



# OXBOW ASSOCIATES, INC.

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*Wetlands Delineation and Permitting Wildlife Studies Herpetology Vernal Pool Ecology*

## **Request for Determination of Applicability** **Pursuant to the Massachusetts Wetlands** **Protection Act M.G.L. c. 131, §40**

**248 High Street**  
**Acton, Massachusetts**

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*Submitted by:*

**Mr. Joseph Levine**  
**248 High Street, LLC**  
**159 Prospect St., #1**  
**Acton, MA 01720**

*Prepared by:*

**Oxbow Associates, Inc.**  
**P.O. Box 971**  
**Acton, MA 01720-0971**  
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**May 3, 2016**



## **RDA - Pursuant to the Massachusetts Wetlands Protection Act**

**248 High St.  
Acton, MA 01720  
Parcel: J3-7**

**Applicant & Owner:**  
Joseph Levine  
248 High Street, LLC  
159 Prospect St., #1  
Acton, MA 01720

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- WPA Form 1 – RDA
- RDA Project Narrative
- Site Photographs
- USGS Locus Map
- 2013 Orthophoto
- Acton Assessor's Map



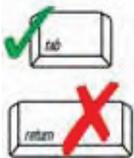


# WPA Form 1- Request for Determination of Applicability

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

## 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.



1. Applicant:

248 High Street, LLC  
Name

159 Prospect #1  
Mailing Address

Acton  
City/Town

MA  
State

01720  
Zip Code

Phone Number

Joseph@nesitedevelopment.com  
E-Mail Address

Fax Number (if applicable)

2. Representative (if any):

Oxbow Associates, Inc.  
Firm

Brian Butler  
Contact Name

P.O. Box 971  
Mailing Address

Acton  
City/Town

MA  
State

01720  
Zip Code

978-929-9058  
Phone Number

butler@oxbowassociates.com  
E-Mail Address

Fax Number (if applicable)

## B. Determinations

1. I request the Acton Conservation Commission make the following determination(s). Check any that apply:

- a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
- b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
- c. whether the **work** depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
- d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any **municipal wetlands ordinance** or **bylaw** of:

\_\_\_\_\_  
Name of Municipality

- e. whether the following **scope of alternatives** is adequate for work in the Riverfront Area as depicted on referenced plan(s).
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_





## WPA Form 1- Request for Determination of Applicability

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

### C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

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3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- Single family house on a lot recorded on or before 8/1/96
- Single family house on a lot recorded after 8/1/96
- Expansion of an existing structure on a lot recorded after 8/1/96
- Project, other than a single family house or public project, where the applicant owned the lot before 8/7/96
- New agriculture or aquaculture project
- Public project where funds were appropriated prior to 8/7/96
- Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- Residential subdivision; institutional, industrial, or commercial project
- Municipal project
- District, county, state, or federal government project
- Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)

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# WPA Form 1- Request for Determination of Applicability

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## D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

248 High Street, LLC  
 Name  
 159 Prospect #1  
 Mailing Address  
 Acton  
 City/Town  
 MA  
 State  
 01720  
 Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

*[Signature]* 248 High Street, LLC  
 Signature of Applicant  
 5-4-16  
 Date  
*[Signature]*  
 Signature of Representative (if any)  
 5-4-16  
 Date

## **Request for Determination of Applicability**

**for**

### **248 High St, Acton MA**

May 3, 2016

#### **Site Features**

The subject parcel is an existing single family home lot of 1.51+/- acres on the east side of High Street. The home dates to early in the last century and is currently abandoned. There are two dilapidated out buildings in the rear of the property; one completely collapsed the other still standing.

The landscape is overgrown with approximately thirty years of woody and scrub growth with a small amount of maintained lawn and a driveway adjacent to the home.

Topography on the site is generally flat. The rear of the site is bounded by a crude stone wall. Approximately twenty-five (25) feet to the east of the property is an uncertified vernal pool that appears to be a relict farm pond. This basin is located on a 4.66+/- acre Town-owned parcel that was associated with the adjacent Dunham Lane subdivision.

This pool was found to meet the current Massachusetts Division of Fisheries and Wildlife (MDFW) criteria for certification as it supports breeding by wood frogs, spotted salamander and fairy shrimp; three "obligate" vernal pool species according to MDFW guidance.

The off-site pool has a maximum depth of three to four feet and there is a topographic feature to the northeast that would discharge if the basin filled with water considerably greater than normal elevation. There is no defined channel or "Bordering" configuration associated with this basin, and it is questionable whether it meets the volumetric requirements for Isolated Land Subject to Flooding (ILSF: 310 CMR 10.57).

Members and Staff of the Acton Conservation Commission have viewed both the subject property and the adjacent vernal pool located on Town land. These observations confirmed that the basin is located entirely off the subject property, that it is a, "confined basin depression", and that it may or may not be regulated under the Wetlands Protection Act as Isolated Land Subject to Flooding.

### **Determination Requested**

We are requesting, by this RDA submittal that the Acton Conservation Commission affirm that the 1.51+/- acre subject property DOES NOT contain any wetland resource areas regulated by MGL Ch. 131, §40, and similarly the property does not contain any Buffer Zone(s) associated with regulated wetland resource areas.

With regard to the “Area depicted on the plan(s)…” (Pg. 1, Sect. B of Form 1) we refer to the entirety of the 1.51+/- acre lot at 248 High Street, Acton, MA.

We feel that the requested finding is self evident based on the site conditions viewed by some ACC members and Staff and is that this is further supported by the materials accompanying this Request for Determination of Applicability.

**Photographs - Request for Determination of Applicability**  
**248 High Street, Acton, MA**



View of Off-Site vernal pool from 248 High Street. Note fieldstone wall at property boundary in the foreground. The snow cover helps to show the configuration and setting of the pool, including its isolated condition.



Greater than five (5) wood frog egg masses in off-site pool viewable beneath skim ice, 22 March, 2016.





Acton

Approx. Site Locus

1:24,000

1 inch = 2,000 feet



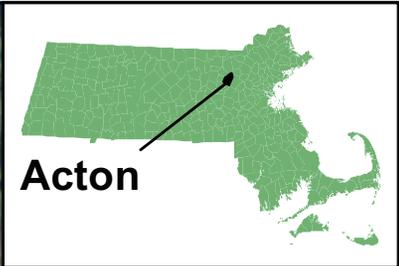
USGS

248 High Street  
Acton, MA  
April 27, 2016

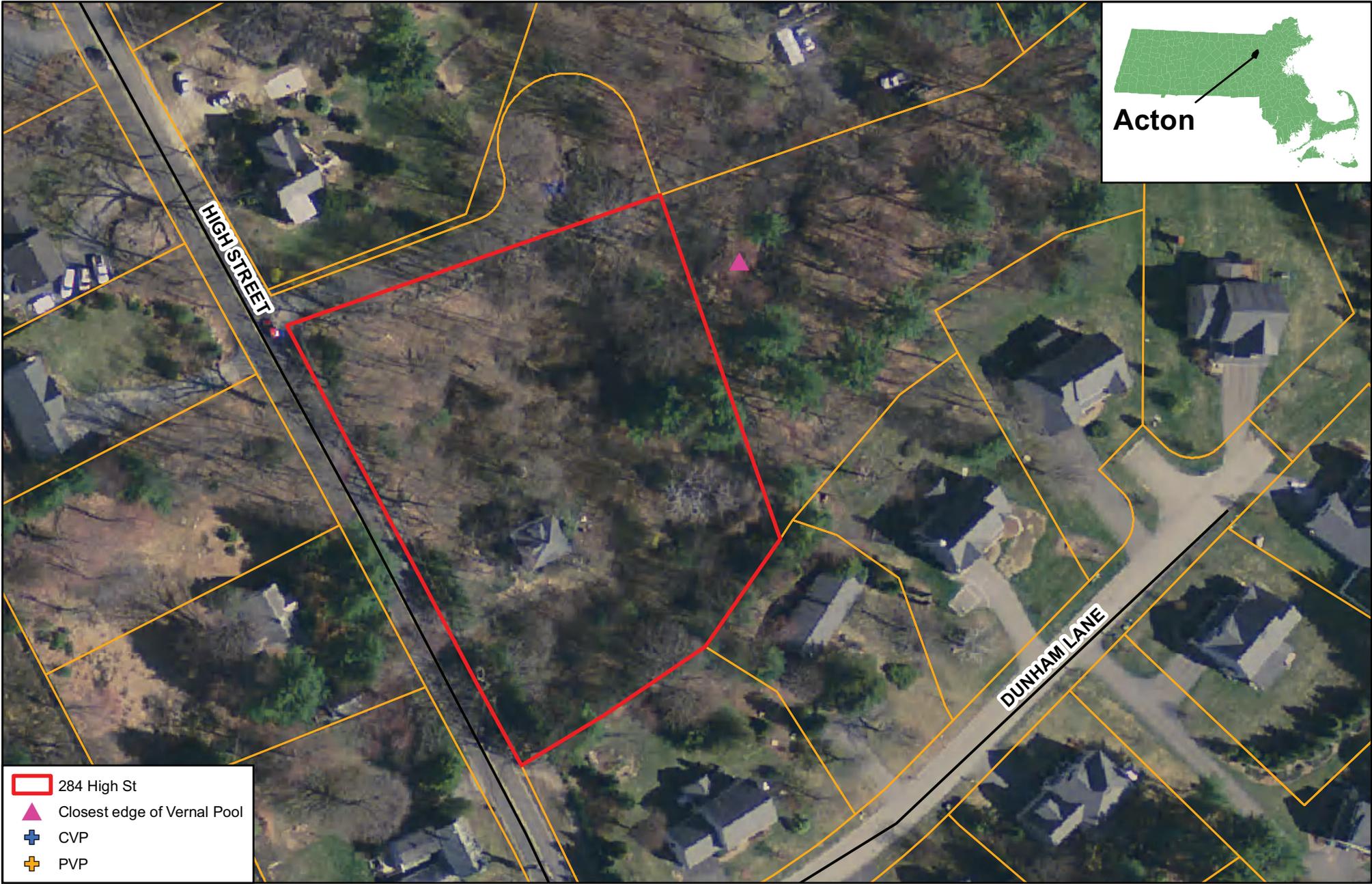
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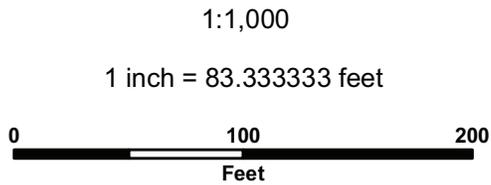
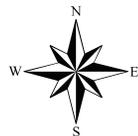


Acton



-  284 High St
-  Closest edge of Vernal Pool
-  CVP
-  PVP

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**2013 Orthophotograph  
 2 High St  
 Acton, MA**

**May 3, 2016**



248 High St Assessors Map



**Property Information**

Property ID J3-7  
 Location 248 HIGH ST



**MAP FOR REFERENCE ONLY  
 NOT A LEGAL DOCUMENT**

This data set/map is for planning purposes only and should not be used for larger scale analysis. The Town of Acton shall not be held liable for any use of the data or images shown on this map, nor is any warranty of accuracy expressed. All uses of this data set/map are subject to field verification.

