



August 9, 2023

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

**Re: Lot 1A Prospect Street
MassDEP File No. 159-1272
Notice of Intent Peer Review**

Dear Ms. Goodlander:

BETA Group, Inc. (BETA) has reviewed documents and plans for the project entitled: **Lot 1A Prospect Street** located in Franklin, Massachusetts (the "Site"). This letter is provided to present BETA's findings, comments, and recommendations.

BASIS OF REVIEW

The following documents were received by BETA and will form the basis of the review:

- Notice of Intent entitled **Prospect Street – Lot 1A – Notice of Intent**; prepared by Paul McManus of EcoTec, Inc., dated June 12, 2023.
- Plan set (1 Sheet) entitled **Proposed House Location Plan "Lot 1A- Prospect Street" Franklin, Massachusetts**; prepared by GLM Engineering Consultants, Inc.; dated June 12, 2023; stamped and signed by Robert S. Truax MA P.E. No. 56567 and Joyce E. Hastings MA P.L.S. No. 39393.
- Septic plants (1 Sheet) entitled **Proposed Sewage Disposal System, Lot 1A – Prospect Street, Franklin, Massachusetts**; prepared by GLM Engineering Consultants, Inc.; dated June 12, 2023; stamped and signed by Robert S. Truax MA P.E. No. 56567 and Joyce E. Hastings MA P.L.S. No. 39393.
- Delineation Report entitled **RE: West Side of Prospect Street, Franklin**; prepared by Paul McManus of EcoTec, Inc.; dated June 9, 2023.

Review by BETA included the above items along with the following, as applicable:

- Site visit on July 27, 2023
- **Massachusetts Wetlands Protection Act 310 CMR 10.00** effective October 24, 2014
- **Wetlands Protection Chapter 181 From the Code of the Town of Franklin**, dated August 20, 1997
- **Conservation Commission Bylaws Chapter 271 From the Code of the Town of Franklin**, dated July 11, 2019
- **Town of Franklin Conservation Commission Regulations**, dated October 3, 2019
- **Town of Franklin Best Development Practices Guidebook**, dated September 2016

SITE AND PROJECT DESCRIPTION

The approximately 47,643-square foot (sf) Site includes one (1) parcel located at 0 Prospect Street in Franklin, Massachusetts, further identified by the Franklin Assessor's Office as Assessor's Parcel 309-018-000. The Site is bounded to the east by Prospect Street, to the north by a combination of forested and

cleared areas, to the south by wetlands and an unnamed perennial stream, and to the west by an inactive gravel mine. Existing improvements at the Site include a compacted dirt access road and cleared areas consisting of soil and debris piles.

Resource Areas Subject to Protection under the Massachusetts Wetlands Protection Act (M.G.L. ch.131 s.40) and its implementing regulations at 310 CMR 10.00 (collectively “the Act”), as well as the Town of Franklin Wetlands Protection Bylaw (Chapter 181) and its associated regulations (collectively “the Bylaw”) present at or within 100 feet of the Site include Bordering Vegetated Wetlands (BVW), Bank (to an unnamed perennial stream), and Riverfront Area (RA) associated with the unnamed perennial stream.

The Site is located within a Zone II Wellhead Protection Area but is not located within any Zone I or Interim Wellhead Protection Areas. There are no Surface Water Protection Areas (Zone A, B, or C), Outstanding Resource Waters (ORWs), or Areas of Critical Environmental Concern (ACEC) present, and the most recent Natural Heritage and Endangered Species Program (NHESP) mapping does not depict any Priority Habitat of Rare Species or Estimated Habitat of Rare Wildlife at the Site. There are no NHESP-mapped Certified or Potential Vernal Pools located within 100 feet of the Site.

According to the FEMA Flood Insurance Rate Map (FIRM) community panel number 25021C0312E, dated July 17, 2012, the Site is not located within the 100-year floodplain. A Flood Zone A is mapped to the north and east of the Site with no Base Flood Elevation (BFE) provided.

Natural Resource Conservation Service (NRCS) soil maps of the Site indicate the presence of Scarboro and Birdsall soils with a Hydrologic Soil Group (HSG) rating of A/D, Canton fine sandy loam with a HSG rating of B, Swansea muck with a HSG rating of B/D, and pits, sand and gravel with no HSG rating provided.

The Applicant seeks approval for construction of one (1) new single-family home and associated Site work. According to the NOI, proposed work includes the following activities (collectively referred to as the “Project”):

- Removal of the existing concrete blocks;
- Removal of existing previously dumped debris and soil piles;
- Installation of erosion controls and sediment track-out controls;
- Installation of the private well;
- Construction of the single family home;
- Installation of an onsite septic system;
- Installation of a paved driveway;
- Restoration of degraded RA;
- Vegetation clearing and grubbing; and
- Grading.

All work is proposed within RA and/or Buffer Zone with the exception of the paved driveway, a portion of the home, and the septic system. The Project will result in temporary and permanent impacts within the RA and the Buffer Zone and therefore requires compliance with the relevant provisions of the Act and the Bylaw.

ADMINISTRATIVE AND PLAN COMMENTS

The plan set (as identified above) is missing information and requires additional information for clarity.

Table 1. NOI Plan

| NOI Plan Requirements | Yes | No |
|---|-----|--------------------|
| Scale of 40'=1" or larger | ✓ | |
| North Arrow (with reference) | | ✓ (See comment A2) |
| Topographic contours (2' intervals) | ✓ | |
| Existing Conditions Topography (with source and date of survey) | | ✓ (See Comment A3) |
| Proposed Topography | ✓ | |
| Existing and Proposed Vegetation | | ✓ (See comment A3) |
| Existing Structures and Improvements | ✓ | |
| Resource Areas and Buffer Zones labeled | | ✓ (See comment A4) |
| Location of Erosion Controls | | ✓ (See comment A5) |
| Details of Proposed Structures | ✓ | |
| Construction Sequence and Schedule | ✓ | |
| Registered PLS Stamp (Existing Condition Plans Only) | ✓ | |
| Assessors' Reference | ✓ | |
| Abutting Property Assessors' Reference | | ✓ (See comment A6) |
| Survey Benchmark | | ✓ (See comment A7) |
| Accurate Plan Scale | ✓ | |

PLAN AND GENERAL COMMENTS

- A1. MassDEP has issued a file number (159-1272) with no technical comments.
- A2. A reference should be provided for the north arrow as required by Section 7.18.1.3 of the Bylaw.
- A3. The existing tree line and width of the existing access road as shown on the Project Plans are inaccurate based on field observations. Existing and proposed vegetation should be depicted as required by Section 7.18.1.5 and 7.18.1.6 of the Bylaw and information on the date(s) and method(s) of the survey and wetland delineation should be provided. The accurate footprint of the access road should also be depicted.
- A4. The Bylaw 25- and 50-foot Buffer Zones should be identified on the Project plans.
- A5. Erosion controls are depicted and labeled as the Limit of Work (LOW) on the Project plans. Erosion controls should encompass the limit of disturbance, including around the areas of RA restoration (as identified by the Applicant).
- A6. Include the Assessor's Reference for abutting properties.
- A7. Provide a survey benchmark.

WETLAND RESOURCE AREAS AND REGULATORY REVIEW

BETA conducted an onsite and regulatory review of the submitted documents and plans, focusing on compliance with Resource Area definitions and Performance Standards set forth in the Act and the Bylaw.

The Project is a single-family home project and is therefore exempt from the MassDEP Stormwater Standards.

BETA's regulatory review of the Project was primarily focused on the applicability of specific RA Performance Standards with regard to degraded and/or previously developed portions of RA at the Site and whether the documented existing conditions corroborate the Applicant's claims. The NOI application includes narrative information describing the Project and the proposed impacts within RA and Buffer Zone. However, sufficient details including the method(s) of RA restoration and a demonstration of full compliance with Bylaw requirements (such as providing a full Functions & Characteristics Statement and adhering to all plan requirements) are absent from the filing. The Applicant has also not included sufficient information to document the presence of degraded RA at all of the stated locations and has not indicated whether these areas were degraded prior to August 7, 1996.

Based on field observations as described below, the Applicant should reevaluate their degraded RA delineation, revise the Project Plans with more current existing conditions information, and demonstrate compliance with the appropriate RA provisions. Appropriate documentation should also be provided to confirm the date on which the subject lot was created to determine the applicability of certain RA Performance Standards.

At this time, the Applicant is required to provide the Conservation Commission with additional information to describe the Site, the work, and the effect of the work on the interests identified in the Act and the Bylaw.

RESOURCE AREA AND BOUNDARY COMMENTS

BETA conducted a Site visit on July 27, 2023 to assess existing conditions and to review the limit of degraded RA as delineated at the Site. The Bank and BVW boundaries were approved under an Order of Resource Area Delineation (ORAD) issued by the Franklin Conservation Commission on February 21, 2020 (MassDEP File No. 159-1211). Review of Resource Areas as delineated under the prior ORAD was not included in the scope of this review; however, BETA did perform an assessment of the Applicant's degraded RA delineation as flagged in the field.

- W1. Review of historic aerials confirms the presence of the existing compacted dirt access road prior to 1995. Identification of this access road as degraded per the onsite delineated boundary is appropriate per 310 CMR 10.58(5)¹.
- W2. BETA reviewed the flags placed in the field to delineate degraded RA (flags DA1-DA25 and DB3-DB-7²) and offers the following comments:
- a. BETA concurs with the flags DB-3 to DB-7² as placed in the field to demarcate the northern extent of degraded RA. These flags were generally at the top of slope along the access road with no identifiable topsoil present.
 - b. RA identified by the Applicant as degraded from flags DA-1 to DA-19 south of the existing road generally consists of soil mounds vegetated by various woody species including Eastern white pine (*Pinus strobus*) and red maple (*Acer rubrum*), as well as piles of vegetative debris including branches and tree limbs. BETA observed topsoil overlain by

¹ A previously developed riverfront area contains areas degraded prior to August 7, 1996 by impervious surfaces from existing structures or pavement, absence of topsoil, junkyards, or abandoned dumping grounds.

² Flags DA-1, DA-2, DA-26, and DA-27 are located off-site within the public right-of-way.

accumulated leaf litter within this area and therefore disagrees with the identification of these areas as degraded, as they do not lack topsoil or constitute an abandoned dumping ground.

In addition, the large stones and concrete blocks that were observed within the delineated degraded RA boundary from flags DA-22 to DA-26 do not constitute degraded RA status, as this area is not degraded with debris and refuse to the point of diminishing the RA's capacity to provide its presumed functions and values. Further, based on a review of Google Streetview, it appears that the blocks have been historically used to prevent vehicular access to the Site and were moved in recent years.

- c. BETA agrees with the delineation of degraded RA at flags DA-19 through DA-21 as these flags are located along the vehicular access roadway which lacks topsoil.
- d. The Applicant should revise the Plans to accurately depict the limits of degraded RA on the Plans.

CONSTRUCTION COMMENTS

- W3. Material storage and laydown areas should be depicted on the Project plans and located outside of jurisdictional areas.
- W4. The NOI narrative indicates that compost filter tubes and/or silt fence will be used as an erosion control measure. Silt fence is not a permitted erosion control measure in the Town of Franklin (Pg. 13 of *Town of Franklin Best Development Practices Guidebook*). BETA defers to the Commission regarding the use of silt fence.
- W5. The Applicant should depict the proposed limits of maintained lawn associated with the dwelling on the plan.

MITIGATION COMMENTS

- W6. Restoration of degraded RA (as delineated by the Applicant) is proposed and includes the removal of soil mounds and concrete blocks, placement of additional topsoil, seeding, and planting. The Applicant should provide a detailed plan for restoration in accordance with 310 CMR 10.58(5)(f) including native woody species to be preserved, specifications for a native upland seed mixture, and locations/species of proposed plantings. It does not appear that the existing access road will be used for construction; therefore, the Commission may consider requiring at least the initial stages of restoration to be undertaken prior to constructing the dwelling and associated Site features.

BETA recommends that all comments regarding the delineation of degraded RA at the Site be addressed prior to finalizing any mitigation/restoration plans.

- W7. Per 310 CMR 10.58(5)(h)³, it is recommended that the Applicant develop a monitoring protocol for the restoration area to demonstrate sufficient establishment of the restoration areas.

³ The issuing authority shall include a continuing condition in the Certificate of Compliance for projects under 310 CMR 10.58(5)(f) or (g) prohibiting further alteration within the restoration or mitigation area, except as may be required to maintain the area in its restored or mitigated condition. Prior to requesting the issuance of the Certificate of Compliance, the applicant shall demonstrate the restoration or mitigation has been successfully completed for at least two growing seasons.

WPA PERFORMANCE STANDARDS COMMENTS

The Project proposes work within Riverfront Area, which is a Resource Area Subject to Protection under the Act.

- W8. The WPA Form 3 should be revised to check off RA under the Inland Resource Areas section on Page 2, Section B.
- W9. On Page 3 of the WPA Form 3, the Applicant provides conflicting degraded RA impact numbers (4,350 sf and 4,312 sf). The submitted Resource Area Impact Summary Form references 4,312 sf. Clarify impact quantities.
- W10. Given BETA's Site observations and the inaccuracy of the degraded RA delineation (Comments W1 and W2), the Applicant should confirm if an accurate degraded RA delineation will result in alterations to natural RA greater in area than the area of proposed degraded RA restoration. Where work within natural RA is not subject to 310 CMR 10.58(5)(f), the Applicant must fully comply with the Performance Standards for work within RA at 310 CMR 10.58(4). The Applicant should provide a full summary of compliance for the portions of the Site that are considered degraded as well as those that are non-degraded.
- W11. For non-previously developed/non-degraded portions of the Site where work is proposed and not associated with the Redevelopment provisions, a RA Alternatives Analysis must be provided.

BYLAW REGULATORY COMMENTS

- W12. The following materials must be submitted per the submission requirements of the Bylaw Regulations:
 - a. A Vernal Pool Statement (Section 7.7);
 - b. A complete Functions and Characteristics Statement inclusive of Erosion and Sedimentation, Water Quality, and Aquaculture (Section 7.10);
 - c. An Avoidance, Minimization, and Mitigation Sequence (Section 7.11) and Narrative (Section 7.11.2);
 - d. An Alternatives Analysis (Section 7.13.1) as a project within RA; and
 - e. Maps including the following data (Section 7.17.1):
 - i. Natural Heritage Priority Habitats and Estimated Habitats
 - ii. FEMA Floodplain.
- W13. The Erosion and Sedimentation Control Plan provided within the narrative should also be included on the Project plans as required under Section 7.12.1.
- W14. The Applicant should confirm whether the proposed work within the 50–100-foot Buffer Zone complies with Section 4.4 of the Bylaw Regulations.

REVIEW SUMMARY

Based on our review of the NOI submittal and Project plans, the Applicant is required to provide the Conservation Commission with additional information to describe the Site, the work, and the effect of the work on the interests identified in the Act and the Bylaw.

Ms. Breeka Lí Goodlander, Agent

August 9, 2023

Page 7 of 7

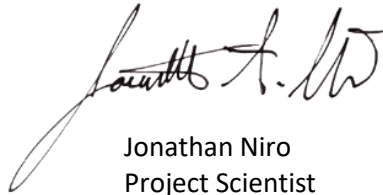
If we can be of any further assistance regarding this matter, please contact us at our office.

Very truly yours,

BETA Group, Inc.



Elyse Tripp
Staff Scientist



Jonathan Niro
Project Scientist

cc: Amy Love, Town Planner

Bryan Taberner, AICP, Director of Planning & Community Development

Matt Crowley, P.E., BETA