

Town of Franklin



Conservation Commission

October 27, 2022

Zoning Board of Appeals (the “**Board**”)
355 East Central Street
Franklin, MA 02038
Attn: Bruce Hunchard, Chair

RE: 121 Grove Street

Dear Chair Hunchard, and Members of the Board,

This letter is being delivered on behalf of the Franklin Conservation Commission (the “**Commission**”) with respect to the proposed development of 121 Grove Street, Franklin, MA (the “**Property**”) as a so-called Friendly 40B project (the “**Project**”). This letter sets forth the Commission’s recommendations with respect to the Board’s review of the Project, pursuant to the Town’s recently adopted guidelines for reviewing Friendly 40B projects.

The Commission **recommends** the Project as it is currently presented, and further recommends that the Board adopt the Commission’s recommendations set forth below as it pertains to the application of Chapter 181 of the Town of Franklin Bylaws (the “**Wetlands Protection Bylaw**”) and the Conservation Commission Regulations (the “**Wetlands Regulation**”) to the Project.

The Commission’s recommendations set forth below are based on (1) presentations made by the applicant, Fairfield Residential (the “**Applicant**”) and its consultants at the Commission’s October 13, 2022, and October 27, 2022, meetings; (2) testimony provided by Breeka LÍ Goodlander, Conservation Agent/Natural Resource Protection Manager (the “**Conservation Agent**”), at said October 13 and October 27 meetings; and (3) the Commission’s review of the Friendly 40B Project Preliminary Review Application dated September 21, 2022, and accompanying materials submitted by the Applicant (the “**Preliminary Application**”).

As you know, the Project will be subject to the Commission’s review as it pertains to the application of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and corresponding regulations at 310 CMR 10.00 et seq. (the “**Act**”), to the Project.

Requested Waivers

Based on the Preliminary Application, the Applicant is requesting the following waivers from the Wetlands Protection Bylaw and the Wetlands Regulation¹:

- Bylaw Section 181-2 (Jurisdiction)
- Bylaw Section 181-4 (Definitions)
- Regulations 7.13 (Alternatives Analysis)
- Regulations 7.14 (Replication Plan and Protocol)
- Regulations 7.15 (Construction Sequence and Schedule)

Commission’s Recommendations

1. The Applicant should be required to submit an Abbreviated Notice of Resource Area Delineation (“**ANRAD**”) to the Commission to confirm the Resource Area boundaries and designations on the Property during normal environmental conditions.

*Note that based on the Conservation Agent’s review of the Property and available data, it is possible that the Resource Areas are larger than what has previously been delineated by the Applicant. Specifically, based on the Conservation Agent’s review, it is possible that isolated vegetated wetlands (“**IVW**”) delineated in the approximate location of the proposed club house/amenity building should in fact be included into the larger complex of bordering vegetated wetlands (“**BVW**”) on the Property. The ANRAD process is designed to provide a procedure for an applicant to confirm the delineation of a BVW.*

2. The Project should be subject to peer review by BETA in connection with the submission of an ANRAD and any subsequent Notice of Intent (“**NOI**”).

Note that based on the nature of the Project and the Resource Areas located on the Property, peer review would typically be required by the Commission were the Project to proceed through the ordinary permitting process rather than as a Friendly 40B project.

3. The Applicant should minimize disturbance within 25’ of any on-site Resource Areas (i.e., the 25’ “no touch” zone under the Wetlands Regulation) to the greatest extent practicable, and should consider opportunities to minimize and avoid impacts to the intermittent streams and on-site IVW.

Note that while work within 25’ of a Resource Area is permitted under the Act, the Wetlands Regulation establish a 25’ “no touch” buffer zone, within which no

¹ Note that the Preliminary Application includes requested waivers from Section 181-7.13, Section 181-7.14, and Section 181-7.15 of the Wetlands Protection Bylaw; however, we think it likely that the intent was to request waivers from Sections 7.13, 7.14 and 7.15 of the Wetlands Regulation, and have acted accordingly.

disturbance is permitted without the issuance of a variance pursuant to Section 5 of the Wetlands Regulation.

4. To the extent the Applicant proposes to fill or otherwise permanently disturb IVW, the Board should consider requiring additional wetland replication on the Property to the extent practicable.

Note that IVW are subject to regulation under the Wetlands Bylaw as freshwater wetlands, but not under the Act. Therefore, while a proponent who proposed to fill IVW would typically be required to provide replication on a 2:1 basis pursuant to Section 7.14 of the Wetlands Regulation, a proponent only subject to the requirements of the Act would not be required to provide for any wetland replication in respect of filled IVW. According to the plans submitted by the Applicant, it appears that approximately 3,160 square feet of IVW will be filled in connection with the development of the club house/amenity building, which would ordinarily equate to wetland replication of at least 6,320 square feet. The Applicant has indicated to the Commission that there may be opportunities for additional wetland replication on the Property.

5. In lieu of a formal alternatives analysis in accordance with Section 7.13 of the Wetlands Regulation, the Applicant should consider the following:

- a. Reduction in the number of parking spaces in order to reduce impervious coverage (supplemented, if necessary, by a transportation demand management (“TDM”) program);

According to the plans submitted by the Applicant, it appears that the Project will provide approximately 578 parking spaces for approximately 330 units (a ratio of 1.75 spaces per unit). Nearby communities are increasingly moving toward lower parking minimums, or eliminating minimum parking ratios altogether. A ratio of 1.5 spaces per unit, for example, would allow for the reduction of the total number of parking spaces by 83 spaces, which would represent a significant reduction in impervious area. Irrespective of whether it is feasible to reduce the number of parking spaces on the Property, the Applicant should implement a TDM program to take advantage of the Project’s proximity to the Forge Park/495 Commuter Rail station.

- b. Moving proposed buildings closer together in order to reduce impervious coverage, and particularly, Building #4 and #5; and
 - c. Consolidating the club house/amenities building with Building #3, or moving the club house/amenities building closer to Building #3 so as to (1) reduce and/or eliminate IVW impact, and (2) reduce impervious coverage.
6. The Applicant should be required to submit a construction sequence and schedule to the Conservation Agent in accordance with Section 7.15 of the Wetlands Regulation.

Franklin Zoning Board of Appeals
October 27, 2022

Please feel free to reach out to me with any questions or to discuss any of the above recommendations further.

Sincerely,

A handwritten signature in blue ink, appearing to read "Patrick Gallagher", with a long, sweeping flourish extending to the right.

Patrick Gallagher, Chair

On Behalf of the Franklin Conservation Commission

Cc: Bryan Taberner, Director of Planning & Community Development
Amy Love, Town Planner
Breeka LÍ Goodlander, Conservation Agent/Natural Resource Protection Manager