

# Town of Franklin

355 East Central Street  
Franklin, Massachusetts  
02038-1352



(Phone) 508-420-4929  
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## Conservation Commission

**To:** Franklin Conservation Commission  
**From:** Breeka Li Goodlander, CWS, PWS, CERPIT  
**Re:** Conservation Agent Report  
**Date:** January 11, 2024



**NOTE: PLEASE SPEAK INTO YOUR MIC**

### 1.0 Public Hearings

#### 1.1 ANRAD – 1 Paddock Lane

***Recommendation: Continue to January 25 7:01 pm***

A revised site plan was submitted on November 29, 2023. This site plan reflects changes in the UA series and WF-48 and 49. As discussed at the December 14, 2023 meeting, a site visit was scheduled for January 11, 2024 to review these new boundary lines, but has been postponed until site conditions (i.e., snow cover) improve.

Recommend continuance.

#### 1.2 NOI – 15 Liberty Way (CE 159-1282)

***Recommendation: Continue per Applicant Request to January 25 7:02 pm***

This public hearing is for an NOI for a proposed parking lot expansion (approximately 105, 320 sf) within an Isolated Vegetated Wetland (IVW) (264 sf impact) and all associated Buffer Zones, including the 25-foot “No Touch” (5,000 sf impact). The Applicant has included a Variance Request to work within the Resource Areas and 25-foot “No Touch”. Please note that the Applicant did include invasive species management as a proposed mitigation to work within these area.

BETA submitted an updated peer review on January 2. In review of this latest submission, outstanding comments still include:

- The Existing Conditions plan appears to depict Buffer Zones; however, they are not labeled. It also appears that Buffer Zones have been offset from the boundaries of non-jurisdictional swales within the center of the Site. Buffer Zones should be revised to be accurate and should also be depicted on the Grading and Drainage plan sheet.
- Compliance with the Stormwater Management Standards has not been demonstrated through the concurrent Planning Board review process. Additional

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information is required to adequately describe the proposed invasive species management plan (IVMP) and to comply with the Bylaw, including details on the proposed methods of treatment and considerations for working within a maintained easement. Prior to further revisions to the proposed invasive species management plan, **the Commission should determine if the proposed mitigation is sufficient as mitigation for the filling of Bylaw-jurisdictional wetlands.**

- **The Commission has yet to make a determination of the provided Variance Request for work proposed within the IVW (264 sf fill), 0- to 25-foot No Touch Zone, and 25- to 50' Buffer Zone (5,000 sf alteration – pavement); and that the mitigation proposed is not considered in-kind (i.e., native seed mixture (mowable) in lieu of woody plantings). This can be voted on/approved when closing the hearing and making a determination for the Project.**
- The Applicant proposed silt fence as a measure for erosion control. Note: the Commission typically conditions biodegradable compost socks.
- A portion of the proposed IVMP will occur within a Town-owned sewer easement and the Applicant has coordinated with Franklin DPW regarding the proposed project. Franklin DPW have determined that woody plantings are not permitted within the sewer easement. It is recommended that the IVMP be revised to incorporate multiple rounds of seeding with a native seed mixture, as the DPW mowing/maintenance schedule may impact certain species' abilities to establish seed heads and self-seed. In addition, the Applicant proposes that the formal planting plan within the areas subject to the IVMP will only be prepared once mitigation efforts are underway and it is determined which native species will be preserved. It's recommended the Commission include a Special Condition requiring the Applicant to submit a formal planting plan for review and approval by the Conservation Agent and Commission prior to construction, after an inventory of existing native species to remain is performed.
- The Applicant should provide the percentage of impervious surface increase associated with the 18,894 sf of impervious surface proposed in the 50- to 100' Buffer Zone. **The Commission should determine is the proposed mitigation is sufficient as mitigation for the total increase of impervious surface on the site, and within the 25- to 50-foot Buffer Zone.** Bylaw Regulations Section 4.3.1 regulates impervious surface within this Zone stating that: "Any application proposing a project within the 25-50 foot buffer zone resource area shall indicate that there are no structures including, but not limited to, concrete, stone, or other

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impervious foundations and/or slabs for construction purposes that for all intents and purposes would significantly increase runoff. Alteration in the 25-50 foot buffer zone resource area is limited to grading [and] tree clearing...”

- It is possible for the Applicant to consider other pervious options.
- Bylaw Regulations Section 7.14 requires replication of altered wetlands at a minimum 2:1 ratio, and Section 7.13 requires the submission of an Alternatives Analysis for wetland filling up to 5,000 sf. **The Commission should determine if the proposed mitigation is sufficient as mitigation for the filling of Bylaw-jurisdictional wetlands.**
- Full compliance with the MA Stormwater Management Regulations has not yet been demonstrated. Based on the peer review letter submitted to the Franklin Planning Board on December 14, 2023, remaining stormwater comments are primarily related to the documented high groundwater at the project site, and the Applicant’s proposal to artificially lower groundwater elevations around an infiltration system in order to meet the 2-foot separation to groundwater requirements. It is anticipated that additional stormwater management system design changes will be required, as the current proposal does not currently provide the level of recharge required to meet the Standards.

Recommend continuance per Applicant request.

### 1.3 NOI – 0 Upper Union Street Solar (CE 159-1281)

***Recommendation: Continue to January 11 7:03 pm***

This public hearing is for a NOI for a proposed solar development project at 0 Upper Union Street including perimeter fencing, photovoltaic solar panels, racking systems, inverters, transformers with association concrete pads, above and below ground utilities, stormwater facilities, and gravel access road. The site is currently vacant and primarily forested. Work is proposed within the 100-foot Buffer Zone, specifically 308 sf within the 0- to 25-foot; 13,496 sf within the 25- to 50-foot; 20,119 sf within the 50- to 100 foot, for a total of 33,923 sf. The Applicant is proposing 616 sf of mitigation for proposed work within the 0- to 25-foot Buffer Zone.

Since the last meeting, the Applicant has met MA Stormwater Standards and all additional outstanding comments. Recommend approval and Variance Request to fill an IVW and replicate with Standard Special Conditions 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43, 44, 46, 47, 48, 49, 50, and 51. Including:

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Special Condition 52: The Applicant shall provide a proposed native seed mixture with species names and ratios to the Conservation Agent and Commission prior to construction. The Agent and Commission shall approve the seed mixture prior to seeding.

Special Condition 53: The internal stream within the A-series Wetland is considered intermittent and its associated Bank was not delineated or approved as part of this Project. The proposed work is not near nor within any jurisdictional boundaries associated with this Bank.

### 1.4 ANRAD – 124-126 Grove Street (CE 159-1274)

***Recommendation: Continue per Applicant request to January 25 7:04 pm  
Existing site violation requiring mitigation***

This public hearing is for an ANRAD at 124 and 126 Grove Street. The Applicant identified one BVW, Intermittent Stream, and Bank within existing stormwater basins. The Applicant is seeking clarification on whether these areas are jurisdictional under the WPA and/or local Bylaw and associated Regulations.

BETA submitted a peer review on December 28. In review of this latest submission, outstanding comments still include:

- Site Plans:
  - Survey benchmark has yet to be provided
  - Stormwater basins are not clearly labeled and Stormwater Basin 1 is not depicted.
- BETA and the Agent concur with the boundaries of Freshwater Wetlands delineated within Basins 2 & 3 based on wetland indicators observed in the field the provided soil assessment. 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 jurisdictional status 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. These are considered jurisdictional under Local Bylaw regardless.
- Revised flagging for GC4, GC5, GC8 and GC10 could not be located in the field, not on the plans. This flagging needs to be reflected.
- The Applicant has not clarified the classification of intermittent stream and BVW/Freshwater Wetlands on the plans. The resource areas need to be labeled appropriately.

Recommend continuance per Applicant request.

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### 1.5 ANRAD – Tri-County Regional Vocational Technical High School (159-1277)

***Recommendation: Continue to January 25 7:05 pm***

***Applicant yet to provide Certified Mail/Return Receipt for abutter notification to Conservation (i.e., green cards) – must provide prior to project approval – scanned copies ok***

This public hearing is for an ANRAD at 147 Pond Street (Tri-County Regional Vocational High School). The Applicant is seeking verification of four proposed BVWs, two proposed IVWs, and subsequent Buffer Zones.

BETA submitted a peer review response on December 7. Peer review and Agent comments include:

- BVW on A-Series Wetland: This BVW is a small, fringe wetland within a historically disturbed area. Hydric soils and evidence of hydrology (i.e., water stained leaves, saturation) were observed. Supporting evidence of the source of water flowing through the associated pipe has not yet been provided. It's recommended that this area be depicted on the plans as BVW and that the Bank of the Stream delineated.
- Plans need to depict all revised flagging.
- Wetland C series: It's recommended this wetland be classified as BVW unless evidence to the contrary can be provided by the Applicant.
- The Applicant provided historic permitting documents and plans depicting the proposed "drainage ditches" under the solar panels rows. These "ditches" were solely intended to provide attenuation of stormwater sheet flow generated by the panels, which is consistent with MassDEP Wetland Program Policy 17-1 directives. Therefore, these "ditches" would not be considered jurisdictional under the WPA, however they would be jurisdictional under the local Bylaw as "Isolated Vegetated Wetland".
- As such, all resource areas, IVW or BVW otherwise, within the solar field need to be delineated and depicted on site plans.
- In conjunction to the two prior comments, the basin within the southwest corner of the solar field was not constructed per previously approved site designs, therefore it was not constructed in accordance within any approved plans. Given that the solar project did not receive final closeout from the Planning Board, and analysis and design documentation supporting the field change being constructed in full compliance with Stormwater Management Standards/Regs was not provided. The depression and adjacent area to the west should be delineated as BVW, and the associated downgradient channel along the roadway should be delineated as an Intermittent Stream with jurisdictional Bank and LUW subject to

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jurisdiction under both the WPA and local Bylaw/Regs. Additionally, it is recommended the Commission condition a vernal pool survey at this basin during the next breeding season in 2024.

- The additional basins in the west and north of the solar field were constructed per previously approved plans for stormwater management purposes. These areas would not be considered jurisdictional under the WPA, but would qualify as jurisdictional under the local Bylaw/Regs as IVW.

Applicant yet to provide an official response to comments. A work session did occur between Bryan Taberner, Jon Niro, and the project team during the period of the Agent's leave. Please defer to Jon Niro for an update on this work session. Recommend continuance.

### 1.6 NOI – 0 Bent Street (159-1280)

***Recommendation: Continue per Applicant request to January 25 7:06 pm***

This public hearing is for an NOI located at 0 Bent Street. Proposed work includes the construction, operation, and maintenance of a telecommunications facility and associated access within the 0- to 25-foot, 25- to 50- foot, and 50- to 100-foot Buffer Zones to BVW and Vernal Pool (see Section 4.0 of the NOI submittal). The telecommunications facility itself is outside of resource areas. Other nearby resources include BVW and potential ILSF (unconfirmed and improbable at this time). Total proposed sf impact is 8,545 sf.

BETA submitted a peer review letter on November 14. Applicant yet to provide revised information. Recommend continuance per Applicant request to allow more time to survey trees.

### 1.7 NOI – Proposed Solar Array – Parcel 3, 160 Maple Street (NO DEP # YET)

This public hearing is for an NOI located at Parcel 3, 160 Maple Street, otherwise known as “Maplegate South”, for the construction of an approximate 103 acre solar field with associated gravel access drives, utilities, stormwater management features, and a replacement stream crossing (see section 5 of NOI). Onsite resource areas under the Act and local Bylaw/Regs include Bordering Vegetated Wetlands, Intermittent Streams, Bank, Isolated Land Subject to Flooding, and a Vernal Pool. Impacts (sf) to resource areas and 2:1 mitigation (sf) include:

BETA completed their first peer review on January 5. Agent received on January 8 and has yet to review. The Commission may defer to BETA to provide a verbal update on the Project.

### 1.8 NOI – Lot 1, 60 Spring Street (159-1285)



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This public hearing is for an NOI located at Lot 1, 60 Spring Street for the construction of a single family home, inclusive of septic and well, and associated grading within the 100-foot Buffer Zone to BVW. Approximately 5,291 sf of alteration is proposed with no mitigation.

BETA submitted a peer review letter on December 21, 2023. There are numerous outstanding requirements to be met by the Applicant, excluding the wetland delineation. The wetland delineation was confirmed by BETA in the field on December 19, 2023. Please defer to Jon Niro from BETA to provide a more comprehensive update of the outstanding items.

### **1.9 NOI – Lot 3, 60 Spring Street (159-1284)**

This public hearing is for an NOI located at Lot 3, 60 Spring Street for the construction of a single family home, inclusive of septic and well, and associated grading within the 100-foot Buffer Zone to BVW. Approximately 5,291 sf of alteration is proposed with no mitigation.

BETA submitted a peer review letter on December 21, 2023. There are numerous outstanding requirements to be met by the Applicant, excluding the wetland delineation. The wetland delineation was confirmed by BETA in the field on December 19, 2023. Please defer to Jon Niro from BETA to provide a more comprehensive update of the outstanding items.

### **1.10 121 Grove Street (NO DEP # YET)**

This public hearing is the first for an NOI located at 121 Grove Street for the construction of five detached apartment buildings (330 units), including a clubhouse, swimming pool, parking bays and associated parking areas, impervious driveways, dog park with impervious pavement and access drives, landscaping, stormwater infrastructure (including two crossings), utilities and lighting. The Applicant is proposing to file this NOI as a Limited Project. Existing jurisdictional resources include BVW, IVW, intermittent Streams, and inland Bank. Most of those resources have been confirmed under the ORAD, with the exception of several streams the Applicant requested be delineated at the time of an NOI filing.

Given that the proposed development results in a net increase of impervious area, the Applicant is proposing a stormwater management system that is proposed to treat stormwater runoff, reduce peak flow rates of runoff, and provide water quality measures. The proposed stormwater management can be found in Section 4.1 of the provided NOI.

Resource area impacts provided by the Applicant include:

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TABLE 5-1 RESOURCE AREA IMPACTS – WPA*				
Impact Area	Area of Impact	BVW Alteration		Stream Alteration**
		Temporary (square feet)	Permanent (square feet)	Inland Bank (linear feet)
Northern Access Roadway Crossing	BVW/Bank	65	450	145
Southern Access Roadway Crossing	Bank	0	0	135
Clubhouse Pool	BVW	85	100	0
Northern Boardwalk	BVW/Bank	300	20	25
Southern Boardwalk	BVW/Bank	135	10	15
<b>Total</b>		<b>585</b>	<b>580</b>	<b>320</b>
<b>Proposed Mitigation</b>		<b>585</b>	<b>5,875</b>	<b>500</b>

\* Impact Calculations provided by RJOC. Temporary impacts listed are necessary to complete the proposed work.

\*\* Alterations to Inland Bank are listed in the Table; however, there will be no loss of Bank associated with these resource areas at the impact areas. Each impact area is associated with the installation of a three-sided, open-bottom box culvert or boardwalk span.

\*\*\*Note: The construction of Building #4 will permanently impact 2,015 square feet of a non-regulated IVW. Impacts are not included.

TABLE 5-2 BUFFER ZONE IMPACTS*			
Impact Area	Temporary (square feet)	Permanent (square feet)	
		Crossings and IVW	Buildings & Infrastructure
25-Foot Buffer Zone**	41,575	12,115	9,790
100-Foot Buffer Zone	113,150	340,350	

\* Impact Calculations provided by RJOC. Temporary impacts listed are necessary to complete the proposed work.

\*\* The Applicant is requesting a waiver to the 25-Foot Buffer Zone local requirements.

The Commission is tasked tonight with discussing the waiver request provided by the Applicant. Given that the Applicant is proposing to file this project as a “Friendly” 40B, the Applicant has requested that the Zoning Board of Appeals (ZBA) waive local Bylaw Chapter 181, Chapter 271, and any associated Regulations. At their last meeting in December, the ZBA asked the Commission to discuss the waiver request (provided in



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your packets) and draft a response letter to ZBA to be read at their next meeting in February. It has been recommended that the Commission refrain from review of the project until the determination of the waiver request.

To that point, a BETA scope and fee was provided to the Applicant to begin review of the outstanding wetland resource areas and any existing state jurisdictional resources. The Applicant has yet to pay the peer review scope and fee to continue said review. Once the scope and fee is paid, the Agent and BETA will continue review of the Project. Please note that the scope and fee provided covers WPA jurisdictional resources only and does not include a review of local jurisdictional resources. Should ZBA deny the Applicant's waiver request, the Applicant will need to provide additional funds to review the Project under the local Bylaw and Regulations, as well. Please note that it is the Commission's right under the WPA to request third party review for any Project and the Commission has requested peer review for Friendly 40Bs with success in the past. All prior Applicants have worked cooperatively with the Commission, have adhered to local Bylaw and Regulations, and have paid third party review.

Recommend continuance to January 25 to further discuss the waiver request response letter to ZBA.

## 2.0 General Business

### 2.1 Minor Buffer Zone Activity

#### 2.1.1 111 King Street

This MBZA is ratification for an emergency authorization during the Agent's leave to remove three storm-damaged trees that had fallen on the property's fence. All trees will be cut with stumps left in place. It's been communicated to the resident to ensure that the tree company mobilizes on soft earth with mats, if needed, to prevent rutting. Recommend approval.

#### 2.1.2 74 Elm Street

This MBZA is a modification of a previously approved MBZA on November 16, 2023 and ratification of an emergency authorization. The property owner provided revised information December 12 indicating that a certified arborist identified additional hazardous trees that were in need of removal. A total of 37 trees are considered hazardous and were proposed for removal. Their details are shown below. Recommend approval.

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### 1) Tree Removal

- Remove 1 large double maple with rot and 1 small maple left of driveway near the street
- Remove 9 maples with rot left of the driveway
- Remove 4 maples, 1 small dead cherry and 1 cedar on the right side of the driveway near the street (on the left side of the house drop)
- Remove 1 maple leaning over the house drop with multiple hollow cavities
- Remove 1 small dead cherry near street (left of the house drop)
- Remove 4 maples left of the stone driveway and 1 large pine

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### 2) Tree Removal

- Remove 1 large pine behind the house in the middle of the back (top is weighted towards the house)
  - Remove 1 maple at the right rear corner of the house with rot at 15' and a large pressure crack in the main crotch (top of the tree weighted towards the house above the compromised areas)
  - Remove 1 large double maple at the right rear corner of the house with a significant pressure crack in the base of the tree and one leader is leaning over the house putting it in risk of breaking onto the home
  - Remove 1 maple with significant rot at 10' leaning over the house
  - Remove 5 maples at the front right corner of the yard all with multiple significant hollow cavities at the base, 10', 15' and 40' (in significant risk of breaking)
  - Remove 1 dead top double maple leaning over the roadway (1 half is dead and the other has a dead top) and 1 hollow maple
  - Remove 1 maple cluster in front yard with rot (in front of pine)
  - Remove 1 large maple cluster in the front yard with significant rot in the broken top (right of the house drop)
- \*Removals require permission from conservation (within the 100' buffer)

## 2.2 Request for Determination of Applicability

### 2.3 Permit Modifications/Extensions

#### 2.3.1 515 West Central Street

The Applicant has not yet finalized their responses and revisions addressing BETA stormwater comments for the pervious pavement field change. The Applicant has request a continuance to January 25.

#### 2.3.2 25 Forge Parkway

This permit modification is for the expansion of the parking area in front of the building to allow for more parking. The majority of the proposed work, including the proposed paved parking lot expansion, is located outside of the 100-foot Buffer Zone. Proposed work within the 100-foot Buffer Zone would be within the existing disturbed, landscaped area to the east to accommodate a new sidewalk, grading associated with the parking lot, and tree removal for grading and electric utilities.

The 100' buffer impacts are as follows:

1. Additional impervious = **382+/- sf** (sidewalk on the east building face)

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2. Tree removal for grading/electrical utilities = **420+/- sf**
3. Total site work impacts for grading, drainage improvements, utility connections = **4,900+/- sf**

The Commission may want to inquire about replanting native trees at another location on the property to mitigate. Recommend approval.

### 2.4 Certificates of Compliance

#### 2.5 Violations/Enforcement

##### 2.4.1. 305 Union Street

Recommend 30-day extension.

#### 2.6 Minutes

##### 2.6.1 December 14, 2023

#### 2.7 Discussion Items

##### 2.7.1 1 Heaton Place/8 Jackson Circle-Fallen Tree Removal

##### 2.7.2 110 Louise Drive

### Chair & Commission Comments

- Friends of Franklin Liaison Update
- Master Plan Liaison Update
- Natural Resource Protection Manager Update