

# Town of Franklin

355 East Central Street  
Franklin, Massachusetts  
02038-1352



(Phone) 508-420-4929  
www.franklinma.gov

## Conservation Commission

**To:** Franklin Conservation Commission  
**From:** Breeka Li Goodlander, CWS, PWS, CERPIT  
**Re:** Conservation Agent Report  
**Date:** April 4, 2024



**NOTE: PLEASE SPEAK INTO YOUR MIC**

### 1.0 Public Hearings

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

*Recommendation: Continue to April 18 7:01 pm*

***NEW: Applicant submitted revised material March 25. Agent and BETA yet to review. Please note plan discrepancies below.***

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.

*NEW:* The Applicant provided revised information on March 25. In a brief review of this new information, it was noted that additional information was added to the plans after the Applicant, BETA, and Agent had reviewed and agreed upon wetland boundaries. These changes may impact the Commission’s review. Chair Livingstone has asked that the Commission address the Applicant about the nature of these changes prior to continuing review.

Please see the following for a brief summary:

- At the onset of the peer review process, BETA and the Agent identified some additional wetlands at the site that were not previously delineated. Based on a subsequent site visit with the Applicant’s representative where additional wetlands were flagged for review, and the revised submission dated 9/7/2023, we all determined that we were in agreement with the delineations at the site. This was reflected in the BETA 9/21/2023 letter.
- Part of the discussions with the Applicant’s representative in the field included whether the narrow wetland resource identified during BETA’s original site visit constitutes a stream. After meeting with the Applicant’s representative and an

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independent review from the Agent, it was determined that this resource lacked evidence of concentrated, reoccurring flow and therefore should be delineated as a wetland. This isolated wetland was delineated as the H-Series wetland. Since this feature was determined to be a wetland and not a stream, the old detention basin (B-Series flagging) would still be considered an isolated wetland.

- While Gary James (stormwater engineer) was reviewing the recently submitted plans, it came to attention that additional drainage information was added to the plans as part of the revised plans included in the 11/2/2023 submission to the Conservation Commission. Specifically, a drainage line and structure were depicted at the south end of the B-series isolated wetland. This was not depicted in the 9/7/2023 submission, which was used as the basis for confirming that wetland boundary issues were addressed.
- The concern with all of this is that this record drainage may tie into downgradient surface waters (i.e. BVW associated with Dix Brook); therefore, it can no longer be concluded that the B-Series wetland is isolated until further information is provided. A closer look is needed at the surrounding isolated wetlands if the B-Series wetland were to be classified as BVW, as any hydraulic connection to the B-Series wetland would result in the others being classified as BVW, as well.

BETA is waiting to continue review to receive feedback from the Commission on this latest development. Recommend continuance to April 18.

### 1.3 NOI – Proposed Solar Array – Parcel 3, 160 Maple Street (159-1287)

#### *Recommendation: Approval with Conditions, Approve Variance*

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).

Commissioners please discuss if you would like to condition phasing of the project which ensures replication areas are constructed prior to another other portion of the project. This is a consistent condition with previously approved large-scale project.

Recommend approval with Standard Special Conditions 20-45, 47-51, and;

Additional Special Conditions:

52. The Applicant shall stake and demarcate the stockpiling area in the field prior to construction. All stockpiling areas shall be located outside of the 100-foot Buffer Zone to Vegetated Wetlands.

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53. The Applicant shall follow best management practices under the direction of a Geotechnical Engineer to ensure that drilling spoils and slurry do not result in discharges to adjacent Resource Areas.

54. The Applicant shall provide cross sections on the landscape plans for the replication areas prior to the start of construction and/or shall provide updated final grades throughout the replication and its outer edges prior to the construction of the replication areas to the Conservation Agent and Commission.

55. The Applicant shall provide an updated Invasive Species Management Plan and receive approval to the Conservation Agent and Commission prior to the start of construction.

### 1.4 NOI - 121 Grove Street (159-1286)

***Recommendation: Continue to April 18 7:02 pm***

***NEW: Applicant submitted revised information March 28. Agent and BETA yet to review in its entirety.***

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:

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**TABLE 5-1  
RESOURCE AREA IMPACTS – WPA\***

Impact Area	Area of Impact	BVW Alteration		Stream Alteration** Inland Bank (linear feet)
		Temporary (square feet)	Permanent (square 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 RJO. 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 RJO. Temporary impacts listed are necessary to complete the proposed work.  
\*\* The Applicant is requesting a waiver to the 25-Foot Buffer Zone local requirements.

Recommend continuance to April 18.

### 1.5 NOI – South Street, Miscoe Brook (159-1289)

***Recommendation: Continue per Applicant request to April 18 7:03 pm***

***No new information. DEP and BETA provided comments – Applicant yet to review***

This public hearing is for an NOI for culvert replacement work at South Street within Miscoe Brook. The proposed replacement is intended to replace the existing degraded and undersized culvert with a new MA Stream Crossing compliant, open bottom, 3-sided box culvert. The project includes new concrete headwalls, new steel guardrails, and a resurfaced roadway.

Resource area impacts and stream crossing standard compliance provided by the Applicant include:

The project will result in the following resource area impacts:

Resource Area	Impact
Bordering Vegetated Wetlands	275 s.f. (245 s.f. temp, 30 s.f. perm.)
Bank	120 l.f. (72' prev. disturbed within ex. culvert)
Land Under Waterways	355 s.f. (150 s.f. prev. disturbed within ex. culvert)
Bordering Land Subject to Flooding	3,000 s.f. (net increase in storage volume)
0'-100' Riverfront Area Miscoe Brook	6,595 s.f. total dist. within 100' of Miscoe Brook
	4,425 s.f. within ex. degraded area*
	1,970 s.f. within prev. disturbed area*
	200 s.f. new disturbance

\*Degraded and previously disturbed riverfront areas defined as of 310 CMR 10.58(5).

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The project will result in the following resource area impact mitigation:

Resource Area	Replacement
Bordering Vegetated Wetlands	245 s.f. (restored in place following site grading) 30 s.f. loss due to new limit of LUW/ Bank
Bank	115 l.f. 52 l.f. recreated within pr. culvert 15 l.f. increase in bank outside of culvert
Land Under Waterways Bordering Land Subject to Flooding 0'-100' Riverfront Area Misco Brook	795 s.f. total (355 s.f. restored, 440 s.f. increase) 1,900 c.f. total increase in storage volume No increase in impervious area, revegetation of temporarily disturbed areas, 200 s.f. new disturbance within BVW areas which are proposed to be restored.

There is no proposed impact to rare species habitat. Work is proposed within the local Franklin Wetlands Bylaw 25' No Disturb Buffer and the 50' No Structure Area, however all work is proposed in previously disturbed and degraded area and is related to the replacement of an existing degraded and undersized public roadway culvert.

Almost all proposed work within the Misco Brook Riverfront Area is within previously disturbed and degraded Riverfront Area according to the definitions as set forth in 310 CMR 10.58(5), qualifies as a Limited Project per 310 CMR 10.53(3)(i) as it is in relation to the replacement of a public roadway culvert, and will result in significant improvement over existing conditions in terms of improved bank and land under water resource areas, habitat, hydraulics, and stream continuity.

Table 1 – Proposed Culvert Stream Crossing Standards Compliance

Standard	Standard Requirement	Optimum Requirement	Proposed Culvert	
			Provided	Check
1. Crossing Type	Open Bottom	Bridge	Open Bottom	OK
2. Embedment	2 ft min.		4 ft	OK
3. Crossing Span	1.2 Bankfull width	1.2 Bankfull width, headroom for dry wildlife passage	1.23 Bankfull width	OK
4. Openness	Ratio $\geq 0.82$ ft	Ratio $\geq 1.64$ ft, 6' height min.	16'x3'/26' = 1.85	OK
5. Substrate	Natural Substrate		Natural Substrate	OK
6. Water Depth and Velocity	Match Natural Channel		Match Channel via streambed restoration	OK
7. Banks	Present matching stream channel		Match Channel via bank restoration	OK

### DEP Comments:

- This project appears to result in a net loss of 30sf of BVW. As per 310 CMR 10.55(4)(c) the issuing authority may issue an Order of Conditions permitting work which results in the loss of a portion of Bordering Vegetated Wetland when; (1) said portion has a surface area less than 500 square feet; (2) said portion extends in a distinct linear configuration (“finger-like”) into adjacent uplands; AND (3) in the judgement of the issuing authority it is not reasonable to scale down, redesign or otherwise change the proposed work so that it could be completed without loss of said wetland. The Applicant must demonstrate that the loss is within a fingerlike projections, or the net loss will require a 401 Water Quality Certificate.
- If necessary, the Applicant must obtain a 401 Water Quality Certificate (314 CMR 9.00) for this project before the activities described in the Notice of Intent can commence.

Please refer to BETA peer review letter dated March 19, 2024 for other outstanding comments. Recommend continuance per Applicant request.

### 1.6 NOI – Beaver Pond Hydro Raking (NO DEP # YET)

**Recommendation: Continue per Applicant Request to April 18 7:04 pm**

**NEW: Applicant submitted revised information April 3. Agent and BETA yet to review.**

**To keep costs low, review on hold until DEP provides comments.**

This public hearing is for a previously approved NOI for a proposed Ecological Restoration Project for hydro raking to “remove nuisance vegetation to prevent eutrophication” in a

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portion of Beaver Pond. The project area is located just southwest of the floating dock within the pond extending northeast and ending at the shoreline (26,722 sf of total alteration to LUWW).

Proposed work include the removal of the vegetation and bottom debris by mechanical means. Hydro raking, similar to dredging, can disturb bottom sediments causing increased turbidity levels, however impacts are typically limited to the surrounding worksite. Suspended sediments will likely settle in a short amount of time. The hydro raking barge will access Beaver Pond from the existing boat launch to minimize further resource area disturbance. Temporary storage of any removed materials will take place on-site and be disposed of within 24 hours.

Recommend continuance per Applicant request to April 18.

### 1.7 ANRAD – Louise Drive Extension (159-1290)

***Recommendation: Continue per Applicant request to April 18 7:05 pm***

This public hearing is for an ANRAD to determine the boundaries of Isolated and Bordering Vegetated Wetlands, a potential intermittent Stream, and their associated Buffer Zones at Louise Drive Extension.

Agent yet to conduct a site visit due to weather constraints (scheduled for April 10) and BETA yet to provide a peer review.

#### *DEP Comments:*

- The narrative provided documents the presence of a narrow channel that would be best classified as an intermittent Stream offsite between flags AWE-B21 and B15. DEP recommends the Commission confirm whether the defined channel extends onto the project site between flags B14 and B41. If so, the Applicant should submit a revised site plan and WPA Form 4A showing Bank resource area.
- DEP recommends confirmation if a hydrologic connection exists between the A-series wetland and the B-series wetlands as the closest point there appears to be 40 feet of distance between flags A22 and B2.

Recommend continuance per Applicant request to April 18.



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### 2.0 General Business

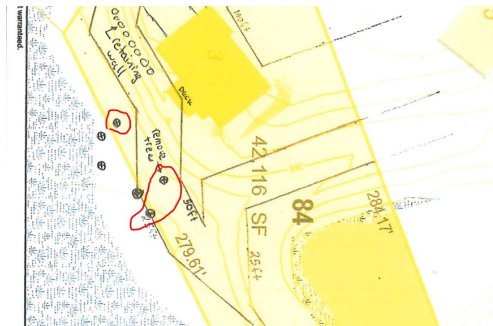
#### 2.1 Friendly 40B LIP

#### 2.2 Minor Buffer Zone Activity

##### 2.2.1 3 Sewall Brook Court

This application is for the removal of three trees at 3 Sewall Brook Court within the 0- to 25-foot “No Touch” to Bordering Vegetated Wetlands. The Applicant has had trees removed in this area before (2021) with stumps left in place. Commission should confirm method of removal and access to remove the trees given the topographic relief and proximity to resource areas.

Commissioner’s please note that the application is requesting the removal of six trees total, however only three of these trees are located on the property of 3 Sewall Brook Court (circled in red below). There are an additional three trees within the abutting Town property (Conservation land) and within wetlands that the Applicant would like to be removed.



The Applicant has provided a letter from Tree Tech, Inc. noting that the additional trees on Town property are vulnerable to uprooting in wet ground which is typical of trees in wetlands, but not that they have uprooted, are diseased, girdled, or otherwise deemed legally hazardous. Tree Tech, Inc. has noted that the trees are within striking distance of the house. Agent and arborist from DPW to assess conditions of trees on Tuesday, April 9 and will top and/or remove trees as necessary. Agent will seek permitting and, if necessary, ratification of an emergency authorization by the Commission should the trees be a cause for concern.

Recommend approval of the three trees within the Applicants private property only with stumps left in place. A boundary marker is located on the Applicants property to help the tree company and Applicant denote where the property boundary lies.

##### 2.2.1 11 Forge Parkway

This application is for the removal of three trees on the top of bank/within the 0- to 25-foot “No Touch” to inland Bank of an intermittent Stream, and for vista pruning. The trees

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are dead/partially fallen (i.e., snags) are in threat of falling within the access road. Vista pruning of invasive vegetation is proposed to prevent encroachment and protect line of sight for safety concerns. Recommend approval with stumps left in place. Trees will be removed from existing, paved areas.

### **2.3 Request for Determination of Applicability**

### **2.4 Permit Modifications/Extensions**

### **2.5 Certificates of Compliance**

### **2.6 Violations/Enforcement**

#### **2.6.1 305 Union Street**

Recommend approval.

### **2.7 Minutes**

#### **2.7.1 March 21, 2024**

### **2.8 Discussion Items**

#### **2.8.1 Vacancy Appointments**

#### **2.8.2 Stormwater Discussion**

#### **2.8.3 Letter of Support – Shephard’s Brook – MVP Grant**

### **Chair & Commission Comments**

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