

January 23, 2024

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

Re: 124 and 126 Grove Street - Franklin, MA
MassDEP File No. 159-1274
Abbreviated Notice of Resource Area Delineation Peer Review

Dear Ms. Goodlander,

BETA Group, Inc. (BETA) is pleased to provide continued peer review services for the Abbreviated Notice of Resource Area Delineation (ANRAD) submitted for the parcels located at **124 Grove Street and 126 Grove Street**, further identified as the Town of Franklin Assessor's Parcel Numbers: **295-004-000 and 295-003-000** in Franklin, Massachusetts (the Site). This letter provides BETA's peer review findings and comments as they relate to the Massachusetts Wetlands Protection Act (M.G.L. ch.131, §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 implementing regulations (collectively "the Bylaw").

At this time, the Conservation Commission has been provided with sufficient information to issue of an Order of Resource Area Delineation (ORAD) for the Site.

DOCUMENTS REVIEWED

- Soil Analysis letter entitled: ***Additional Information for ANRAD 124-126 Grove St (DEP #159-1274) Soils Analysis of Basin 2 and 3***; prepared by Goddard Consulting LLC; dated October 26, 2023.
- Updated Plan (1 Sheet) entitled ***Resource Area Plan 124/126 Grove Street Franklin Massachusetts***; prepared by Guerriere & Halnon, Inc.; dated June 26, 2023, revision on 12/6/2023; stamped and signed by Robert E. Constantine II, MA PLS No. 49611.

PEER REVIEW UPDATE – January 24, 2024

BETA Wetland Scientists performed an initial Site visit on August 21, 2023 to review the onsite Resource Area boundaries and confirm existing conditions as they relate to the ANRAD filing. Following the issuance of BETA's August 29, 2023 peer review letter, a second Site visit was performed on September 19, 2023 and was attended by the following individuals:

- Breeka Lí Goodlander (Franklin Conservation Agent)
- Jonathan Niro (Peer Review Scientist from BETA)
- Scott Goddard (Goddard Consulting)
- Nicole Hayes (Goddard Consulting)

During this Site visit, the Applicant clarified the scope of the ANRAD and recognized that flagging in several locations where Resource Area boundary approval was being requested were not present for BETA's initial review. These areas primarily consisted of onsite stormwater basins that the Applicant had noted as being entirely non-jurisdictional in their original submission. However, the Applicant subsequently flagged portions of these basins as jurisdictional wetlands prior to the Site visit. These flags were not present in the field on BETA's August 21, 2023 Site visit or depicted on the originally submitted surveyed plans. To

further support this review of the newly flagged boundaries, the Franklin Conservation Agent requested the Applicant provide an assessment of soils within the onsite stormwater basins to assist in determining their jurisdictional status due to the nature of these basins being frequently flooded. The Applicant's assessment was performed in dry conditions.

An additional Site visit was performed by BETA Wetland Scientists on December 19, 2023, following the receipt of revised plans and the above-referenced soils data; however, no written comment responses to BETA's August 29, 2023 peer review comments were provided by the Applicant for consideration in BETA's December 28, 2023 peer review letter. The Applicant provided comment responses and revised plans on January 18, 2024.

BETA offers the following summary of the peer review timeline as it relates to the structure of this letter:

- BETA's original comments from the August 29, 2023 peer review letter are included below in plain text.
- BETA's responses from the December 28, 2023 peer review letter are included below in **bold text** and prefaced with "**BETA2:**".
- Responses attributed to Goddard Consulting, LLC. (GC)'s January 18, 2024 letter are included below in *italics* and prefaced with "*GC:*".
- BETA's most recent responses are included below in **bold text** and prefaced with "**BETA3:**". These responses consider the comment responses and revised materials submitted by GC on January 18, 2024.

SCOPE SUMMARY

The Applicant is requesting that the Conservation Commission confirm the following Resource Areas boundaries, as noted in the application materials, and as delineated and depicted on the ANRAD plan:

- 6,015 linear feet (lf) of Bordering Vegetated Wetland (BVW); and
- 400 lf of Inland Bank.

In addition, the Applicant seeks confirmation that the three (3) stormwater basins¹ on Lot 4 do not qualify as Areas Subject to Protection under the Act or the Bylaw.

BETA2: Per the request of the Applicant, BETA conducted an additional Site visit on September 19, 2023 with the Applicant and the Franklin Conservation Agent to review additional areas to be flagged in the field (i.e., wetlands within onsite stormwater basins). The Applicant should provide the length of additional boundaries requested for confirmation.

BETA3: The Applicant has noted on the plans that the ANRAD now seeks approval of 6,207 lf of BVW and 478 lf of Bank.

¹ These basins include Basin 1, 2, and 3 as depicted on the Basin Determination Overview figure.

ADMINISTRATIVE REQUIREMENTS

The following provides an assessment of the plans in light of generally accepted existing conditions plan standards and the applicable plan requirements under Section 7.18 of the Bylaw Regulations:

Table 1 – ANRAD Plan Requirements

Plan Requirements	Yes	No
North Arrow (with reference)	✓	
Registered PLS Stamp	✓	
Assessors’ Reference	✓	
Abutting Property Assessors’ Reference	BETA2: ✓ (Comment W1.a.)	
Survey Benchmark	BETA3: ✓ (Comment W1.b.)	
Existing Conditions and Topography Sourced with date of survey	BETA2: ✓ (Comment W1.c.)	
Topography/Contours	✓	
Lot Line Surveyed	✓	
Accurate Plan Scale		✓ (Comment W1.d.)
Resource Areas Identified and Labeled (including Buffer Zones)	BETA2: ✓ (Comment W1.e.)	

EXISTING CONDITIONS AND ONSITE RESOURCES

The 37.52-acre Site consists of the two (2) parcels identified above along the eastern limit of Grove Street. The Site is bounded to the north by a residential home, to the west by Amego School and Interstate 495, to the south by commercial businesses, and the east by Grove Street. The Site is currently improved by two (2) buildings, paved driveways, paved parking lots, and lawn area. The remainder of the Site consists of mixed hardwood and softwoods upland vegetation, including but not limited to Eastern white pine (*Pinus strobus*), red maple (*Acer rubrum*), red oak (*Quercus rubra*), and black cherry (*Prunus serotina*). Wetland and stream complexes are present within portions of the vegetated areas. Topographic relief at the Site generally follows a north-to-south orientation.

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

Table 3 – 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 ANRAD application, the Applicant has stated that the following Resource Areas exist within 100 feet of the Site:

- Bordering Vegetated Wetland (BVW); and
- Bank (to intermittent stream).

Table 3 further details these Resource Areas.

Table 3 – Resource Areas and Act/Bylaw Jurisdiction

Resource Area	Flag Series	Act	Bylaw
BVW / Freshwater Wetland	GC-1 to GC-79 GC-1 to GC-3, GC-4A, GC-5R, GC-6, GC-7, GC-8A, GC-8R, GC-9, GC-10, GC10R, GC-11 to GC-79	✓	✓
BVW / Freshwater Wetland	GC-100 to GC-146	✓	✓
BVW / Freshwater Wetland	109A – 109W	✓	✓
BVW / Freshwater Wetland (“Upland Island”)	U1 – U17	✓	✓
Bank (to intermittent stream)	GC-200 to GC-237 GC-200 to GC-207 & GC-229 to GC-237	✓	✓
BVW / Freshwater Wetland	GC-208 to GC-228	✓	✓
BVW / Freshwater Wetland	1-1 – 1-14	*	✓
BVW / Freshwater Wetland	2-1 – 2-7	*	✓
BVW / Freshwater Wetland	3-1 – 3-6	*	✓

* Based on the plans, historic aerials, and discussion below under Comment W3.c., the three areas labeled as BVW within Basins 2 and 3 on the plans actually qualify as Isolated Vegetated Wetlands, which are only Subject to Protection under the Bylaw.

BETA2: The table above has been updated with additional Resource Areas flagged by the Applicant as depicted on the revised plans.

BETA3: The table above has been further revised to distinguish between areas of intermittent stream with jurisdictional Bank versus BVW per BETA’s previous comments and the most recently revised plans. In addition, revised flagging within the southwestern portion of the Site has been reflected.

COMMENTS

W1. BETA provides the following administrative and plan comments after conducting a review of the submitted application and plan set:

- a. Provide Assessor's references for the abutting properties.
- b. Provide a survey benchmark.
- c. Provide the date(s) and source(s) of existing conditions topography and the wetland delineation(s).
- d. The Bylaw NOI plan requirements cite a plan scale of 1"=40'; however, the submitted plan is at a scale of 1"=60'. Although the plan was not submitted for an NOI, BETA defers to the Commission on this requirement.
- e. Provide a legend to more clearly depict Buffer Zone boundaries and existing Site features.

BETA2: Comments W1.a., W1.c., and W1.e. were addressed in the revised materials submitted to BETA. However, a survey benchmark was not provided (Comment W1.b.) and BETA defers to the Commission on the resolution of Comment W1.d.

GC: The updated Anrad plan dated 1-12-24 by Guerrier & Halnon (G&H) was electronically provided to the agent on 1-17-24 and via 7 paper copies on 1-18-24 (one week prior to the hearing) and has the requested survey benchmark.

The plan is at a 1"=60' scale to clearly show the wetland resource areas on site on one sheet for convenience.

BETA3: A survey benchmark has been provided and BETA defers to the Commission on the acceptance of the plan scale.

W2. Stormwater basins should be clearly labeled on the Site Plans and all basins should be depicted on the Plans. Basin 1 is not presently depicted.

BETA2: The stormwater basins are not clearly labeled on the plans and Stormwater Basin 1 is not depicted. Comment remains.

GC: The updated plan dated 1-12-24 by (G&H) labels each stormwater basin including basin 1.

BETA3: Comment resolved.

W3. The Applicant stated in the ANRAD narrative that the stormwater basins are non-jurisdictional due to their age, the years in which maintenance was performed, and the makeup of their vegetative communities and soils. BETA offers the following comments relative to the stormwater basins:

- a. The jurisdictional status of the stormwater basins at the Site are subject to review under the provisions of 310 CMR 10.02(2)(c)², which sets forth the regulatory criteria for

² Notwithstanding the provisions of 310 CMR 10.02(1) and (2)(a) and (b), stormwater management systems designed, constructed, installed, operated, maintained, and/or improved as defined in 310 CMR 10.04 in accordance with the Stormwater Management Standards as provided in the Stormwater Management Policy (1996) or 310 CMR 10.05(6)(k) through (q) do not by themselves constitute Areas Subject to Protection under M.G.L. c. 131, § 40 or Buffer Zone provided that: 1. the system was designed, constructed, installed, and/or improved as defined in 310 CMR 10.04 on or after November 18, 1996; and 2. if the system was constructed in an Area Subject to Protection under M.G.L. c. 131, § 40 or Buffer Zone, the system was designed, constructed, and installed in accordance with all applicable provisions in 310 CMR 10.00.

determining whether stormwater features constitute Areas Subject to Protection under the Act.

- b. Although emergent hydrophytic vegetation and marginal hydric soils were observed, Basin 1 appears to have been well-maintained through mowing and application of stone. Therefore, BETA concurs that this area would not constitute an Area Subject to Protection under the Act or the Bylaw.
- c. Based on a review of historic aerial imagery taken around the time in which the Orders of Conditions provided by the Applicant were issued, it appears that Basins 2 & 3 were constructed and/or improved after 1996. Therefore, these basins may technically be considered non-jurisdictional under the Act. However, the Applicant should confirm that these Orders of Conditions actually permitted work on the basins, as this is not clear based on the documentation provided.
- d. Notwithstanding Comment W3.c. above, BETA disagrees with the Applicant's characterization of these basins. BETA observed a dense cover of hydrophytic vegetation throughout the entirety of Basin 2 including purple loosestrife (*Lythrum salicaria*), soft rush (*Juncus effusus*), marsh bedstraw (*Galium palustre*), broad leaved cattail, spotted joe-pye weed (*Eutrochium maculatum*) and narrow-leaved cattail (*Typha angustifolia*) and observed hydric soils consisting of a depleted, silty mineral soil underlying riprap. Throughout the entirety of Basin 3, BETA observed a dense cover of hydrophytic vegetation including broad leaved cattail (*Typha latifolia*), purple loosestrife sensitive fern (*Onoclea sensibilis*), woolgrass (*Scirpus cyperinus*) and swamp loosestrife (*Decodon verticillatus*) as well as several areas exhibiting hydric soil indicators including redoximorphic features, depletions, and a hydrogen sulfide odor.

The Bylaw protects all Freshwater Wetland regardless of whether they border surface waters and does not distinguish between naturally occurring wetlands and unmaintained basins. Therefore, based on the Bylaw's protection of Resource Areas beyond that of the Act and the fact that Basins 2 & 3 appear to provide wetland functions and values pursuant to the Bylaw³, the Commission could find that Basins 2 & 3 are jurisdictional under the Bylaw as Freshwater Wetlands.

BETA2: BETA concurs with the boundaries of Freshwater Wetlands delineated within Basins 2 & 3 based on wetland indicators observed in the field and the Applicant's soils assessment.

As noted in Comment W2.c. above, the Applicant should provide sufficient information to document that the historic work at the Site was for the construction and/or improvement of the basins in order to determine the jurisdiction of the basins under the Act. Unless further information is provided by the Applicant, these areas may be considered Subject to Protection under the Act.

GC: Goddard Consulting has issued a report dated March 2, 2023 as part of the ANRAD submission package that states the basins were created and approved under two NOIs and corresponding Orders of Conditions. These basins would not be subject to the Wetland Protection Act.

³ Based on BETA's field observations, it appears that Basins 2 & 3 provide wetland functions and values pursuant to the Bylaw including protection of groundwater, protection of water quality, water pollution control, flood control, and wildlife habitat.

Goddard Consulting agrees Basin 1 is not jurisdictional.

Goddard provided this in a report dated March 2, 2023 as part of the ANRAD submission packet in which states that these basins were permitted by the Commission and would not be subject to the Act.

Beta and Goddard Consulting are in agreement on the areas and limits within basin 2 and 3 that may be jurisdictional under the local bylaw only. These are shown on the 1-12-24 ANRAD plan.

BETA3: The Orders of Conditions provided by the Applicant do not describe the nature or context of the approved work on Basins 2 and 3. Based on review historic aerials beyond what was provided by the Applicant, Basin 3 appears to have been constructed after November 1996. Similarly, based on historic aerials and the dates associated with the OOCs issued for the Site, it appears that work was completed on Basin 2 to maintain/improve its function. Accordingly, under 310 CMR 10.02(2)(c), Basins 2 and 3 are not Subject to Protection under the Act.

W4. The following flags delineating BVW at the Site should be relocated approximately 5 to 10 feet upgradient of their current locations due to the presence hydric soils and a dominance of hydrophytic vegetation including cinnamon fern (*Osmunda cinnamomea*), skunk cabbage (*Symplocarpus foetidus*), and red maple (*Acer rubrum*):

- GC4;
- GC5;
- GC8; and
- GC10.

BETA2: BETA did not observe revised flagging in the field or on the plans per this comment. Comment remains.

GC: Goddard Consulting inspected these flags and replaced GC4, 5, 8 and 10 with GC4R, 5R, 8R and 10R up-gradient to include these areas. Add added an additional 8A flag. These flag changes were surveyed and put on the 1-12-24 ANRAD plan that was submitted.

BETA3: The revised flags noted above were not in the field during BETA's December 19, 2023 Site visit; however, they appear accurate based on BETA's knowledge of the Site and a comparison to the originally submitted plans. Comment resolved.

W5. BETA concurs that the upland island identified within the BVW at the southern extent of the Site has been correctly delineated.

BETA2: No further comment required.

GC: No comment needed.

W6. BETA concurs that an intermittent/ephemeral stream is present between flags GC200 to GC207 and GC229 to GC237. However, no bankfull indicators were observed east of the culvert adjacent to flags GC207/GC229 and the flagging within this eastern area appears to delineate the boundary of BVW. Further, the Wetland Border Report notes that only flags GC200 to GC218 delineate Bank, which is inconsistent with the Resource Area labeling on the plan. BETA recommends that the intermittent stream be identified as discussed in this comment and that all other flagging in the vicinity be characterized as BVW/Freshwater Wetlands.

BETA2: The Applicant has not clarified the classification of Resource Areas as depicted on the plans. Comment remains.

GC: This notation was corrected/added to the 1-12-24 plan.

BETA3: Comment resolved.

W7. BETA recommends that the Commission exclude approval of any wetland flags located on abutting properties (e.g., flags 100 to 105 and 132 to 138 located within the Interstate 495 State Highway Layout) within the Order of Resource Area Delineation (ORAD).

BETA2: No further comment required.

GC: No comment needed.

Review Summary

Based on our review of the ANRAD submittal and plan, and the existing conditions at the Site, it is BETA's opinion that the Commission has sufficient information to issue an ORAD for the Site.

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



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