

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: April 18, 2024



NOTE: PLEASE SPEAK INTO YOUR MIC

1.0 Public Hearings

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

Recommendation: Continue to May 2 7:01 pm

NEW: Applicant submitted supplemental information Friday, April 12 at 4:19PM. Agent and BETA yet to review. NOTE: Monday, April 15 was a state holiday and municipal offices were closed; information submitted after regular business hours on Friday.

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

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constitutes a stream. After meeting with the Applicant's representative and an 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.

Applicant submitted revised information on Friday, April 12 at the request of the Conservation Commission. The Applicant was requested to provide the location of the inlet/outlet pipe, its relation to Dix Brook, any historic stormwater design information, and any O&M/VMP plan for the basin. Agent and BETA yet to review the supplemental information. Recommend continuance to May 2.

1.2 NOI - 121 Grove Street (159-1286)

Recommendation: Continue to May 2 7:02 pm

NEW: Town Administrator, Jamie Hellen, submitted a letter to Conservation Commission on April 11. BETA and Agent still reviewing revised materials.

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.

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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.

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.

Town Administrator, Jamie Hellen, submitted a letter to the Zoning Board of Appeals and carbon copied the Conservation Commission. This letter is the Commissioner's packets. Agent and BETA yet to finalize review of revised materials. Recommend continuance to May 2.

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

Recommendation: Continue per Applicant request to May 2 7:03 pm

NEW: New information submitted April 16. Agent and BETA 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:

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The project will result in the following resource area impacts:

Resource Area

Bordering Vegetated Wetlands
Bank
Land Under Waterways
Bordering Land Subject to Flooding
0'-100' Riverfront Area Miscoe Brook

Impact

275 s.f. (245 s.f. temp, 30 s.f. perm.)
120 l.f. (72' prev. disturbed within ex. culvert)
355 s.f. (150 s.f. prev. disturbed within ex. culvert)
3,000 s.f. (net increase in storage volume)
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).

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	795 s.f. total (355 s.f. restored, 440 s.f. increase)
Bordering Land Subject to Flooding	1,900 c.f. total increase in storage volume
0'-100' Riverfront Area Miscoe Brook	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 Miscoe 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 $\geq 0.82ft$	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.

Revised information submitted April 16. Agent and BETA yet to review. Recommend continuance to May 2.

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

Recommendation: Continue per Applicant Request to May 2 7:04 pm

Applicant submitted revised information April 3. Agent and BETA yet to review. To keep costs low, review on hold until DEP provides comments. DEP yet to provide 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 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 May 2.

1.5 ANRAD – Louise Drive Extension (159-1290)

Recommendation: Continue per Applicant request to May 2 7:05 pm

NEW: BETA submitted peer review response on April 10. Applicant yet to respond.

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.

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

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- 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.

Agent has conducted a separate site visit and investigation and concurs with BETA's review. Recommend continuance to May 2.

1.6 NOI – Tri-County Regional Vocational Technical High School (NO DEP # YET)

Recommendation: Continue to May 2 7:06 pm

This public hearing is the first for a Notice of Intent at 147 Pond Street, Tri-County Regional Vocational Technical High School (Tri-County). Proposed work includes the development of a new compact, three-story, rectangular school within the existing solar field array area, accessed by both the existing driveway and a new access drive from the existing access road. Proposed development is inclusive of athletic fields, parking/drive aisles, sidewalks landscaping, new utilities and stormwater design. The Applicant is proposed modest erosion/sedimentation control measures and dust control. Note that the Conservation Commission will be reviewing stormwater as agreed upon between all Town Boards/Commissions and Tri-County.

Wetland resource areas inclusive of local and state jurisdictional resources, as approved under an existing ORAD, include BVW, IVW, and probably Vernal Pools. The Applicant has submitted variance requests for work within the 0- to 25- foot Buffer Zone, 25- to 50- foot Buffer Zone, and the 50- to 100-foot Buffer Zone. These requests can be found in Appendix 3 of the Notice of Intent submittal.

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Total sf impacts are as follows:

<u>Disturbance Calculations</u>			
#52033.00 03/20/24			
	Impervious (SF)	Pervious (SF)	Total (SF)
BVW A1 to A30			
Wetland Fill (sf)	0	0	0
25 foot no disturbance zone (sf)	0	0	0
50 foot buffer zone (sf)	0	155	155
100 ft wetland buffer (sf)	2355	12015	14370
BVW B1 to B40			
Wetland Fill (sf)	0	0	0
25 foot no disturbance zone (sf)	0	0	0
50 foot buffer zone (sf)	0	1347	1347
100 ft wetland buffer (sf)	4059	16271	20330
BVW C1 to C12			
Wetland Fill (sf)	0	0	0
25 foot no disturbance zone (sf)	0	0	0
50 foot buffer zone (sf)	0	0	0
100 ft wetland buffer (sf)	0	0	0
BVW D1 to D17			
Wetland Fill (sf)	0	0	0
25 foot no disturbance zone (sf)	0	918	918
50 foot buffer zone (sf)	1619	2195	3814
100 ft wetland buffer (sf)	3209	10784	13993
BVW F1 to F25			
Wetland Fill (sf)	0	0	0
25 foot no disturbance zone (sf)	0	0	0
50 foot buffer zone (sf)	0	0	0
100 ft wetland buffer (sf)	0	0	0
IVW G1 to G13			
Wetland Fill (sf)	0	0	0
25 foot no disturbance zone (sf)	0	0	0
50 foot buffer zone (sf)	0	0	0
100 ft wetland buffer (sf)	0	0	0
IVW 200-219			
Wetland Fill (sf)	577	1919	2496
25 foot no disturbance zone (sf)	10647	3880	14527
50 foot buffer zone (sf)	16125	1793	17918
100 ft wetland buffer (sf)	41044	4962	46006
IVW SW1-SW106; BA1-BA9			
Wetland Fill (sf)	1518	892	2410
25 foot no disturbance zone (sf)	9093	4327	13420
50 foot buffer zone (sf)	13657	3876	17533
100 ft wetland buffer (sf)	31958	8721	40679
TOTAL	135861	74055	209916

BETA and Agent yet to review further. Two work sessions, one for stormwater and one for wetlands, are schedule in the upcoming weeks to expedite review of this project. Chair or Vice-Chair of the Commission are welcome to attend. Recommend continuance to May 2.

1.7 NOI – Prospect Street Access Drive (NO DEP # YET)

Recommendation: Continue to May 2 7:07

NEW: Applicant filed for a Superseding Order of Conditions with DEP – Central Region April 17, 2024 due to a public hearing not being opened within 21 calendar days of project submittal. The Project submitted is complete under the Wetlands Protection Act, but incomplete under local Bylaw. Applicant may seek a Superseding Order of Conditions under the Wetlands Protection Act, but not under local Bylaw given the incomplete submission. Applicant yet to pay local filing fees, therefore the 21 calendar day rule does not take effect for local Bylaw purposes until Applicant pays local filing fees. Applicant to discuss payment of fees in front of the Conservation Commission tonight. Once Applicant submits payment for local filing fees, the Applicant may move forward filing under local

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Bylaw only. All abutter notifications, legal ad, and public hearing notices will be refiled under local Bylaw. This is confirmed by DEP – Central Region and Counsel. Commissioner’s Note: No discussion to be held until Applicant submits filing fees. Commission still needs to open the hearing and receive public comment for the filing under the Wetlands Protection Act. Applicant required to file separately under local Bylaw once local filing fees have been paid. This is confirmed by DEP – Central Region and Counsel.

On April 17, 2024, Mr. Lou Petrozzi filed a Request for a Superseding Order of Conditions with Central Region – DEP due to his project not being opened with 21 days of submission. The Request is within the Commissioner’s packets. Please see the below email sent by the Agent to DEP – Central Region and Section Chief, Judith Schmitz in response noting the timeline of events. All attachments described in the below email are located within the Commissioner’s packets.

Good Morning Central Region,

In response to a request for a Superseding Order of Conditions, I wanted to provide supplemental information regarding the timeline of events.

Mr. Petrozzi filed a Notice of Intent with the Franklin Conservation Commission in the early morning of Wednesday, March 27, 2024. On March 27, 2024, Mr. Petrozzi was notified that due to our current meeting schedule (attached) the hearing for his project would be opened on Thursday, April 18, 2024 at 7 PM. Mr. Petrozzi inquired upon his project being opened on Thursday, April 4, 2024 at 7 PM, the next Conservation Commission meeting date. I notified him that due to requirements for legal ad circulation, that the legal ad would not have circulated in enough time to open the hearing on Thursday, April 4, 2024 (see attached email with timestamp of 9:11 AM). More details on this below. To aid in my response to Mr. Petrozzi, I then included a screenshot of our 2024 Hearing Schedule, approved by the Town Clerk (see attached 2024 Hearing Schedule document).

This hearing schedule outlines that for new projects to be opened on Thursday, April 4, 2024, the submission needed to be filed on Thursday, March 21, 2024. Unfortunately, Mr. Petrozzi filed his project on Wednesday, March 27, 2024. Please note that while the legal ad needs to circulate for 10 calendar days, the local publisher requires publication submissions three business days prior to the date of publication. This is subject to change given recognized holidays (i.e., Easter holiday on Sunday, March 31, 2024). This hearing schedule was readily available for Mr. Petrozzi to review, is posted in a highly visible location on our webpage, is

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posted outside of the Town Clerk's office, and was given to Mr. Petrozzi via email for review (see email time stamped 9:11 AM).

After this email discussion (time stamped 9:11 AM), Mr. Petrozzi submitted a Notice to Abutters with the hearing date shown as Thursday, April 18, 2024 (see attached email time stamped 11:23 AM) on Wednesday, March 27, 2024. It was my understanding that given Mr. Petrozzi's willingness to submit a Notice to Abutters noting the Thursday, April 18, 2024 meeting date that Mr. Petrozzi was amenable to opening the project hearing that day. Please note that it is the Applicant's responsibility to distribute abutter notifications. Mr. Petrozzi has already submitted green slips noting that abutters have been notified via Certified Mail/Return Receipt for the Notice to Abutters with the Thursday, April 18, 2024 hearing date. I received these receipts on Thursday, March 27, 2024 (see attached Abutter Notice Receipts). I have received no other communication from Mr. Petrozzi that he was opposed to his project being opened on Thursday, April 18, 2024.

I'd like to point out that all legal ads and public notices have circulated noting that the hearing will open Thursday, April 18. I'd also like to note that while the public hearing will open 22 calendar days since the time of submission, the Franklin Conservation Commission has been nothing, but transparent in their meeting schedule which you can find posted [here](#). Per my understanding, Mr. Petrozzi has acknowledged and accepted that his project was set to open on Thursday, April 18 given his actions with abutter notifications and submitting a revised Notice to Abutters for me to review (see attached email time stamped 11:23 AM).

The Commission is still set to open the hearing tonight, Thursday, April 18, 2024 and will receive public comment, as required. The Commission will provide no feedback and will continue the hearing until further direction from MassDEP - Central Region. The Conservation Department still awaits payment from Mr. Petrozzi for the legal ad invoice and local filing fees.

Thank you for your guidance and I look forward to reviewing this matter soon,

Breeka Li (Bree-kah Lie)

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2.0 General Business

2.1 Friendly 40B LIP

2.2 Minor Buffer Zone Activity

2.2.1 11 Mount Street

Property owner requested a continuance. Recommend continuing to May 2 to discuss.

2.2.2 1 Spruce Pond Road

This MBZA is for a deck replacement (3 sf of soil impact) in existing, disturbed lawn within the 50- to 100-foot Buffer Zone to BVW. Recommend approval with standard MBZA conditions.

2.2.3 2 Spruce Pond Road

This MBZA is for a deck replacement (3 sf of soil impact) in existing, disturbed lawn within the 50- to 100-foot Buffer Zone to BVW. Recommend approval with standard MBZA conditions.

2.3 Request for Determination of Applicability

2.4 Permit Modifications/Extensions

2.5 Certificates of Compliance

2.6 Violations/Enforcement

2.7 Minutes

2.7.1 April 4, 2024

2.8 Discussion Items

2.8.1 CRCC MVP Application Invitation

Chair & Commission Comments

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