

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 25, 2024



NOTE: PLEASE SPEAK INTO YOUR MIC

1.0 Public Hearings

1.1 ANRAD – 1 Paddock Lane

Recommendation: Continue to February 8 7:01 pm

No new information – Applicant’s responsibility to reschedule site visit

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 to February 8 7:02 pm

No new information – Applicant working through revisions

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.

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- Compliance with the Stormwater Management Standards has not been demonstrated through the concurrent Planning Board review process. Additional 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 if 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

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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 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.

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

Recommendation: Continue to February 8 7:04 pm for ORAD approval

Existing site violation requiring mitigation

New final information provided January 18 and January 23

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 January 23. All outstanding comments have been addressed, including confirmation that Basins 2 and 3 are not Subject to Protection under the Wetlands Protection Act; these areas are jurisdictional are local Bylaw as Isolated Vegetated Wetlands. Given that the Applicant provided supplemental information within the one week timeframe and that BETA’s review was delivered January 23, it is

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recommended to continue this hearing to February 8 to allow sufficient time for the Agent to draft the ORAD. Recommend approval at February 8 meeting.

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

Recommendation: Continue per Applicant request to January 25 7:05 pm

No new information – site visit scheduled for January 30

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. Site visit tentatively scheduled for Tuesday, January 30. Recommend continuance.

1.6 NOI – 0 Bent Street (159-1280)

Recommendation: Continue to February 8 7:06 pm

BETA submitted peer review January 24 – Applicant and Agent reviewing

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 January 24. In review of this latest submission, outstanding comments still include:

- It is recommended that as part of minimization/mitigation measures under the alternatives analysis, the Applicant propose restoration of temporarily disturbed portions of the 25-foot “No Touch” along the access roadways with both native plantings and a seed mixture. It is also recommended that species for the proposed vegetative screening be provided to the Commission and Agent for approval prior to the start of work (this can be conditioned).
- The Applicant should also reassess the stormwater management system design both at the location of the tower to ensure compliance with the Stormwater Standards and at the discharge point from the stormwater basin south of the Site entrance to prevent potential runoff impacts to the abutting property. At this time, the Applicant has not provided sufficient information to describe the Site, the work, or the effects of the work on the interests of the Wetlands Protection Act or local Bylaw.
- The Applicant has listed straw wattles as erosion and sediment control measures. The Commission historically conditions biodegradable compost wattles in lieu of straw. This is generally conditioned.

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- The Applicant has relocated the utility poles to the opposite side of the driveway, reducing permanent infrastructure within the 25-foot “No Touch”. As part of this plan change, screening vegetation has been proposed along the property line west of the utility poles. The presence of the plantings and the footprint of the stormwater management design has resulted in the Applicant being unable to shift the roadway and associated limits of clearing further from the adjacent wetland. As part of mitigation for impacts to the 25-foot “No Touch” it is recommended the Applicant provide a restoration plan (inclusive of native plantings and seed) for areas cleared along the eastern side of the road, as these impacts appear to be temporary in nature. To comply with the Bylaw, the Applicant should also proposed native species for screening and include the species and size on the plan. The Applicant should consider species with wildlife habitat and foraging value that are also appropriate for screening.
- Runoff from the proposed impervious surfaces around the tower must be treated in accordance with the Stormwater Standards. The proposed subdrain system cannot bypass the stormwater treatment facilities. While this runoff does not require pretreatment since it is not subject to vehicular traffic, it must still be treated prior to discharge in accordance with the Stormwater Standards. This could be achieved through routing the drain line through the basin.
- The discharge from the proposed wetland pocket/wet basin will flow across the property line prior to discharge into the D-series wetland. It is commended that the flow from the basin be maintained onsite prior to discharge from the wetlands.
- The submitted NOI notes that the Applicant assessed and flagged the boundaries of a Vernal Pool observed where the mapped “Potential Vernal Pool (PVP)” is present. (Commissioners note that per 314 CMR 4.00 Certified Vernal Pools are considered Outstanding Resource Waters and are afforded additional stormwater treatment measures). According to the Applicant, several wood frog (*Rana sylvatica*) egg masses were observed in March or 2020. If at least five egg masses were observed, the PVP would meeting the Natural Heritage and Endangered Species Program (NHESP) criteria for certification. NHESP guidance also notes that non-certified Vernal Pools “may also be protected by local conservation commissions or the DEP if credible scientific evidence is presented prior to the end of the appeals period for a Superseding Order of Conditions (OOC) issued by the DEP.” Considering that the field evidence provided by the Applicant indicates that this PVP is likely certifiable, it is recommended that they Commission consider the adjacent wetland to be an Outstanding Resource Water (ORW) and require the commensurate treatment of stormwater. The Commission should also consider requiring the certification of the Vernal Pool by the Applicant prior to the Pre-Construction meeting as a Special Condition.

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- The property owner's signature is not provided on the Operations and Maintenance Plan (O&M). The Commission can consider conditioning that the signed O&M Plan is provided and approved prior to construction.

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

Recommendation: Continue to February 8 7:07 pm

No new information

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. Applicant has yet to respond. Recommend continuance.

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

Recommendation: Continue per Applicant request to February 8 7:08 pm

No new information

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. Applicant has yet to respond. Recommend continuance per Applicant request.

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

Recommendation: Continue per Applicant request to February 8 7:09 pm

No new information

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. Applicant has yet to respond. Recommend continuance per Applicant request.

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1.10 121 Grove Street (NO DEP # YET)

Recommendation: Continue to February 8 7:10 pm

Need to schedule site visit

This public hearing is 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:

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
Total		585	580	320
Proposed Mitigation		585	5,875	500

* 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.

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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 continuing the discussion of the waiver request provided by the Applicant and the applicability and/or need for independent stormwater review. 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 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. Applicant, Agent, and BETA should also schedule field work during the public hearing. BETA would prefer to conduct a site visit with the design plans in hand prior to drafting comments for efficacy of review.

Recommend continuance to February 8 to approve the draft response letter to ZBA.

2.0 General Business

2.1 Friendly 40B LIP

2.1.1 444 East Central Street

This proposal is for a new Friendly 40B at 444 East Central Street. The Commission is tasked with receiving the preliminary proposal for the new 40B Project and responding to it with a letter of support or denial within the next 30 days. **No permit is being sought at this time.**

2.2 Minor Buffer Zone Activity

2.2.1 853 Pond Street

This MBZA is for a proposed landscape/hardscape project at 853 Pond Street. The MBZA is being filed as work is proposed within the 50- to 100-foot Buffer Zone to BVW. All proposed work will occur within existing disturbed lawn.

Proposed work includes approximately 788 sf of impacts associated with flagging stones, boulders, stone steps, pavers, increased (nominal) imperviousness to existing retaining walls, and installation of a prefabricated pipe to alleviate hydraulic pressure to existing

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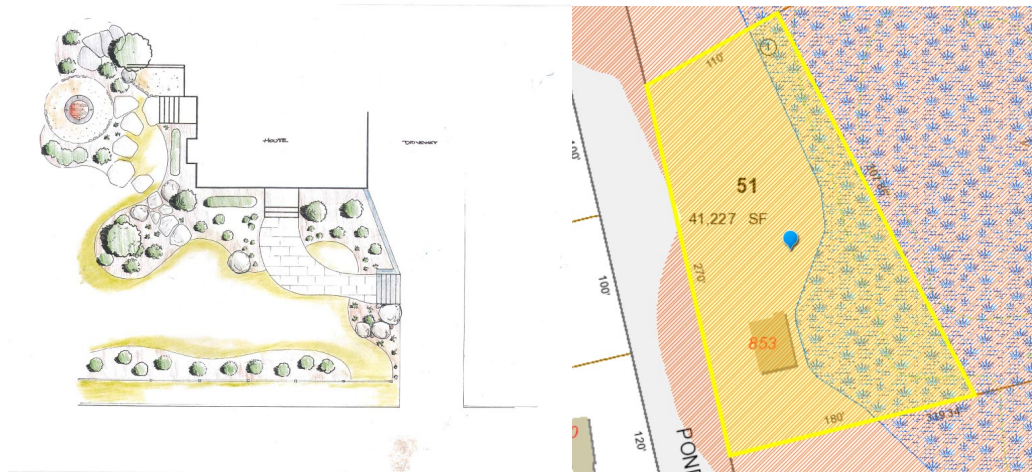
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retaining walls. Additional vista pruning and tree removal is proposed. Six trees are proposed for removal with three trees proposed for vista pruning. Applicant is currently requesting the stumps be removed.



Recommend approval, however the Commission should discuss the request to remove stumps as this is not standard practice of the Commission, and inquire upon the pipe design. Applicant should provide additional sf impacts for the pipe and trench install. It's recommended that the Commission confirm that the installation of a new pipe will not significantly undermine the existing retaining wall and/or it will be engineered appropriately to ensure hydraulic pressure is alleviated. Should the Applicant need time to respond to these inquiries, it is recommended the MBZA be continued to February 8.

2.3 Request for Determination of Applicability

2.4 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 in December 2023. Recommend closing the permit modification until the Applicant is ready to refile and/or continuing the permit modification to February 8.

2.5 Certificates of Compliance

2.6 Violations/Enforcement

2.7 Minutes

2.7.1 January 11, 2024

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2.8 Discussion Items

2.8.1 1 DelCarte Pond Treatment – Year End Report

2.8.2 Eclipse Soundscapes – AudioMoth Purchase Request

Chair & Commission Comments

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