NOTICE OF INTENT
FOR
SLOPE RESTORATION
AND
STABILIZATION

40 SUDBURY ROAD
ACTON, MASSACHUSETTS

JUNE 17, 2009

Prepared for:

ALC CORP, GENERAL PARTNER OF FTN
LIMITED PARTNERSHIP
MICHAEL BASS, PRESIDENT
C/O BASS, DOHERTY & FINKS, PC
40 SOLDIERS FIELD PLACE
BOSTON, MA 02135-1104

Prepared by:
BEALS ASSOCIATES, INC.
2 THIRTEENTH STREET
CHARLESTOWN, MASSACHUSETTS 02129

Project Number:
C-472.07
Concord, Massachusetts

BEALS · ASSOCIATES INC.

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BEALS · ASSOCIATES INC.

2 THIRTEENTH STREET CHARLESTOWN, MA 02129
PHONE: 617-242-1120 FAX: 617-242-1190

June 17, 2009

Acton Conservation Commission
472 Main Street
Acton, Massachusetts 01720

VIA: Hand Delivery

RE: Slope Restoration and Stabilization
Old Mill Development Trust
40 Sudbury Road
Acton, Massachusetts 01742

Dear Members of the Commission:

On behalf of ALC Corp, General Partner of FTN Limited Partnership we are hereby submitting a Notice of Intent (NOI) for site work required to repair the earthen slope failure on the property located at 40 Sudbury Road, Acton and 54 Old Powdermill Road, Concord, Massachusetts.

The Acton portion of the project site is owned by Old Mill Development Trust. This parcel is approximately 5.1± acres with access from Sudbury Road. The parcel is currently vacant. The shared property line between the two parcels is also the town line between Concord and Acton. The Concord portion of the site is comprised of three parcels, totaling 30.4± acres with access from Old Powdermill Road, Concord. This property is currently occupied by two manufacturing buildings which have been used as radar testing facilities in the past. The overall property is comprised of three separate lots, the northerly two of which include wetland resources. The wetland resources on the property were previously delineated by this office and confirmed by the Concord Natural Resources Commission. A copy of the ORAD dated February 8, 2008 is included as an Appendix to this application. Separate NOI filings have been prepared to be presented before each Town's Conservation/Natural Resources Commission. To maintain consistency, a single set of design drawings will be used in both applications. The Concord NRC issued an Order of Conditions for the Concord portion of the project on May 8th, 2009. The Order of Conditions has been appealed by Old Mill Development Trust. A resolution to the appeal is currently being arbitrated by DEP NERO.

The project area is characterized by a distinct topographic change located at the northerly end of the subject site where the elevation drops abruptly approximately 60-65 feet east-west across the property. This steep slope experienced a structural failure that resulted in a sudden movement of earth from the side slope, down the slope and into the Bordering Vegetated Wetland. The encroachment of sand and gravel material into the resource area has been delineated by field survey. The area of wetland resource area impacted by the deposited material is 3,437 sf. In addition to the impact on the BVW and associated buffer zone, the floodplain has been filled by the deposition of sand and gravel. The calculated storage volume lost is 7117 CF.

The cause of the failure has not been fully determined. However, evidence indicates that a large volume of water overtopped the slope, weakening the soil structure, and creating the current situation. A project narrative describing the proposed slope restoration and stabilization is attached.

The damaged soil slope must be repaired to prevent further erosion of the slope into the Wetland Resource Area and to protect the integrity of the undisturbed portions of the remainder of the slope. This slope stabilization and repair is of particular concern to the Town of Concord Municipal Light Plant (CMLP) and to the Tennessee Gas Co. A main power conduit for the Town of Concord is located within a concrete duct bank at the top of the bank adjacent to the failed slope. The Tennessee Gas Company maintains a large high pressure gas main within an easement located at the top of the slope as well. Further degradation and erosion of the earthen slope would threaten the integrity of both of these important utilities.

Since the proposed work solely consists of the remediation of the failed earthen slope and the reestablishment of temporarily filled wetlands, we believe that the submittal of Stormwater Management forms is not required. No drainage improvements are proposed, however; an earthen berm is proposed to prevent stormwater from flowing over the stabilized slope from the existing paved area.

The following materials are included in this submittal:

One original and four (4) copies of the Notice of Intent application with appendices

Four (4) full sized copies of a set of plans entitled "Plans to Accompany Notice of Intent for 54 Old Powdermill Road, Concord & 40 Sudbury Road, Acton", prepared by Beals Associates, Inc., dated December 19, 2008, last revised June 16, 2009.

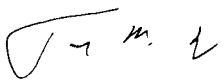
Four (4) 11" x 17" reductions of the above plan (included in a pocket in the back of each booklet)

A check in the amount of $362.50 as payment of the Town of Acton portion of the state filing fee and the Local By-Law fee.

In addition, one copy of the Notice of Intent is being delivered to the Central Regional Office of the Department of Environmental Protection, Worcester, MA. A check in the amount of $237.50 is being sent to the DEP lock box as payment of the state portion of the filing fee. We would be pleased to meet with the Commission at the public hearing scheduled for July 1, 2009, to discuss the proposed project in detail and are available at the convenience of the Commission and its staff to walk the limits of the proposed work in the field. Please feel free to contact our office should you have any questions or require additional information.

Sincerely,

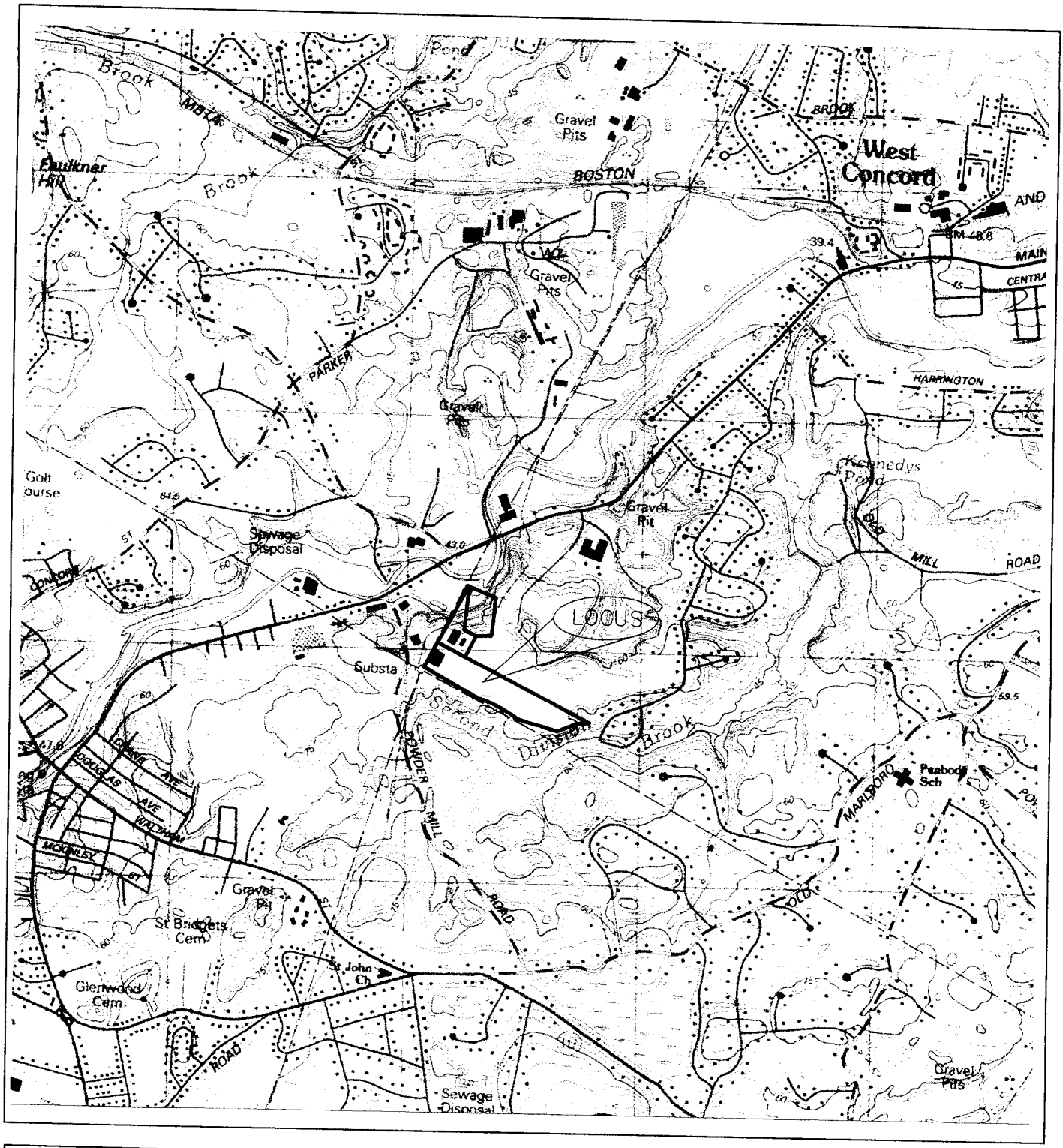
Beals Associates, Inc.



Todd M. Lobo, P.E.

cc: Gerald Doherty, FTN, LLC
Leo Bertolami, Old Mill Development Trust

C-472.07 Acton



LOCUS PLAN

Source: USGS Topographic Quadrangle
for Maynard
7.5 x 15 Minute Series (Metric)

Scale: 1:25,000 or 1" = 2083.33'

Notice of Intent
Slope Restoration and Stabilization
FTN Property
54 Old Powdermill Rd., Concord, MA

Prepared by Beals Associates, Inc. - Boston, Massachusetts

PROJECT NARRATIVE

The Acton portion of the project site is owned by Old Mill Development Trust. This parcel is approximately 5.1± acres with access from Sudbury Road. The parcel is currently vacant. The shared property line between the two parcels is also the town line between Concord and Acton. The Concord portion of the site is comprised of three parcels, totaling 30.4± acres with access from Old Powdermill Road, Concord. This property is currently occupied by two manufacturing buildings which have been used as radar testing facilities in the past. The overall property is comprised of three separate lots, the northerly two of which include wetland resources. The wetland resources on the property were previously delineated by this office and confirmed by the Concord Natural Resources Commission. A copy of the ORAD dated February 8, 2008 is included as an Appendix to this application. Separate NOI filings have been prepared to be presented before each Town's Conservation/Natural Resources Commission. To maintain consistency, a single set of design drawings will be used in both applications. The Concord NRC issued an Order of Conditions for the Concord portion of the project on May 8th, 2009. The Order of Conditions has been appealed by Old Mill Development Trust. A resolution to the appeal is currently being arbitrated by DEP NERO.

The project area is characterized by a distinct topographic change located at the northerly end of the subject site where the elevation drops abruptly approximately 60-65 feet east-west across the property. This steep slope experienced a structural failure that resulted in a sudden movement of earth from the side slope, down the slope and into the Bordering Vegetated Wetland. The encroachment of sand and gravel material into the resource area has been delineated by field survey. The area of wetland resource area impacted by the deposited material is 3,437 sf. In addition to the impact on the BVW and associated buffer zone, the floodplain has been filled by the deposition of sand and gravel. The calculated storage volume lost is 7117 CF.

The cause of the failure has not been fully determined. However, evidence indicates that a large volume of water overtopped the slope, weakening the soil structure, and creating the current situation. A project narrative describing the proposed slope restoration and stabilization is attached.

The damaged soil slope must be repaired to prevent further erosion of the slope into the Wetland Resource Area and to protect the integrity of the undisturbed portions of the remainder of the slope. This slope stabilization and repair is of particular concern to the Town of Concord Municipal Light Plant (CMLP) and to the Tennessee Gas Co. A main power conduit for the Town of Concord is located within a concrete duct bank at the top of the bank adjacent to the failed slope. The Tennessee Gas Company maintains a large high pressure gas main within an easement located at the top of the slope as well. Further degradation and erosion of the earthen slope would threaten the integrity of both of these important utilities.

The proposed repair plan is twofold. The first step will be the removal of the deposited sand and gravel from the wetland resource area and a portion of the 100' Buffer Zone. This work will be performed using small earth moving machines and manual labor. The disturbed wetland resource area will first be isolated using erosion control barriers. The fill material will then be removed, exposing the underlying natural organic material. The deposited sand which is removed will be placed at the base of the existing earthen slope, between two existing fieldstone walls or hauled off-site. A wetland seed mix and supplemental wetland plantings will be used to supplement the existing organic material in the reclaimed wetland in order to ensure restoration of appropriate wetland plant species. The proposed reclaimed and restored wetland area equals 4,588 sf., a 1.3: 1 ratio of fill to restoration.

The second step will be the reconstruction/stabilization of the earthen slope in order to prevent future slope failure. This will be accomplished by reconstructing the existing slope, and reinforcing the slope with a blast rock core. Once the slope has been reconstructed, it will be loamed and seeded with New England Erosion Control/Restoration Mix (for Dry Sites), and stabilized using a natural erosion control blanket. The wetland restoration work will be protected from erosion damage with the use of haybales/siltfence along the toe of the slope. The total area of Buffer Zone to be disturbed is 18,750 sf. In addition, an earthen berm will be constructed at the top of the slope to prevent stormwater run-off from overtopping the steep slope in the future.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

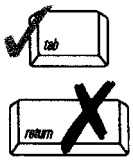
Provided by MassDEP:

MassDEP File Number

Document Transaction Number

Acton
City/Town

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



Note: Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

A. General Information

1. Project Location (**Note:** electronic filers will click on button to locate project site):

40 Sudbury Road	Acton	01720
a. Street Address	b. City/Town	c. Zip Code
Latitude and Longitude:	042-26-5.6N	071-25-45.4W
	d. Latitude	e. Longitude
J-3	59	
f. Assessors Map/Plat Number	g. Parcel /Lot Number	

2. Applicant:

Michael	Bass, President	
a. First Name	b. Last Name	
ALC Corp. General Partner of FTN Limited Partnership		
c. Organization		
c/o Bass, Doherty & Finks, P.C., 40 Soldiers Field Place		
d. Street Address		
Boston	MA	02135-1104
e. City/Town	f. State	g. Zip Code
617-787-5551	617-787-4963	mbass@bassdoherty.com
h. Phone Number	i. Fax Number	j. Email Address

3. Property owner (required if different from applicant): ☐ Check if more than one owner

Leo	Bertolami, Trustee	
a. First Name	b. Last Name	
Old Mill Development Trust		
c. Organization		
6 Proctor Street		
d. Street Address		
Acton	MA	01720
e. City/Town	f. State	g. Zip Code
978-430-4000	978-897-3006	autoplex3@hotmail.com
h. Phone Number	i. Fax Number	j. Email address

4. Representative (if any):

Todd	Lobo	
a. First Name	b. Last Name	
Beals Associates, Inc.		
c. Company		
98 North Washington St.		
d. Street Address		
Boston	MA	02114
e. City/Town	f. State	g. Zip Code
617-742-3554	617-742-0310	tlobo@bealsassociates.com
h. Phone Number	i. Fax Number	j. Email address

5. Total WPA Fee Paid (from NOI Wetland Fee Transmittal Form):

$500.00	$237.50	$262.50
a. Total Fee Paid	b. State Fee Paid	c. City/Town Fee Paid

A. General Information (continued)

6. General Project Description:

Restoration and stabilization of slope within the 100' Buffer Zone of a Bordering Vegetated Wetland and restoration of accidentally filled Bordering Vegetated Wetland.

7a. Project Type Checklist:

1. ☐ Single Family Home
2. ☐ Residential Subdivision
3. ☐ Limited Project Driveway Crossing
4. ☐ Commercial/Industrial
5. ☐ Dock/Pier
6. ☒ Utilities
7. ☐ Coastal Engineering Structure
8. ☐ Agriculture (e.g., cranberries, forestry)
9. ☐ Transportation
10. ☒ Other

7b. Is any portion of the proposed activity eligible to be treated as a limited project subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

1. ☐ Yes ☒ No If yes, describe which limited project applies to this project:

2. Limited Project

8. Property recorded at the Registry of Deeds for:

Middlesex South	
a. County	b. Certificate # (if registered land)
16728	585
c. Book	d. Page Number

B. Buffer Zone & Resource Area Impacts (temporary & permanent)

1. ☐ Buffer Zone Only – Check if the project is located only in the Buffer Zone of a Bordering Vegetated Wetland, Inland Bank, or Coastal Resource Area.
2. ☒ Inland Resource Areas (see 310 CMR 10.54-10.58; if not applicable, go to Section B.3, Coastal Resource Areas).

Check all that apply below. Attach narrative and any supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

For all projects affecting other Resource Areas, please attach a narrative explaining how the resource area was delineated.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. ☐ Bank	1. linear feet	2. linear feet
b. ☒ Bordering Vegetated Wetland	3437 (accidental) 1. square feet	4588 2. square feet
c. ☐ Land Under Waterbodies and Waterways	1. linear feet	2. linear feet
	3. cubic yards dredged	

B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
d. ☒ Bordering Land Subject to Flooding	2880 (1. square feet)	4270 (2. square feet)
	7117 (3. cubic feet of flood storage lost)	16,757 (4. cubic feet replaced)
e. ☐ Isolated Land Subject to Flooding	(1. square feet)	
	(2. cubic feet of flood storage lost)	(3. cubic feet replaced)
f. ☐ Riverfront Area	(1. Name of Waterway (if available))	

2. Width of Riverfront Area (check one):

☐ 25 ft. - Designated Densely Developed Areas only

☐ 100 ft. - New agricultural projects only

☐ 200 ft. - All other projects

3. Total area of Riverfront Area on the site of the proposed project: _____ square feet

4. Proposed alteration of the Riverfront Area:

a. total square feet	b. square feet within 100 ft.	c. square feet between 100 ft. and 200 ft.
0	0	0

5. Has an alternatives analysis been done and is it attached to this NOI? ☐ Yes ☐ No

6. Was the lot where the activity is proposed created prior to August 1, 1996? ☐ Yes ☐ No

3. ☐ Coastal Resource Areas: (See 310 CMR 10.25-10.35)

Check all that apply below. Attach narrative and supporting documentation describing how the project will meet all performance standards for each of the resource areas altered, including standards requiring consideration of alternative project design or location.

Online Users: Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

Resource Area	Size of Proposed Alteration	Proposed Replacement (if any)
a. ☐ Designated Port Areas	Indicate size under Land Under the Ocean, below	
b. ☐ Land Under the Ocean	(1. square feet)	
	(2. cubic yards dredged)	
c. ☐ Barrier Beach	Indicate size under Coastal Beaches and/or Coastal Dunes below	
d. ☐ Coastal Beaches	(1. square feet)	(2. cubic yards beach nourishment)
e. ☐ Coastal Dunes	(1. square feet)	(2. cubic yards dune nourishment)

B. Buffer Zone & Resource Area Impacts (temporary & permanent) (cont'd)

		Size of Proposed Alteration	Proposed Replacement (if any)
f. ☐	Coastal Banks	1. linear feet	
g. ☐	Rocky Intertidal Shores	1. square feet	
h. ☐	Salt Marshes	1. square feet	2. sq ft restoration, rehab., creation
i. ☐	Land Under Salt Ponds	1. square feet 2. cubic yards dredged	
j. ☐	Land Containing Shellfish	1. square feet	
k. ☐	Fish Runs	Indicate size under Coastal Banks, inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above 1. cubic yards dredged	
l. ☐	Land Subject to Coastal Storm Flowage	1. square feet	

4. ☐ Restoration/Enhancement
If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.2.b or B.3.h above, please enter the additional amount here.

a. square feet of BVW | b. square feet of Salt Marsh

C. Other Applicable Standards and Requirements

Streamlined Massachusetts Endangered Species Act/Wetlands Protection Act Review

1. Is any portion of the proposed project located in **Estimated Habitat of Rare Wildlife** as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetland Wildlife published by the Natural Heritage and Endangered Species Program (NHESP)? To view habitat maps, see the *Massachusetts Natural Heritage Atlas* or go to http://www.mass.gov/dfwele/dfw/nhesp/nhregmap.htm.

a. ☐ Yes ☒ No **If yes, include proof of mailing or hand delivery of NOI to:**

Natural Heritage and Endangered Species Program
Division of Fisheries and Wildlife
Route 135, North Drive
Westborough, MA 01581

Mass GIS 2008
b. Date of map

If *yes*, the project is also subject to Massachusetts Endangered Species Act (MESA) review (321 CMR 10.18). To qualify for a streamlined, 30-day, MESA/Wetlands Protection Act review, please complete Section C.1.C, and include requested materials with this Notice of Intent (NOI); *OR* complete Section C.1.d, if applicable. *If MESA supplemental information is not included with the NOI, by completing Section 1 of this form, the NHESP will require a separate MESA filing which may take up to 90 days to review (unless noted exceptions in Section 2 apply, see below).*

C. Other Applicable Standards and Requirements (cont'd)

1. c. Submit Supplemental Information for Endangered Species Review *

   1. ☐ Percentage/acreage of property to be altered:

      (a) within wetland Resource Area _____ percentage/acreage

      (b) outside Resource Area _____ percentage/acreage

   2. ☐ Assessor's Map or right-of-way plan of site

   3. ☐ Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work **

      (a) ☐ Project description (including description of impacts outside of wetland resource area & buffer zone)

      (b) ☐ Photographs representative of the site

      (c) ☐ MESA filing fee (fee information available at: http://www.mass.gov/dfwele/dfw/nhesp/nhenvmesa.htm)
      Make check payable to "Natural Heritage & Endangered Species Fund" and ***mail to NHESP*** at above address

      *Projects altering **10 or more acres** of land, also submit:*

      (d) ☐ Vegetation cover type map of site

      (e) ☐ Project plans showing Priority & Estimated Habitat boundaries

   d. OR Check One of the Following

      1. ☐ Project is exempt from MESA review.
      Attach applicant letter indicating which MESA exemption applies. (See 321 CMR 10.14, http://www.mass.gov/dfwele/dfw/nhesp/nhenvexemptions.htm; the NOI must still be sent to NHESP if the project is within estimated habitat pursuant to 310 CMR 10.37 and 10.59.)

      2. ☐ Separate MESA review ongoing.

      a. NHESP Tracking Number _____ b. Date submitted to NHESP _____

      3. ☐ Separate MESA review completed.
      Include copy of NHESP "no Take" determination or valid Conservation & Management Permit with approved plan.

* Some projects **not** in Estimated Habitat may be located in Priority Habitat, and require NHESP review (see www.nhesp.org regulatory review tab). Priority Habitat includes habitat for state-listed plants and strictly upland species not protected by the Wetlands Protection Act.

** MESA projects may not be segmented (321 CMR 10.16). The applicant must disclose full development plans even if such plans are not required as part of the Notice of Intent process.

C. Other Applicable Standards and Requirements (cont'd)

2. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?

   a. ☒ Not applicable – project is in inland resource area only

   b. ☐ Yes ☐ No If yes, include proof of mailing or hand delivery of NOI to either:

   South Shore - Cohasset to Rhode Island, and the Cape & Islands:

   Division of Marine Fisheries - Southeast Marine Fisheries Station
   Attn: Environmental Reviewer
   838 South Rodney French Blvd.
   New Bedford, MA 02744

   North Shore - Hull to New Hampshire:

   Division of Marine Fisheries - North Shore Office
   Attn: Environmental Reviewer
   30 Emerson Avenue
   Gloucester, MA 01930

   Also if yes, the project may require a Chapter 91 license. For coastal towns in the Northeast Region, please contact MassDEP's Boston Office. For coastal towns in the Southeast Region, please contact MassDEP's Southeast Regional Office.

3. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?

   a. ☐ Yes ☒ No If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations). **Note:** electronic filers click on Website.

   b. ACEC

Online Users: Include your document transaction number (provided on your receipt page) with all supplementary information you submit to the Department.

4. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?

   a. ☐ Yes ☒ No

5. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?

   a. ☐ Yes ☒ No

6. Is this project subject to provisions of the MassDEP Stormwater Management Standards?

   a. ☐ Yes. Attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check if:

      1. ☐ Applying for Low Impact Development (LID) site design credits (as described in Stormwater Management Handbook Vol. 2, Chapter 3)

      2. ☐ A portion of the site constitutes redevelopment

      3. ☐ Proprietary BMPs are included in the Stormwater Management System.

   b. ☒ No. Check why the project is exempt:

      1. ☐ Single-family house

      2. ☐ Emergency road repair

      3. ☐ Small Residential Subdivision (less than or equal to 4 single-family houses or less than or equal to 4 units in multi-family housing project) with no discharge to Critical Areas.

D. Additional Information

Applicants must include the following with this Notice of Intent (NOI). See instructions for details.

Online Users: Attach the document transaction number (provided on your receipt page) for any of the following information you submit to the Department.

1. ☒ USGS or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site. (Electronic filers may omit this item.)

2. ☒ Plans identifying the location of proposed activities (including activities proposed to serve as a Bordering Vegetated Wetland [BVW] replication area or other mitigating measure) relative to the boundaries of each affected resource area.

3. ☒ Identify the method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.), and attach documentation of the methodology.

4. ☐ List the titles and dates for all plans and other materials submitted with this NOI.

Plans to Accompany Notice Of Intent for 54 Old Powdermill Rd. Concord & 40 Sudbury Rd. Acton, Massachusetts

Beals Associates, Inc.	Todd M. Lobo, P.E.
b. Prepared By	c. Signed and Stamped by
June 16, 2009	varies
d. Final Revision Date	e. Scale

f. Additional Plan or Document Title — g. Date

5. ☐ If there is more than one property owner, please attach a list of these property owners not listed on this form.

6. ☐ Attach proof of mailing for Natural Heritage and Endangered Species Program, if needed.

7. ☐ Attach proof of mailing for Massachusetts Division of Marine Fisheries, if needed.

8. ☒ Attach NOI Wetland Fee Transmittal Form

9. ☐ Attach Stormwater Report, if needed.

E. Fees

1. ☐ Fee Exempt: No filing fee shall be assessed for projects of any city, town, county, or district of the Commonwealth, federally recognized Indian tribe housing authority, municipal housing authority, or the Massachusetts Bay Transportation Authority.

Applicants must submit the following information (in addition to pages 1 and 2 of the NOI Wetland Fee Transmittal Form) to confirm fee payment:

6854	December 16, 2008
2. Municipal Check Number	3. Check date
6853	December 16, 2008
4. State Check Number	5. Check date
	Bass, Doherty & Finks, P.C.
6. Payor name on check: First Name	7. Payor name on check: Last Name

F. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Notice of Intent and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge. I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

FTN Limited Partnership
BY: ALC Corp., General Partner

1. Signature of Applicant Michael Bass, President — 2. Date 12/17/08

3. Signature of Property Owner (if different) Leo Berlole, Trustee GMDT — 4. Date 1/18/09

5. Signature of Representative (if any) — 6. Date 12/17/08

For Conservation Commission:
Two copies of the completed Notice of Intent (Form 3), including supporting plans and documents, two copies of the NOI Wetland Fee Transmittal Form, and the city/town fee payment, to the Conservation Commission by certified mail or hand delivery.

For MassDEP:
One copy of the completed Notice of Intent (Form 3), including supporting plans and documents, one copy of the NOI Wetland Fee Transmittal Form, and a **copy** of the state fee payment to the MassDEP Regional Office (see Instructions) by certified mail or hand delivery.

Other:
If the applicant has checked the "yes" box in any part of Section C, Item 3, above, refer to that section and the Instructions for additional submittal requirements.

The original and copies must be sent simultaneously. Failure by the applicant to send copies in a timely manner may result in dismissal of the Notice of Intent.

APPENDIX A

LIST OF DRAWINGS

LIST OF DRAWINGS

PLAN TO ACCOMPANY NOTICE OF INTENT
FOR
54 OLD POWDERMILL ROAD, CONCORD &
40 SUDBURY ROAD, ACTON
MASSACHUSETTS
Prepared by Beals Associates, Inc. dated December 19, 2008 and
Last revised June 16, 2009

APPENDIX B

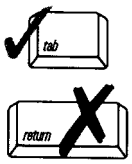
STATE FILING FEE TRANSMITTAL FORM AND COPIES OF CHECKS

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

NOI Wetland Fee Transmittal Form

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



A. Applicant Information

1. Applicant:

Michael	Bass, President	
a. First Name	b. Last Name	
ALC Corp., General Partner of FTN Limited Parnership		
c. Organization		
c/o Bass, Doherty & Finks, P.C., 40 Soldiers Field Place		
d. Mailing Address		
c/o Bass, Doherty & Finks, P.C., 40 Soldiers Field Place	MA	02135-1104
e. City/Town	f. State	g. Zip Code
617-787-5551	617-787-4963	mbass@bassdoherty.com
h. Phone Number	i. Fax Number	j. Email Address

2. Property Owner (if different):

Leo	Bertolami, Trustee	
a. First Name	b. Last Name	
Old Mill Development Trust		
c. Organization		
6 Proctor Street		
d. Mailing Address		
Acton	MA	01720
e. City/Town	f. State	g. Zip Code
978-430-4000	978-897-3006	autoplex3@hotmail.com
h. Phone Number	i. Fax Number	j. Email Address

3. Project Location:

40 Sudbury Road	Acton
a. Street Address	b. City/Town

B. Fees

To calculate filing fees, refer to the category fee list and examples in the instructions for filling out WPA Form 3 (Notice of Intent).

The fee should be calculated using the following six-step process and worksheet. **Please see Instructions before filling out worksheet.**

Step 1/Type of Activity: Describe each type of activity that will occur in wetland resource area and buffer zone.

Step 2/Number of Activities: Identify the number of each type of activity.

Step 3/Individual Activity Fee: Identify each activity fee from the six project categories listed in the instructions.

Step 4/Subtotal Activity Fee: Multiply the number of activities (identified in Step 2) times the fee per category (identified in Step 3) to reach a subtotal fee amount. Note: If any of these activities are in a Riverfront Area in addition to another Resource Area or the Buffer Zone, the fee per activity should be multiplied by 1.5 and then added to the subtotal amount.

Step 5/Total Project Fee: Determine the total project fee by adding the subtotal amounts from Step 4.

Step 6/Fee Payments: To calculate the state share of the fee, divide the total fee in half and subtract $12.50. To calculate the city/town share of the fee, divide the total fee in half and add $12.50.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
NOI Wetland Fee Transmittal Form
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Fees (continued)

Step 1/Type of Activity	Step 2/Number of Activities	Step 3/Individual Activity Fee	Step 4/Subtotal Activity Fee
Category 2 j	1	$500.00	$500.00

Step 5/Total Project Fee: $500.00

Step 6/Fee Payments:

Total Project Fee:	$500.00 a. Total Fee from Step 5
State share of filing Fee:	$237.50 b. 1/2 Total Fee **less** $12.50
City/Town share of filling Fee:	$262.50 c. 1/2 Total Fee **plus** $12.50

C. Submittal Requirements

a.) Complete pages 1 and 2 and send with a check or money order for the state share of the fee, payable to the Commonwealth of Massachusetts.

Department of Environmental Protection
Box 4062
Boston, MA 02211

b.) **To the Conservation Commission:** Send the Notice of Intent or Abbreviated Notice of Intent; a **copy** of this form; and the city/town fee payment.

To MassDEP Regional Office (see Instructions): Send a copy of the Notice of Intent or Abbreviated Notice of Intent; a **copy** of this form; and a **copy** of the state fee payment. (E-filers of Notices of Intent may submit these electronically.)

APPENDIX C

LISTS OF ABUTTERS IN CONCORD AND ACTON

Town of Concord
Board of Assessors
22 Monument Square
P.O. Box 535
Concord, Massachusetts 01742-0535
Tel: (978) 318-3070
Fax: (978) 318-3093

ABUTTERS LIST

PROPERTY : 54 Old Powder Mill Rd.
Concord, MA 01742

MAP: B12

PARCEL: 2971-4

As per Massachusetts General Laws Chapter 131, Section 40 whereas the "abutters" included shall be:

> Any person filing a notice of intention with a conservation commission shall at the same time give written notification thereof, by delivery in hand or certified mail, return receipt requested, to all abutters within one hundred feet of the property line of the land where the activity is proposed, at the mailing addresses shown on the most recent applicable tax list of the assessors, including, but not limited to, owners of land directly opposite said proposed activity on any public or private street or way, and in another municipality or across a body of water.

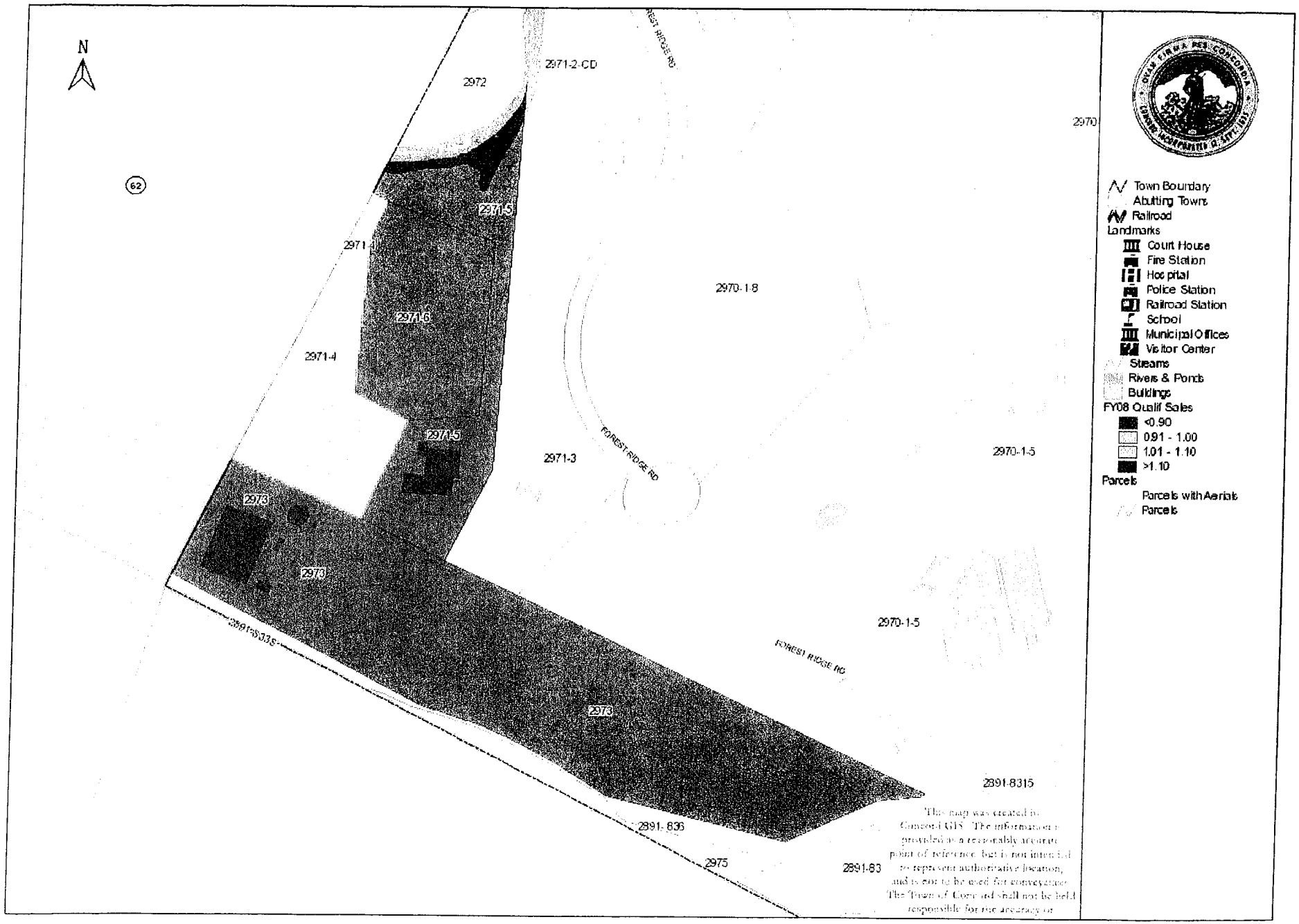
The Board of Assessors hereby certifies that the attached list contains the record owners as of January 1, 2008, and recorded on the current tax rolls. In addition, the Board certifies that the list includes owners, as per recorded deeds as received up to March 31, 2008.

Board of Assessors

11/18/08
Date

Abutters List for Parcel #2971-4, 54 Old Powder Mill Rd., using a distance of 100 ft.:

Parcel	Parcel Location	Name & Billing Address as of January 1, 2008	Name & Billing Address as of September 30, 2008
2971-4	54 Old Powder Mill Rd.	FTN Limited Partnership 7 Abigail Dr. Hudson, MA 01749	
2971-5	66 Old Powder Mill Rd.	Hayes Pump Nominee Trust c/o DeNormandie P Y TR 12 Marshall St. Boston, MA 02108	
2971-6	236X Main St.	FTN Limited Partnership c/o Electronic Space Systems 48 Old Powder Mill Rd. Concord, MA 01742	
2973	48 Old Powder Mill Rd.	FTN Limited Partnership 7 Abigail Dr. Hudson, MA 01749	



54 Old Powder Mill Rd.

Town of Acton
472 Main Street
Acton, MA 01720
Telephone (978) 264-9622
Fax (978) 264-9630

Brian McMullen
Assistant Assessor

Locus: 14-18 SUDBURY RD
Parcel ID: J3-59-5

Location	Parcel ID	Owner	Co-Owner	Mailing Address	City	ST	Zip
37 POWDER MILL RD	J3-56	POWDER MILL REALTY CO	BERTOLAMI LEO	145 POWDER MILL RD	MAYNARD	MA	01754
61 POWDER MILL RD	J3-58	POWDER RIDGE REALTY CO	C/O BERTOLAMI LEO	6 PROCTOR ST	ACTON	MA	01720
65 POWDER MILL RD	J3-59	OLD MILL DEVELOPMENT TRUST		6 PROCTOR ST	ACTON	MA	01720
45 POWDER MILL RD	J3-59-1	JKK INC		78 FOREST RIDGE RD #102	CONCORD	MA	01742
12 SUDBURY RD	J3-59-3	SWANSON, JOHN E		OLD POWDER MILL	CONCORD	MA	01742
30 SUDBURY RD	J3-59-4	RENFROE H LARUE TR	30 SUDBURY RD REALTY TR	30 SUDBURY RD	ACTON	MA	01720
5 WESTSIDE DR	J3-60-5	WU XIAOLIN	YANG XIAOLING	5 WESTSIDE DR	ACTON	MA	01720
7 WESTSIDE DR	J3-60-8	DOUGLAS SCOTT S	DOUGLAS CAROLYN J	7 WESTSIDE DR	ACTON	MA	01720
3 WESTSIDE DR	J3-60-9	JACOB AGNES	CHACKO TOJI	2320 COMMONWEALTH AVE	AI AUBURNDALE	MA	02466
1 WESTSIDE DR	J3-60-11	KAMATH SUNIL	SHENOY SEEMA	1 WESTSIDE DR	ACTON	MA	01720
2 WESTSIDE DR	J3-60-16	HALL PAMELA S		2 WESTSIDE DR	ACTON	MA	01720

The owner of land sharing a common boundry or corner with the site of the proposed activity (100 feet) in any direction, including land located directly across a street, way, creek, river, stream, brook or canal. The above are as they appear on the most recent applicable taxes.

Kimberly Hoyt
Assessing Clerk
Acton Assessors Office

31-Oct-08

APPENDIX D

NOTICE TO ABUTTERS & AFFIDAVIT OF SERVICE

NOTIFICATION TO ABUTTERS
UNDER THE MASSACHUSETTS WETLANDS PROTECTION ACT
AND THE TOWN OF ACTON WETLANDS BYLAW

In accordance with the second paragraph of Massachusetts General Laws Chapter 131, Section 40 and the Town of Acton Bylaws, you are hereby notified of the following:

The Applicant: **ALC Corp, General Partner of FTN Limited Partnership**

Michael Bass, President

Address **c/o Bass, Doherty & Finks, PC, 40 Soldiers Field Place, Boston, MA 02135-1104**

has filed a Notice of Intent with the Acton Conservation Commission seeking permission to remove, fill, dredge or alter an Area Subject to Protection under the Wetlands Protection Act.

Applicant's Representative: **Beals Associates, Inc.**

Address **2 Thirteen St., Charlestown, MA, 02129** Phone **617-242-1120**

The address of the property where the activity is proposed **40 Sudbury Road, Acton, MA**

Town Atlas Plate/Map **J-3** Parcel/Lot **59**

Project Description **Restoration and stabilization of slope within the 100' Buffer Zone of a Bordering Vegetated Wetland and restoration of accidentally filled Bordering Vegetated Wetland.**

Copies of the Notice of Intent may be examined at the Conservation Office, Acton Town Hall, 472 Main Street, Acton between the hours of 9:00 A.M. and 4:30 P.M. Monday through Friday. For more information please call the Conservation Office at 978-264-9631.

A Public Hearing will be held at the Acton Town Hall, 472 Main Street, on Wednesday,
(date) at

The notice of the public hearing will be published at least five (5) days in advance in the Acton edition of the *Beacon* newspaper or *Metrowest Daily News*.

NOTE: You may also contact your local conservation commission or the nearest Department of Environmental Protection Regional Office* for the information about this application or, the Wetlands Protection Act. Acton is in the Central Region. To contact DEP, call:

***DEP Central Region: 508-792-7650**
627 Main Street, Worcester MA 01608

AFFIDAVIT OF SERVICE

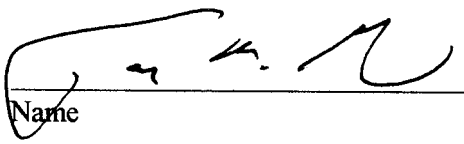
Under the Massachusetts Wetlands Protection Act

(to be submitted to the Massachusetts Department of
Environmental Protection and the Conservation Commission
when filing a Notice of Intent)

I, Todd M. Lobo, P.E., hereby certify under the pains and penalties of perjury that on June 17, 2009 I gave notification to abutters in compliance with the second paragraph of Massachusetts General Laws Chapter 131, Section 40, and the DEP Guide to Abutter Notification dated April 8, 1994, in connection with the following matter:

A Notice of Intent filed under the Massachusetts Wetlands Protection Act by Beals Associates, Inc. with the Acton Conservation Commission on June 17, 2009 for property located at 40 Sudbury Road,Acton, Massachusetts.

The form of the notification, and a list of the abutters to whom it was given and their addresses, are attached to this Affidavit of Service.



Name

June 17, 2009
Date

APPENDIX E

NHESP ESTIMATED HABITATS MAP

2008 Priority Habitat and Estimated Habitat Natural Heritage & Endangered Species Program

Legend

EOT-OTP Roads Names

EOT-OTP Roads

Limited Access Highway

Multi-lane Hwy, Not Limited Access

Other Numbered Hwy

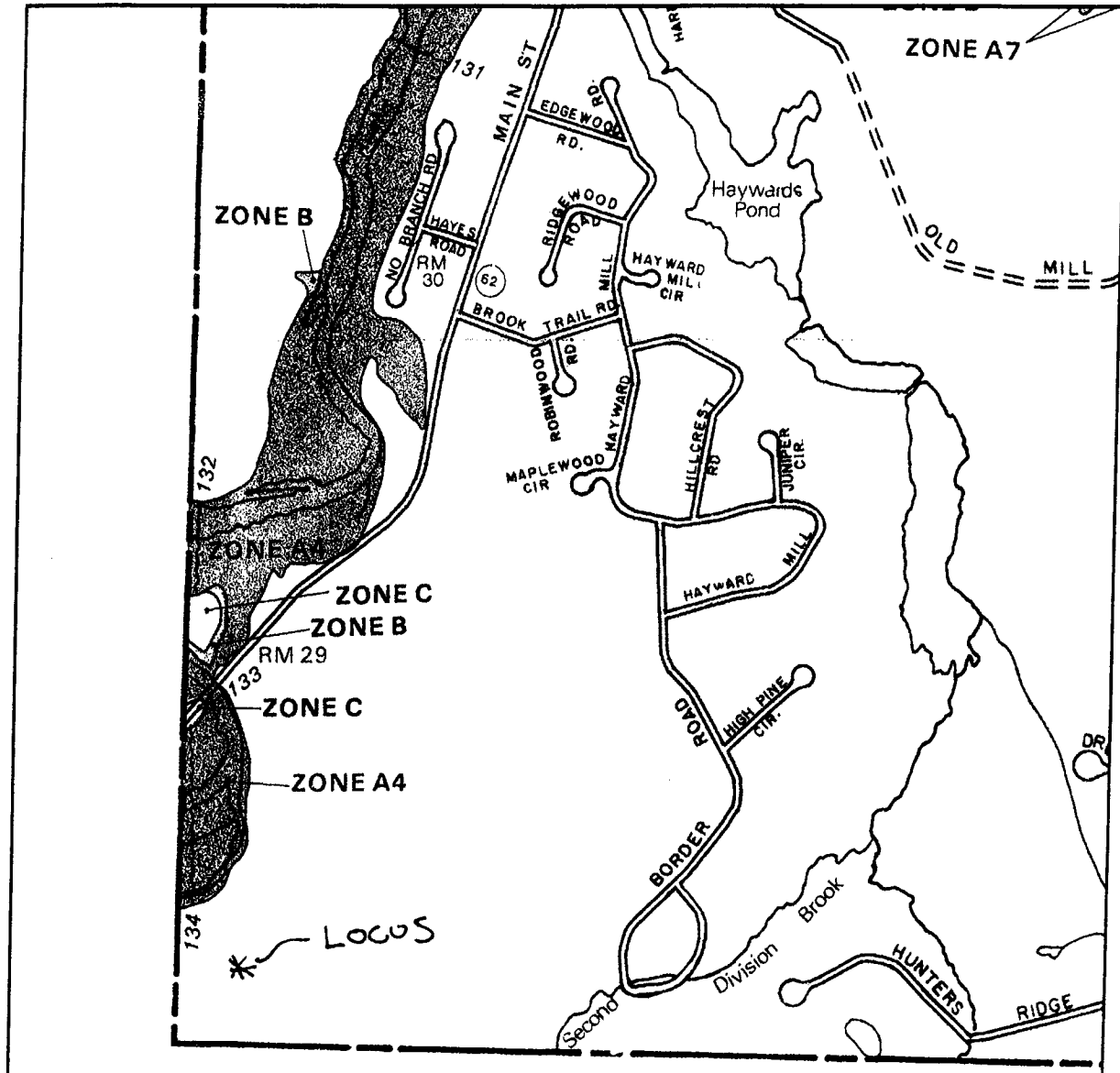
NHESP 2008 Priority Habitats of Rare Species and also Estimated Habitats of Rare Wildlife

NHESP 2008 MA Priority Habitats of Rare Species

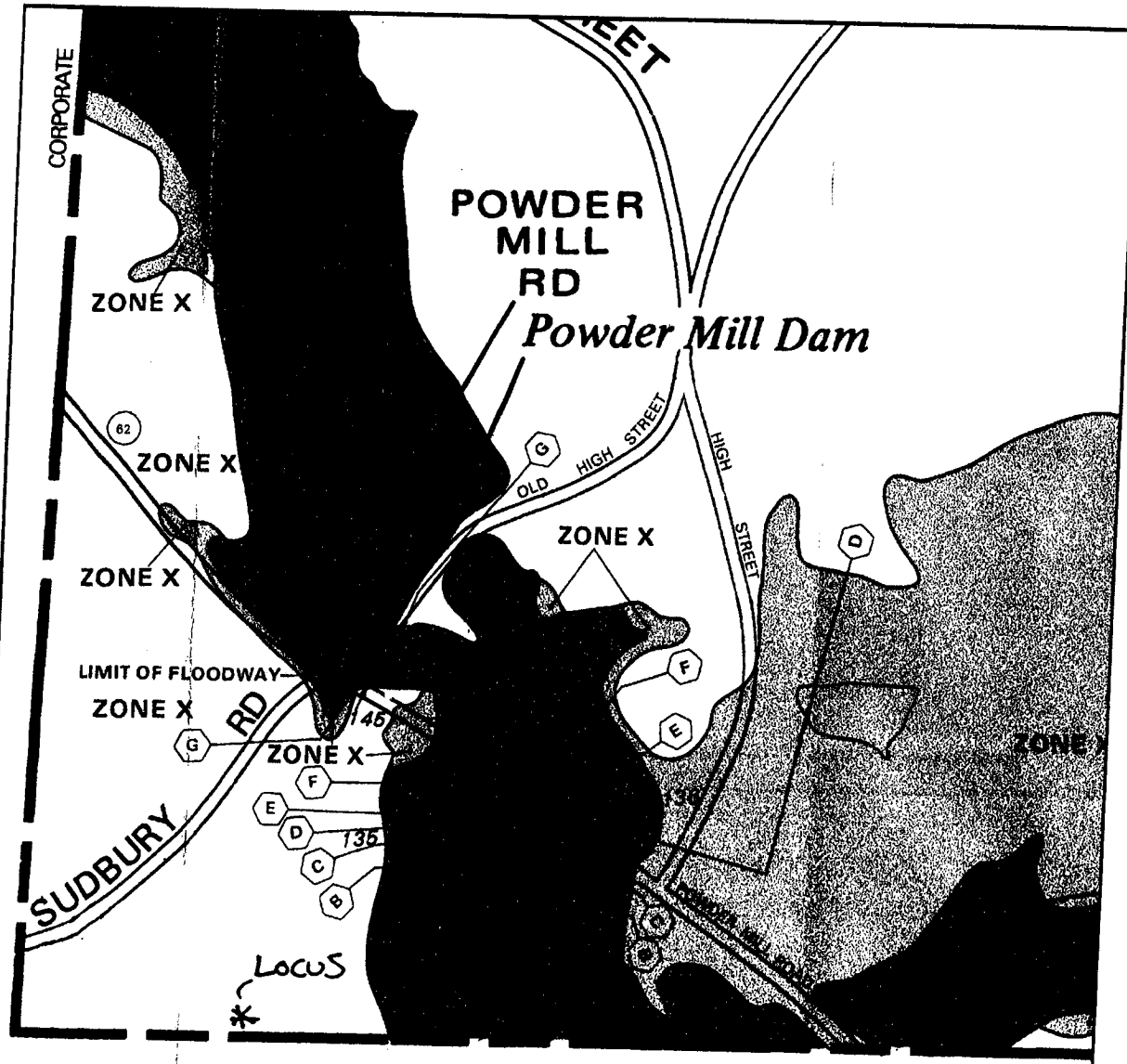
Color Orthos 2005

APPENDIX F

FEMA MAPS



This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov



APPROXIMATE SCALE

400 0 400 FEET

NATIONAL FLOOD INSURANCE PROGRAM

FIRM

FLOOD INSURANCE RATE MAP

TOWN OF
ACTON, MASSACHUSETTS
MIDDLESEX COUNTY

PANEL 6 OF 8
(SEE MAP INDEX FOR PANELS NOT PRINTED)

PANEL LOCATION

COMMUNITY-PANEL NUMBER
250178 0008 C

MAP REVISED:
JANUARY 6, 1988

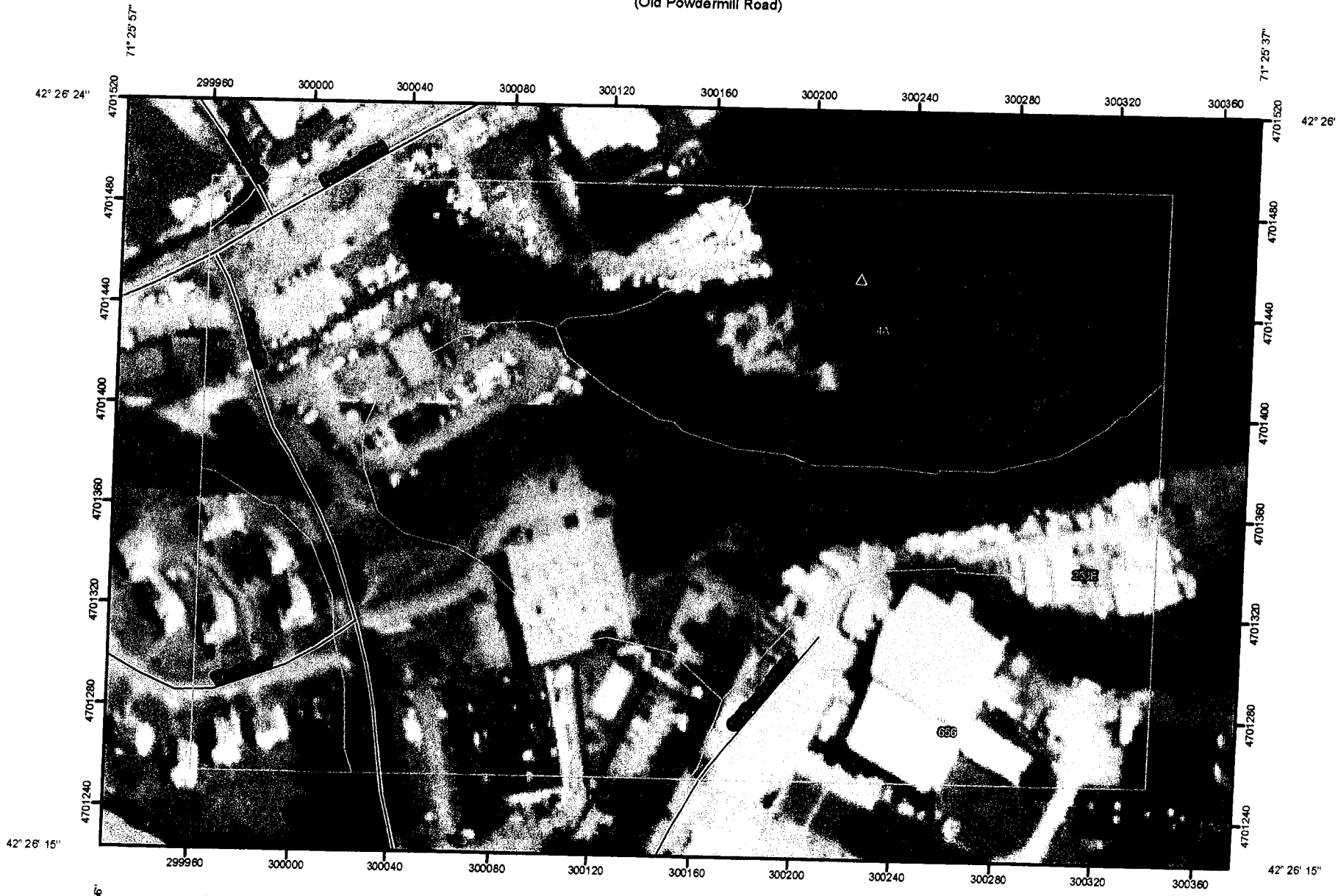
Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov

APPENDIX G

NRCS SOILS MAP AND DATA

Soil Map—Middlesex County, Massachusetts
(Old Powdermill Road)



MAP LEGEND

Area of Interest (AOI)
- Area of Interest (AOI)

Soils
- Soil Map Units

Special Point Features
- Blowout
- Borrow Pit
- Clay Spot
- Closed Depression
- Gravel Pit
- Gravelly Spot
- Landfill
- Lava Flow
- Marsh or swamp
- Mine or Quarry
- Miscellaneous Water
- Perennial Water
- Rock Outcrop
- Saline Spot
- Sandy Spot
- Severely Eroded Spot
- Sinkhole
- Slide or Slip
- Sodic Spot
- Spoil Area
- Stony Spot
- Very Stony Spot
- Wet Spot
- Other

Special Line Features
- Gully
- Short Steep Slope
- Other

Political Features
- Cities

Water Features
- Oceans
- Streams and Canals

Transportation
- Rails
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

MAP INFORMATION

Map Scale: 1:2,030 if printed on A size (8.5" × 11") sheet.

The soil surveys that comprise your AOI were mapped at 1:25,000.

Please rely on the bar scale on each map sheet for accurate map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: http://websoilsurvey.nrcs.usda.gov
Coordinate System: UTM Zone 19N NAD83

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Middlesex County, Massachusetts
Survey Area Data: Version 5, Jan 3, 2007

Date(s) aerial images were photographed: 7/10/2003; 8/14/2003

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Middlesex County, Massachusetts (MA017)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
1	Water	0.1	0.3%
4A	Rippowam fine sandy loam, 0 to 3 percent slopes	5.2	23.4%
253D	Hinckley loamy sand, 15 to 25 percent slopes	1.5	6.6%
253E	Hinckley loamy sand, 25 to 35 percent slopes	5.6	25.2%
602	Urban land	6.7	30.2%
656	Udorthents-Urban land complex	3.2	14.4%
Totals for Area of Interest		22.2	100.0%

APPENDIX H

HISTORIC AERIAL PHOTOGRAPHY MAP

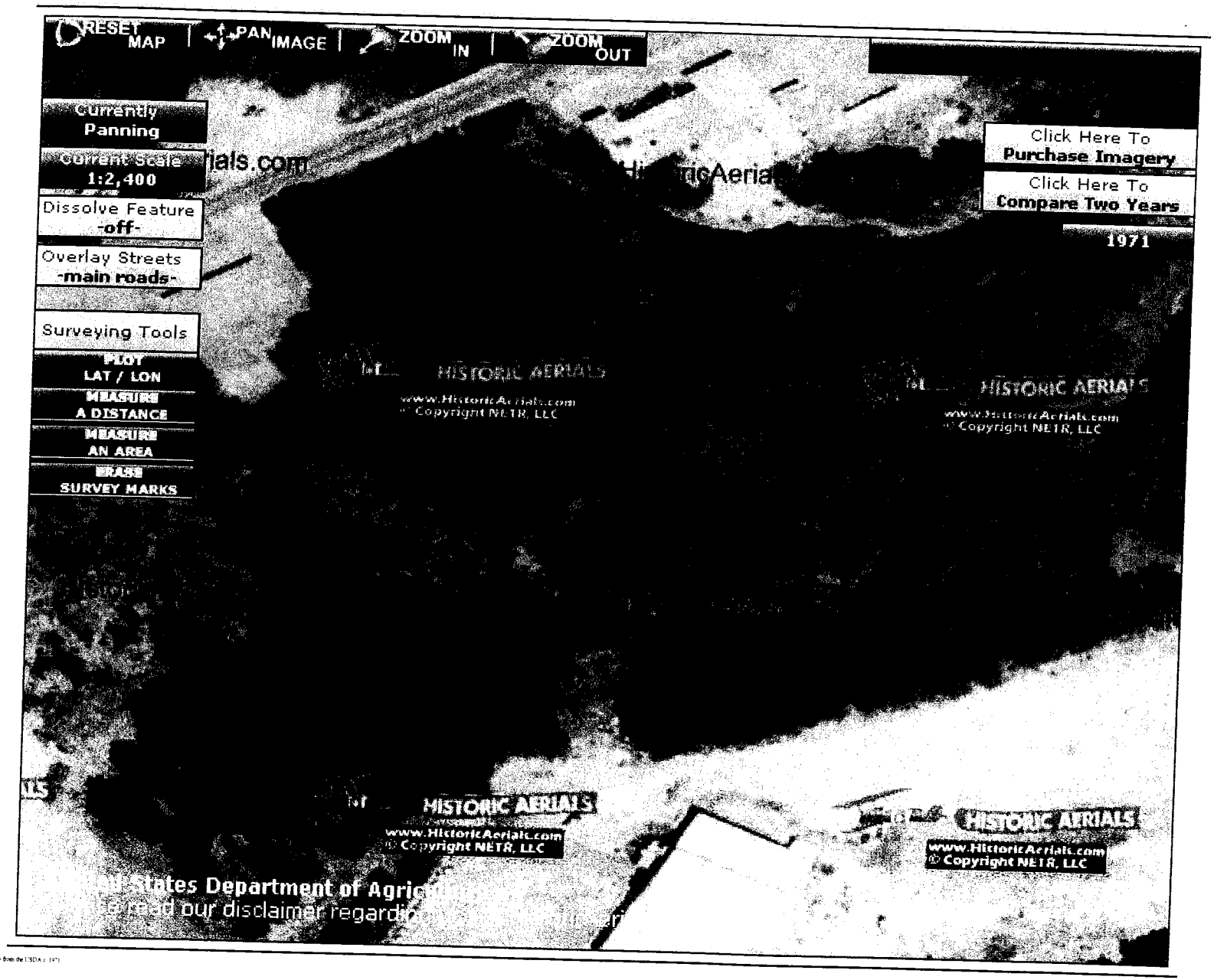


Photo from the USDA c. 1971

APPENDIX I

ORDER OF RESOURCE AREA DELINEATION

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

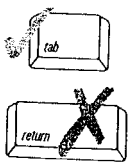
WPA Form 4B – Order of Resource Area Delineation

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number: 137-959 (Provided by DEP)

A. General Information

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



Note: Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

From: Town of Concord, Natural Resources Commission
1. Conservation Commission

2. This Issuance is for (check one):

a. ☒ Order of Resource Area Delineation Only

b. ☐ Order of Resource Area Delineation Subject to Simplified Review

1. ☐ Not Subject to Stormwater Policy

2. ☐ Subject to Stormwater Policy

c. ☐ Amended Order of Resource Area Delineation

3. To: Applicant:

Timothy (a. First Name) | O'Connor (b. Last Name) | West Concord Development, LLC (c. Company)
130 Gould Street, Suite 121 (d. Mailing Address)
Needham (e. City/Town) | MA (f. State) | 02494 (g. Zip Code)

4. Property Owner (if different from applicant):

(a. First Name) | (b. Last Name) | FTN Limited Partnership (c. Company)
30 Soldiers Field Place (d. Mailing Address)
Boston (e. City/Town) | MA (f. State) | 02135 (g. Zip Code)

5. Project Location:

54 Old Powdermill Road (a. Street Address) | Concord (b. City/Town)
A12 & B12 (c. Assessors Map/Plat Number) | 2971-4 & 2971-6 (d. Parcel/Lot Number)
Latitude and Longitude (**note:** electronic filers will click for GIS locator): 042-26-15.6 N (e. Latitude) | 071-25-45.4 W (f. Longitude)

6. Dates: November 13, 2007 (a. Date ANRAD filed) | February 6, 2008 (b. Date Public Hearing Closed) | February 8, 2008 (c. Date of Issuance)

7. Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

Plans to Accompany Abbreviated Notice of Resource Area Delineation Area Delineation for Alexan Concord 54 Old Powdermill Rd. (a. Title) | Rev. 12-19-07 (b. Date)
(c. Title) | (d. Date)

B. Order of Delineation

1. The Conservation Commission has determined the following (check whichever is applicable):

a. ☐ **Accurate**: The boundaries described on the referenced plan(s) above and in the Abbreviated Notice of Resource Area Delineation are accurately drawn for the following resource area(s):

1. ☐ Bordering Vegetated Wetlands

2. ☐ Other Resource Area(s), specifically:

b. ☒ **Modified**: The boundaries described on the plan(s) referenced above, as modified by the Conservation Commission from the plans contained in the Abbreviated Notice of Resource Area Delineation, are accurately drawn from the following resource area(s):

1. ☒ Bordering Vegetated Wetlands

2. ☒ Other Resource Area(s), specifically:

Riverfront Area

c. ☐ **Inaccurate**: The boundaries described on the referenced plan(s) and in the Abbreviated Notice of Resource Area Delineation were found to be inaccurate and cannot be confirmed for the following resource area(s):

1. ☐ Bordering Vegetated Wetlands

2. ☐ Other Resource Area(s), specifically:

3. The boundaries were determined to be inaccurate because:

C. Simplified Buffer Zone Review

Work within the Buffer Zone pursuant to the Simplified Review (310 CMR 10.02) requires that you must comply with the following conditions. If your project does not meet these requirements, you are required to either file a Determination of Applicability or Notice of Intent or take other corrective measures as directed by the Conservation Commission.

Simplified Review Conditions:

Work conducted under Simplified Review requires the following:

1. No work of any kind shall occur within any wetland resource areas including Riverfront Area and Bordering Land Subject to Flooding.
2. The inner 0-to-50-foot wide area from the delineated wetland boundary that has a Buffer Zone shall not be disturbed by any work associated with this project, including placement of any stormwater management components.
3. No work shall occur in the Buffer Zone bordering an Outstanding Resource Water (e.g., certified vernal pool, public water supply reservoir or tributary), as defined in 314 CMR 4.00 or border coastal resource areas at 310 CMR 10.25-10.35.
4. No work shall occur in the Buffer Zone adjacent to wetland resources with estimated wildlife habitat (which is identified on the most recent Estimated Habitat Map of State-listed Rare Wetlands Wildlife).
5. Erosion and Sedimentation controls shall be installed and maintained at the 50-foot Buffer Zone line or limit of work (whichever is a greater distance from the resource area) to protect resource areas during construction.
6. If the project is subject to the Massachusetts Stormwater Policy, all work shall be conducted in conformance with an approved Stormwater Management Plan.
7. The Buffer Zone does not contain a slope greater than an average of 15% at its steepest gradient across the 100-foot Buffer Zone.
8. The amount of new impervious surface, in combination with existing impervious surfaces, shall not exceed 40% of the Buffer Zone between 50 and 100 feet.
9. No work is allowed, and no additional NOI or RDA shall be filed, for any work within the 0-to-50-foot Buffer Zone during the three-year term of an Order associated with this application.
10. Prior to any work being undertaken pursuant to this Order, the wetland resource boundary shall be flagged; all boundary delineation flagging should be maintained for the term of the Order.
11. If stormwater management structures are proposed in the Buffer Zone, the stormwater management structures shall be maintained as required in the Stormwater Plan. Such maintenance constitutes an ongoing condition and is not subject to further permitting requirements.
12. If this ORAD involves work as part of a Simplified Review, the ORAD shall be recorded at the Registry of Deeds prior to the commencement of work per the requirements of Section F.
13. Prior to proceeding with any work under Simplified Review, applicants are required to provide written notice to the Commission one week prior to commencing any work.
14. If work authorized under Simplified Review is commenced, no work is allowed, and no additional NOI or RDA may be filed, for any work within the 0-to-50-foot buffer zone during the term of an ORAD associated with this application. If work authorized under Simplified Review is **not** commenced, then future NOIs or RDAs may be filed for work within the 0-to-50-foot portion of the buffer zone.

--End of Conditions--

C. Simplified Buffer Zone Review (cont.)

Stormwater Applicability

1. ☐ The project is not subject to the Stormwater Policy.
2. ☐ The project is subject to the Stormwater Policy and the Stormwater Plan included for the project complies with all stormwater standards.

Ineligibility Determinations

Site Conditions: The applicant is not eligible for Simplified Buffer Zone review and must file a Request for Determination of Applicability or Notice of Intent prior to any work because:

3. ☐ Work is within the Buffer Zone of a Coastal Resource Area as defined at 310 CMR 10.25-10.35.
4. ☐ The Buffer Zone contains existing slopes greater than an average of 15%.
5. ☐ Buffer Zone contains estimated rare wildlife habitat.[1]
6. ☐ The site borders an Outstanding Resource Water.[2]

Stormwater

7. ☐ The project is subject to the Stormwater Policy and the applicant has not submitted sufficient information to demonstrate compliance with the Stormwater Management Policy. Prior to any work, the applicant must submit plans showing compliance with the standards in the Stormwater Policy, the location of the work, the amount of impervious surface, and the location of erosion controls, to the Commission for its concurrence. (See instructions to ANRAD Form 4A.) The following necessary stormwater information was not submitted by the applicant:

   a. _____

8. ☐ The project is subject to the Stormwater Policy but the project does not comply with one or more of the stormwater standards (specify which standard(s) not met).

   a. Standard # : _____

   b. Standard # : _____

9. ☐ Impervious surface exceeds 40% of the area of the Buffer Zone between 50 and 100 feet from the resource area.
10. ☐ The applicant did not submit plans depicting adequate erosion and sedimentation controls located at the limit of work or at least 50 feet from any resource areas, whichever will be greater.
11. ☐ Work is proposed within 50 feet of a resource area.

Notice to Commission

Any applicant proposing to proceed under Simplified Buffer Zone Review, as specified in 310 CMR 10.02, must provide written notice to the Commission one week prior to any work.

---

[1] *Identified on the most recent Estimated Habitat Map of State-listed Rare Wetlands Wildlife of the Natural Heritage and Endangered Species Program.*

[2] *Certified Vernal Pools, public water supplies, or inland ACECs as identified in 314 CMR 4.00.*

D. Findings

This Order of Resource Area Delineation determines that the Stormwater Plan, if applicable, and the boundaries of those resource areas noted above, have been delineated and approved by the Commission and are binding as to all decisions rendered pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c.131, § 40) and its regulations (310 CMR 10.00). This Order does not, however, determine the boundaries of any resource area or Buffer Zone to any resource area not specifically noted above, regardless of whether such boundaries are contained on the plans attached to this Order or to the Abbreviated Notice of Resource Area Delineation.

The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.

If the Abbreviated Notice of Resource Area Delineation was filed as Simplified Review for a Buffer Zone project, the applicant has certified that any work associated with the proposed project meets all eligibility requirements for Simplified Review listed in Section C of this Order. Any work that does not comply with the Simplified Review requirements will require a Notice of Intent or Request for Determination of Applicability.

The applicant is responsible for promptly requesting a Certificate of Compliance following completion of any work allowed pursuant to a Simplified Review or no later than three years from the date of the Order of Resource Area Delineation unless the Order is extended.

Failure to comply with the conditions of this Order is grounds for the Conservation Commission or the Department to take enforcement action.

This Order must be signed by a majority of the Conservation Commission. The Order must be sent by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate DEP Regional Office.

E. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate DEP Regional Office to issue a Superseding Order of Resource Area Delineation. When requested to issue a Superseding Order of Resource Area Delineation, the Department's review is limited to the objections to the resource area delineation(s) stated in the appeal request. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant. Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order or Determination, or providing written information to the Department prior to issuance of a Superseding Order or Determination.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act, (M.G.L. c. 131, § 40) and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal bylaw or ordinance, and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

WPA Form 4B – Order of Resource Area Delineation

137-959
Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

F. Signatures and Notary Acknowledgement

Please indicate the number of members who will sign this form: 4
1. Number of Signers

G. M. Lawson Jr.
Signature of Conservation Commission Member

Signature of Conservation Commission Member

Signature of Conservation Commission Member

Signature of Conservation Commission Member

This Order is valid for three years from the date of issuance.

This Order is issued to the applicant and the property owner (if different) as follows:

☐ by hand delivery on
Date

☒ by certified mail, return receipt requested on February 8, 2008
Date

Notary Acknowledgement

Commonwealth of Massachusetts County of Middlesex

On this 6th (Day) of February (Month) 2008 (Year)

Before me, the undersigned Notary Public, personally appeared Alexander C. Easterday
Name of Document Signer

proved to me through satisfactory evidence of identification, which was/were

A Massachusetts Driver's License
Description of evidence of identification

to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

As member of Concord (City/Town) Conservation Commission

Cynthia L. Gray
Signature of Notary Public

Cynthia L. Gray
Printed Name of Notary Public

Place notary seal and/or any stamp above

June 20, 2008
My Commission Expires (Date)

G. Recording Information

If this Order is issued for purposes of Resource Area Delineation only, this Order should NOT be recorded.

If this Order of Resource Area Delineation is issued as part of a Simplified Review, this Order must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on Page 6 of this form shall be submitted to the Conservation Commission listed below.

Town of Concord, Natural Resources Commission
Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Town of Concord, Natural Resources Commission
Conservation Commission

Please be advised that the Order of Conditions for the Project at:

54 Old Powdermill Road
Project Location

137-959
DEP File Number

Has been recorded at the Registry of Deeds of:

Middlesex
County

Book

Page

for:

West Concord Development, LLC c/o Timothy O'Connor
Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Resource Area Delineation issued on:

February 8, 2008
Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant