	✓ (BETA2)	
Existing Structures and Improvements	✓	
Resource Areas and Buffer Zones labeled	✓ (BETA2)	
Location of Erosion Controls	✓ (BETA2)	
Details of Proposed Structures	✓	
Construction Sequence and Schedule	✓	
Registered PLS Stamp (Existing Condition Plans Only)	✓	
Assessors’ Reference	✓	
Abutting Property Assessors’ Reference	✓ (BETA2)	
Survey Benchmark	✓ (BETA2)	
Accurate Plan Scale	✓	

PLAN AND GENERAL COMMENTS

A1. MassDEP has issued a file number (159-1272) with no technical comments.

BETA2: No further update required.

A2. A reference should be provided for the north arrow as required by Section 7.18.1.3 of the Bylaw.

BETA2: Comment addressed.

- A3. The existing tree line and width of the existing access road as shown on the Project Plans are inaccurate based on field observations. Existing and proposed vegetation should be depicted as required by Section 7.18.1.5 and 7.18.1.6 of the Bylaw and information on the date(s) and method(s) of the survey and wetland delineation should be provided. The accurate footprint of the access road should also be depicted.

BETA2: Comment addressed. Although the proposed tree line is not shown, it is understood that the limit of work as shown on the plans is the limit of vegetative clearing.

- A4. The Bylaw 25- and 50-foot Buffer Zones should be identified on the Project plans.

BETA2: Comment addressed.

- A5. Erosion controls are depicted and labeled as the Limit of Work (LOW) on the Project plans. Erosion controls should encompass the limit of disturbance, including around the areas of RA restoration (as identified by the Applicant).

BETA2: Comment addressed.

- A6. Include the Assessor's Reference for abutting properties.

BETA2: Comment addressed.

- A7. Provide a survey benchmark.

BETA2: Comment addressed.

WETLAND RESOURCE AREAS AND REGULATORY REVIEW

BETA conducted an onsite and 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 a single-family home project and is therefore exempt from the MassDEP Stormwater Standards.

BETA's regulatory review of the Project was primarily focused on the applicability of specific RA Performance Standards with regard to degraded and/or previously developed portions of RA at the Site and whether the documented existing conditions corroborate the Applicant's claims. The NOI application includes narrative information describing the Project and the proposed impacts within RA and Buffer Zone. However, sufficient details including the method(s) of RA restoration and a demonstration of full compliance with Bylaw requirements (such as providing a full Functions & Characteristics Statement and adhering to all plan requirements) are absent from the filing. The Applicant has also not included sufficient information to document the presence of degraded RA at all of the stated locations and has not indicated whether these areas were degraded prior to August 7, 1996.

Based on field observations as described below, the Applicant should reevaluate their degraded RA delineation, revise the Project Plans with more current existing conditions information, and demonstrate compliance with the appropriate RA provisions. Appropriate documentation should also be provided to confirm the date on which the subject lot was created to determine the applicability of certain RA Performance Standards.

At this time, 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.

BETA2: The Applicant has provided sufficient information to describe the Site and the work. BETA defers to the Commission to determine if the Alternatives Analysis provided by the Applicant is sufficient to document compliance with the requirements presented in Section 7.13.1 of the Bylaw Regulations (Comments W11 and W12d.). The Applicant should also provide a revised Resource Area Impact Summary Form (Comment W9), which could be conditioned in an Order of Conditions should the Commission vote to approve the Project as presented.

RESOURCE AREA AND BOUNDARY COMMENTS

BETA conducted a Site visit on July 27, 2023 to assess existing conditions and to review the limit of degraded RA as delineated at the Site. The Bank and BVW boundaries were approved under an Order of Resource Area Delineation (ORAD) issued by the Franklin Conservation Commission on February 21, 2020 (MassDEP File No. 159-1211). Review of Resource Areas as delineated under the prior ORAD was not included in the scope of this review; however, BETA did perform an assessment of the Applicant's degraded RA delineation as flagged in the field.

W1. Review of historic aerials confirms the presence of the existing compacted dirt access road prior to 1995. Identification of this access road as degraded per the onsite delineated boundary is appropriate per 310 CMR 10.58(5)¹.

BETA2: No further update required.

W2. BETA reviewed the flags placed in the field to delineate degraded RA (flags DA1-DA25 and DB3-DB-7²) and offers the following comments:

- a. BETA concurs with the flags DB-3 to DB-7² as placed in the field to demarcate the northern extent of degraded RA. These flags were generally at the top of slope along the access road with no identifiable topsoil present.
- b. RA identified by the Applicant as degraded from flags DA-1 to DA-19 south of the existing road generally consists of soil mounds vegetated by various woody species including Eastern white pine (*Pinus strobus*) and red maple (*Acer rubrum*), as well as piles of vegetative debris including branches and tree limbs. BETA observed topsoil overlain by accumulated leaf litter within this area and therefore disagrees with the identification of these areas as degraded, as they do not lack topsoil or constitute an abandoned dumping ground.

In addition, the large stones and concrete blocks that were observed within the delineated degraded RA boundary from flags DA-22 to DA-26 do not constitute degraded RA status, as this area is not degraded with debris and refuse to the point of diminishing the RA's capacity to provide its presumed functions and values. Further, based on a review of Google Streetview, it appears that the blocks have been historically used to prevent vehicular access to the Site and were moved in recent years.

¹ A previously developed riverfront area contains areas degraded prior to August 7, 1996 by impervious surfaces from existing structures or pavement, absence of topsoil, junkyards, or abandoned dumping grounds.

² Flags DA-1, DA-2, DA-26, and DA-27 are located off-site within the public right-of-way.

- c. BETA agrees with the delineation of degraded RA at flags DA-19 through DA-21 as these flags are located along the vehicular access roadway which lacks topsoil.
- d. The Applicant should revise the Plans to accurately depict the limits of degraded RA on the Plans.

BETA2: Comments W2a. through d. have been addressed. The limit of degraded RA onsite was determined and agreed upon by BETA and Ecotec, Inc. in the field during the August 29, 2023 site visit. The revised project plans appear to accurately depict the agreed upon limits of degraded RA.

CONSTRUCTION COMMENTS

- W3. Material storage and laydown areas should be depicted on the Project plans and located outside of jurisdictional areas.

BETA2: Comment addressed.

- W4. The NOI narrative indicates that compost filter tubes and/or silt fence will be used as an erosion control measure. Silt fence is not a permitted erosion control measure in the Town of Franklin (Pg. 13 of *Town of Franklin Best Development Practices Guidebook*). BETA defers to the Commission regarding the use of silt fence.

BETA2: Comment addressed. The Project plans now indicate the use of compost filter tubes as erosion controls.

- W5. The Applicant should depict the proposed limits of maintained lawn associated with the dwelling on the plan.

BETA2: Comment addressed. The Project plans depict the proposed lawn areas.

MITIGATION COMMENTS

- W6. Restoration of degraded RA (as delineated by the Applicant) is proposed and includes the removal of soil mounds and concrete blocks, placement of additional topsoil, seeding, and planting. The Applicant should provide a detailed plan for restoration in accordance with 310 CMR 10.58(5)(f) including native woody species to be preserved, specifications for a native upland seed mixture, and locations/species of proposed plantings. It does not appear that the existing access road will be used for construction; therefore, the Commission may consider requiring at least the initial stages of restoration to be undertaken prior to constructing the dwelling and associated Site features.

BETA recommends that all comments regarding the delineation of degraded RA at the Site be addressed prior to finalizing any mitigation/restoration plans.

BETA2: Comment addressed. A revised degraded RA boundary has been agreed upon in the field, and the Applicant has provided a Riverfront Area restoration plan that includes a total of 80 plantings of native woody species, as well as coverage of the area with topsoil and a native seed mixture to supplement the woody plantings. Restoration is proposed at a greater than 1:1 ratio of degraded RA restoration to area of alteration not conforming to the criteria at 310 CMR 10.58(5).

W7. Per 310 CMR 10.58(5)(h)³, it is recommended that the Applicant develop a monitoring protocol for the restoration area to demonstrate sufficient establishment of the restoration areas.

BETA2: Comment addressed. The Riverfront Area restoration plan notes that reports are to be provided to the Commission after completion of the initial restoration area plantings, and near the end of the first and second growing seasons. Reports will include photos, assessments of plant cover, and recommendations for corrective actions as necessary.

WPA PERFORMANCE STANDARDS COMMENTS

The Project proposes work within Riverfront Area, which is a Resource Area Subject to Protection under the Act.

W8. The WPA Form 3 should be revised to check off RA under the Inland Resource Areas section on Page 2, Section B.

BETA2: Comment addressed.

W9. On Page 3 of the WPA Form 3, the Applicant provides conflicting degraded RA impact numbers (4,350 sf and 4,312 sf). The submitted Resource Area Impact Summary Form references 4,312 sf. Clarify impact quantities.

BETA2: A revised Resource Area Impact Summary Form with revised impact numbers should be provided as Project plans and limits of work have changed since the initial submittal.

Although the supplemental narrative notes 5,660 sf of RA present at the Site, the WPA Form 3 notes 29,252 sf of RA present. The Applicant should confirm this information and provide an updated WPA Form 3 as appropriate. Due to the administrative nature of this comment, the Commission could consider the submission of a revised WPA Form 3 to be a condition of approval should they vote to issue an Order of Conditions approving the Project.

W10. Given BETA's Site observations and the inaccuracy of the degraded RA delineation (Comments W1 and W2), the Applicant should confirm if an accurate degraded RA delineation will result in alterations to natural RA greater in area than the area of proposed degraded RA restoration. Where work within natural RA is not subject to 310 CMR 10.58(5)(f), the Applicant must fully comply with the Performance Standards for work within RA at 310 CMR 10.58(4). The Applicant should provide a full summary of compliance for the portions of the Site that are considered degraded as well as those that are non-degraded.

BETA2: See comment W11.

W11. For non-previously developed/non-degraded portions of the Site where work is proposed and not associated with the Redevelopment provisions, a RA Alternatives Analysis must be provided.

BETA2: Comment partially addressed. The Applicant has revised the Project plans to provide areas of degraded RA restoration in excess of the area in which work is proposed within non-degraded RA. Although the Alternatives Analysis is no longer required under the Act, the Bylaw does require that an Alternatives Analysis for any work within RA be provided, consistent with

³ The issuing authority shall include a continuing condition in the Certificate of Compliance for projects under 310 CMR 10.58(5)(f) or (g) prohibiting further alteration within the restoration or mitigation area, except as may be required to maintain the area in its restored or mitigated condition. Prior to requesting the issuance of the Certificate of Compliance, the applicant shall demonstrate the restoration or mitigation has been successfully completed for at least two growing seasons.

the provisions of an RA Alternatives Analysis under the Act. As noted in Comment 12.d., the Applicant has provided alternatives to the proposed work and BETA defers to the Commission on whether the alternatives meet the intent of the Bylaw.

BYLAW REGULATORY COMMENTS

W12. The following materials must be submitted per the submission requirements of the Bylaw Regulations:

- a. A Vernal Pool Statement (Section 7.7);

BETA2: Comment addressed.

- b. A complete Functions and Characteristics Statement inclusive of Erosion and Sedimentation, Water Quality, and Aquaculture (Section 7.10);

BETA2: Comment addressed.

- c. An Avoidance, Minimization, and Mitigation Sequence (Section 7.11) and Narrative (Section 7.11.2);

BETA2: Comment addressed.

- d. An Alternatives Analysis (Section 7.13.1) as a project within RA; and

BETA2: Comment partially addressed. The Bylaw Regulations require the submission of an Alternatives Analysis meeting the requirements presented in 310 CMR 10.58(4) for any work within RA. The Bylaw Regulations do not differentiate between degraded and non-degraded RA in the requirement for an Alternatives Analysis.

The Applicant has not provided an Alternatives Analysis meeting the requirements of 310 CMR 10.58(4)(c) but has listed alternatives to the proposed work. BETA defers to the Commission for acceptance of the provided alternatives as meeting the intent of the Bylaw.

- e. Maps including the following data (Section 7.17.1):

- i. Natural Heritage Priority Habitats and Estimated Habitats
- ii. FEMA Floodplain.

BETA2: Comment addressed.

W13. The Erosion and Sedimentation Control Plan provided within the narrative should also be included on the Project plans as required under Section 7.12.1.

BETA2: Comment addressed. The Erosion and Sedimentation Control Plan has been provided on the Project plans.

W14. The Applicant should confirm whether the proposed work within the 50–100-foot Buffer Zone complies with Section 4.4 of the Bylaw Regulations.

BETA2: Comment addressed. Work within the 50–100-foot Buffer Zone complies with Section 4.4 of the Bylaw Regulations as it does not involve slopes steeper than 10%, nor will more than 30% of this Buffer Zone consist of impervious surfaces under proposed conditions.

Ms. Breeka Lí Goodlander, Agent

October 2, 2023

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REVIEW SUMMARY

Based on our review of the NOI submittal and Project plans, the Applicant has provided sufficient information to describe the Site and the work. The Alternatives Analysis provided does not meet the requirements presented in 310 CMR 10.58(4); however, the Conservation Commission could determine that the supplemental information provided is sufficient to document compliance with the intent of the Bylaw. The Applicant should also provide a revised Resource Area Summary Form to comply with the Bylaw, which could be conditioned should the Commission vote to issue an Order of Conditions approving the Project.

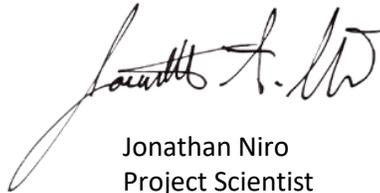
If we can be of any further assistance regarding this matter, please contact us at our office.

Very truly yours,

BETA Group, Inc.



Elyse Tripp
Staff Scientist



Jonathan Niro
Project Scientist

cc: Amy Love, Town Planner

Bryan Taberner, AICP, Director of Planning & Community Development

Matt Crowley, P.E., BETA