



# Fort Point Associates, Inc.

*Urban Planning Environmental Consulting Project Permitting*

A TETRA TECH COMPANY

## MEMORANDUM

TO: Abby Goldenfarb, Trinity Acquisitions, LLC.  
Amanda Alberda, Trinity Acquisitions, LLC.  
Kevin McCarthy, Trinity Acquisitions, LLC.

FROM: Ken Fields, Fort Point Associates (A Tetra Tech Company)  
Brian Cullinan, Fort Point Associates (A Tetra Tech Company)

RE: Medfield State Hospital, Medfield, MA

DATE: June 2, 2022

### **Memorandum on Potential Regulatory Considerations to Support Due Diligence Process**

Fort Point Associates, Inc. (FPA) has prepared this memorandum to identify potential considerations that may delay, interrupt, or halt the regulatory process associated with the proposed certified historic rehabilitation of 33 buildings into 334 rental apartment homes for redevelopment of 87-acres on the former Medfield State Hospital (the “Project”) grounds located on Hospital Road in Medfield, MA (the “Project Site”). FPA has reviewed documents submitted per the Massachusetts Environmental Policy Act (MEPA) related Certificates, and documents, maps and plans available on the Town of Medfield’s website.

Based on the Federal Insurance Rate Map (FIRM) Community Panel 25021Co154E, the Project Site is outside of the Federal Emergency Management Agency (FEMA) mapped floodplain for the 1% chance annual storm. Based on GIS data produced by MassDEP in 2022 and Nearmap in 2021, the Project Site is outside of any mapped wetland resource area, associated buffer zones See Figure 1, Wetlands. Notwithstanding Medfield GIS data, our understanding is that the Project Site is outside of local wellhead protection zones established through the Town’s Zoning By-law §300-6.3, including the wellhead protection overlay district, which is 2,000 feet from a public water supply wellhead and the secondary aquifer overlay district, which is coincidental with MassDEP Zone II aquifer protection. See Figure 2, Wellhead and Aquifer Protection. Although there are Natural Heritage Priority Habitats within the original larger Hospital grounds, there are none within the Project Site. See Figure 3 NHESP Priority Habitats. The Project is not within an Area of Critical Environmental Concern.

### **State Actions**

#### **MEPA**

MEPA reviews state actions that have environmental impacts which exceed review thresholds for an Environmental Notification Form (ENF). State actions with more significant impacts and exceed review thresholds for a Mandatory Environmental Impact Report (EIR), which is often a three-step process initiated by the filing of an ENF, then a Draft EIR and a Final EIR. The Commonwealth’s Secretary of Energy and Environmental Affairs (EEA) Certificates on the Division of Capitol Asset Management’s (DCAM) Expanded Environmental Notification Form (EENF) EEA #14448R filed in 2010 and two Notices of Project Change (NPC) filed in 2011 and 2014, for the clean-up, disposition, and development of the Medfield State Hospital grounds

indicate that a Single Environmental Impact Report (SEIR) would need to be filed to complete the MEPA process. The DCAM project did not trigger a MEPA threshold for a mandatory EIR. State Actions identified in the EENF included the property transfer and the enabling legislation, a Sewer Connection Permit<sup>1</sup>, potential for a Wetland Superseding Order of Conditions, and the Memorandum of Agreement (MOA) with the Massachusetts Historic Commission (MHC). Remediation under the Massachusetts Contingency Plan is not necessarily a state action, as it is a private consultant driven process overseen by the Massachusetts Department of Environmental Protection (MassDEP), however, related wetland impacts, and traffic and parking related to the Project Site redevelopment, and the discretionary review for the MHC MOA, triggered ENF review thresholds and the overall state action undertaken by DCAM gives the Secretary broad review authority over the Project. The remediation efforts were authorized to proceed in advance of the SEIR and state actions such as the MHC MOA and the land transfer from DCAM to the Town of Medfield have been completed. The remaining state actions include Construction/Demolition Notification to MASSDEP, potentially the Massachusetts Department of Labor Safety (DLS), and an MOA between MHC and Trinity.

To date, the MEPA process has identified remediation of 21e sites, clean-up of solid waste, historic preservation, and wetland impacts as key issues. Moving forward, the Project is not expected to have any new remedial actions and the redevelopment project is not expected to have any wetland impacts. Remedial actions are in various stages of completion by DCAM. MHC will continue to review the redevelopment project to eliminate, minimize, or mitigate adverse effects to properties listed in the State Register of Historic Places. As the proposed Project is consistent with the MOA between DCAM, the Town, and MHC there does not appear to be any fatal flaw to the Project as the result of further MHC review.

Advancement of the MEPA process will continue with the filing of an NPC for the Project. Notwithstanding the historical review, the NPC will need to address traffic and parking demand in comparison with what was put forward by DCAM in the EENF and with a no-build scenario. It is unlikely that any new MEPA thresholds will be triggered as Project's programming will not have a significant increase in traffic or parking. In addition, the NPC will need to provide an analysis of utility infrastructure, stormwater management, building envelope, type of heating and cooling including the power source. Given the Secretary's broad review authority, the potential of on-site renewable energy generation should be explored, along with efficient heating, cooling, and HVAC mechanicals and related impacts to the historic building aesthetic. The Secretary's Certification on the EENF suggested that installation of carbon-based fuel for boilers could trigger the need for a MASSDEP Air Permit. Stormwater and greywater management will be expected to maximize groundwater infiltration using low impact development techniques. DCAM should provide, for our use, Section 61 Findings for site remediation per the Land Disposition Agreement with the Town. Given the age and condition of the interior of the buildings, the NPC will need to include a Building Material Removal Plan to address the removal of debris including management of asbestos, lead, and other potentially hazardous materials.

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<sup>1</sup> Effective April 25, 2014, a Sewer Extension/Connection Permit filed with MassDEP under 314 CMR 7.03 is not needed except for discharges from an industrial user greater than 25,000 gallons per day, or MassDEP determines that discharge will cause water quality issues or connect through a treatment facility.

#### *MHC*

The Project will need to undergo a Design Review and approval of state and federal historic rehabilitation tax credits from MHC. M.G.L. Chapter 9, sections 26-27c, as amended by Chapter 254 of the Acts of 1988 and the regulations at 950 CMR 71, states that MHC is the primary reviewer of projects on properties within the State Register of Historic Places to determine any adverse effect on historic property. The Town of Medfield (“Town”) has agreed to a MOA with DCAM and MHC documenting the stipulations of the agreement to historic preservation. Amendments or modifications to the MOA under a new owner shall be considered under 950 CMR 71.00. As the MOA currently stands, if the owner intends to rehabilitate buildings, structures, and landscape features, the rehabilitation should conform to the Secretary of the Interior’s Standards for Rehabilitation of Historic Properties. Before any major construction to the parcels of interest, a “Recordation Plan” must be documented with photographs and narratives documenting the historical processes and character of the MSH. Once a modified MOA is finalized, the project may proceed. If there are any discrepancies between the proposed Project and the existing MOA, negotiation of a modified MOA may extend the standard review period. More details regarding potential historic review challenges for the Project may be assessed by Public Archaeology Laboratory, Inc.

#### *MassDEP*

##### *Construction/Demolition Notification*

Construction/Demolition Notification Forms (BWP AQ06) per 310 CMR 7.09, must be filed for the Project with MassDEP for notices of projects for both construction and demolition, aside from residential buildings with less than 20 units. The filing of the BWP AQ06 form with MassDEP will also satisfy requirements for notification to the U.S. Environmental Protection Agency (EPA) Under the federal Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP). These forms shall be submitted at least 10 working days before the start of work. If there are deficiencies in the notification form, the applicant will have 30 calendar days from the date of response to issue a formal response. MassDEP may then review the updated notification within the 10-working day notification period. If there is a change in the project information presented in the notification form, it can be revised online for an additional fee. If an emergency waiver of the 10-working day notification period is needed, the applicant should contact the local MassDEP regional office to request a waiver. If the waiver is issued, work may proceed although a notification form and fee payment must be filed within one working day of the beginning of construction or demolition operations. Challenges presented may include the acquisition of an emergency waiver if the project’s notification form be revised with a sudden change to the building address or location for construction or demolition, which is not foreseeable for this redevelopment at this time.

##### *MassDEP and Department of Labor Safety (DLS)*

*Asbestos Removal Notification* It is likely that the Project will require removal of materials containing asbestos. An Asbestos Removal Notification Form, ANF-001, also known as the BWP AQ04, must be submitted to MassDEP and DLS at least 10 working days before conducting an asbestos abatement activity. It is significant to note that MassDEP requires a separate notification to be filed for each asbestos abatement project, which Trinity should expect for

each building that may contain asbestos. The notification can be filed on-line with MassDEP by the property owner or operator, however DLS requires notification from a licensed asbestos abatement contractor, including License and Certification numbers in each notification. The notification form along with a fee payment per notification can be filed and paid online via the MassDEP website. Upon filing, MassDEP and DLS have 10 working days and 10 calendar days, respectively, to respond unless deficiencies are noted. If deficiencies are noted, the notifier has 30 calendar days to respond to the deficiencies. After response, the complete notification form will be reviewed by either agency within their respective 10-day period to determine if the job may proceed. If asbestos abatement work has started before the end of the 10-day period, enforcement actions, including a civil administrative penalty may be imposed due to violation of the asbestos regulations. If asbestos abatement cannot wait the 10-day period, an emergency waiver must be obtained from MassDEP and DLS before work proceeds. Although if the work start-date or completion date changes, a notification revision must be filed with fee payment and received by MassDEP as least one working day before the original state date or completion date is changed. If there is an increase in the estimate of asbestos-containing material, a change in location of the material, or if the project is delayed more than 30 days from the original start and end date on the original notification form, a new asbestos notification form and fee must be submitted. The asbestos notification remains in effect until the project end date specified in the notification form.

#### *MA Department of Public Safety*

##### *Elevator Inspection*

In the unlikely event that a building or buildings would include an elevator, per Section 8.10.1.1.1, the Town of Medfield requires that the elevator inspectors overseeing elevator mechanical work must be employed by the Office of Public Safety and Inspections in accordance with 524 CMR 35.00. The elevator mechanics performing the works must be licensed by the Commonwealth of Massachusetts. The Project shall coordinate with the Office of Public Safety and Inspections to ensure that elevator mechanical work is completed in compliance with 524 CMR 35.00.

#### **Municipal Approvals**

This memorandum does not include an analysis of the Town of Medfield's Zoning by-laws on use or dimensional requirements as FPA expects such analysis is being provided by Trinity's legal counsel.

#### *Medfield Planning Board*

The Project will need to obtain Proposed Project and Development Plan Approval from the Medfield Planning Board under Article 20 §9B to proceed with the Project. As part of this, the project team will need to engage the Planning Board, other municipal review entities, and members of the public for input on the proposed development in accordance with the Medfield State Hospital District Zoning Bylaw. The input produced will help support the Demolition Delay permit acquisition and develop the Certificate of Appropriateness review of the proposed project. After filing an application for Proposed Project and Development Plan Approval, the project will be subject to a public hearing, peer reviews, and/or additional reviews by the Planning Board. Potential challenges of the process include the additional

reviews needed to support the Planning Board's plan approval. As an 87-acre site with historical significance, it is expected that this portion of the review process will be extensive due to the scale of and interest in the redevelopment.

#### *Medfield Historical Commission*

MHC will consult with the Medfield Historical Commission on the historic review of the Project in accordance with the MOA. Medfield Historical Commission also administers the town's demolition delay bylaw, which intends to protect the town's archeologic, historic, and aesthetic resources. A building or structure deemed by a majority vote of the Commission as "preferably preserved" cannot receive a demolition permit for eighteen months from the Commission's decision. During such a delay, the Commission explores alternatives to the proposed demolition with the applicant. The Commission can lift the delay if certain conditions are met. Should Trinity determine that there is a need to demolish or remove a building listed with the State or National Register of Historic Places or if a building was constructed more than fifty years ago the Commission holds an open meeting to determine if the building or structure is "historically significant" – as defined in the town's bylaw – and, if it is significant, if it is "preferably preserved" – again, as defined by the bylaw. As the Project's historic significance has been previously reviewed, a pre-application meeting with the Historic Commission will help determine the review process for the Project. Within 14-days after an application has been received by the Historical Commission the Commissioner will post a notice for the Public Meeting, which will be held within 28-49 days of the application. No demolition permit for a preferably preserved historically significant structure shall be granted until all approvals are in place for subsequent development including all appeals from the granting of such approvals must be concluded before the demolition permit may be granted. Demolition permits are valid for six months.

#### *Medfield Historic District Commission*

The Project is located within the Town of Medfield's Hospital Farm Historic District and is therefore, subject to review by the Medfield Historic District Commission to determine whether buildings or structures will be altered in any way that affects exterior architectural features. MHC will also consult with the Medfield Historic District Commission on the historic review of the Project in accordance with the MOA. In accordance with Town of Medfield By-Law §150-6 the Project will need one of three certificates to be signed by the chair of the Commission before the Building Inspector will issue a building permit for the work:

1. Certificate of Appropriateness - issued for approved alterations and new construction.
2. Certificate of Non-Applicability - issued for work that is an exact duplication of existing features
3. Certificate of Hardship - issued to permit work that the Commission would find inappropriate except that the Commission has determined that failure to approve such work would cause a substantial hardship, financial or otherwise and that the work would not represent a significant detriment to the district, based on conditions especially affecting the building or structure, but not affecting the district generally. The Commission grants Certificates of Hardship only after holding a Public Hearing.

If the Historic District Commission requires a public hearing, abutter notification occurs three weeks in advance of the hearing, after which the Historic District Commission will provide a decision within 60 days. If a hearing is not required, the Historic District Commission will provide the decision within 30 days of the application.

*Medfield Building Department*

The Medfield Building Permit Application for Commercial & Multi-Family is required for the permitting of this Project as part of the Massachusetts State Building Code (780 CMR). This application must be completed along with construction documents that must comply with 780 CMR 107. No work can begin until the building permit is issued, unless the work is part of an emergency repair under the definition listed in 780 CMR 105.2.1. The building permit will expire after six months of inactivity but permit extensions can be requested if needed. Additionally, existing Building Permits may be modified through the Application to Amend an Existing Building Permit. The applicant would detail the construction value, description of work, and certify that all work shall comply with MGL Chapter 40A, Section 6. As part of Building Permit issuance, the applicant shall also sign a Debris Affidavit and an Initial Construction Control Document. A Final Construction Control Document will also have to be filed at the completion of construction to confirm the duties in the initial document were performed properly. To obtain the Certificate of Occupancy, the Project will have the Town of Medfield Building Inspector visit to confirm compliance with the State Building Code. Although no delays are expected as of now, there may be considerable challenges that occur with the rehabilitation of existing buildings and new construction of buildings at the Project site.

To demolish a building within the Town of Medfield, the applicant must file an Application for Permit to Demolish Structure. This application details the building age, area, use, demolition details, and required approvals. For the permit to be filed, all utilities must be disconnected with approval from the respective utility entities. Additionally, a Pre-Demolition Asbestos Survey is required in accordance with 310 CMR 7.15, along with a Certified Plot Plan and copy of the Assessor's Record Card. Buildings over 50 years old are subject to Demolition Delay Bylaw, which is outlined within the Medfield Historical Commission section above. The Building Inspector will not issue a building permit for structural work within a Historic District, such as the Hospital Farm Historic District, until a certificate has been issued by the Medfield Historic District Commission per the Town of Medfield By-Law §150-3.

*Medfield Highway Department*

The contractor performing work within the public right-of-way will need to apply for a Street Opening Permit with fee payment and notice in writing at least 48 hours before excavation in accordance with Chapter 370, Acts of 1963. The permit is not valid until completed by the Town of Medfield Fire, Police, and Tree Department. Restoration of the street opening must comply with the conditions of the permit and the Town of Medfield Street Excavation Regulations.

*Medfield Public Works Department*

A Trench Permit must be filed with the Town of Medfield Public Works Department for the trenchwork within the public right-of-way pursuant to G.L. c. 82A §1 and 520 CMR 7.00 et seq.

(as amended). This permit must be completed along with fee payment and must describe the location, purpose, and other details of the trench. Dig Safe must be contacted and must perform utility demarcation prior to the filing of both permits. If Dig Safe is not contacted prior to filing of permits or the start of work, there is possibility for utility conflicts and additional coordination to be needed with respective utility entities that may delay work.

*Board of Water & Sewer*

The contractor must file an Application for License to Install Water & Sewerage for the water, sewer, and drainage connections needed In Hospital Road and other public rights-of-way for the redevelopment as required by the Medfield Water and Sewerage Board, Medfield Board of Health, and the State Plumbing Code. An application must also include fee payment, two municipal references, and a copy of the installer's Certificate of Liability Insurance. Consistent with the Highway Department's Trench Permit, the applicant shall notify Dig Safe and file a "Jackie's Law" application prior to excavation. The owner must receive the completed permit from the Water and Sewerage Board and give at least 24 hours' notice to the Water and Sewerage Board prior to installation for inspection. No significant delays are to be expected in the installation licensing process provided the appropriate information is documented in a timely manner.

To install water connections, a Residential or Commercial Building Water Application must be filed with information included on the installer and with a Dig Safe number. Additionally, the contractor must contact Medfield Water Department to mark existing water lines prior to excavation. The applicant should agree to comply with the Regulations of the Water & Sewer Board, Board of Health and all other appropriate Medfield Boards and Officials as necessary as well as the regulations of "Jackie's Law". The applicant must also file an Application for Water Permit detailing the type of water connection being constructed. This permit will be valid for 180 days from approval.

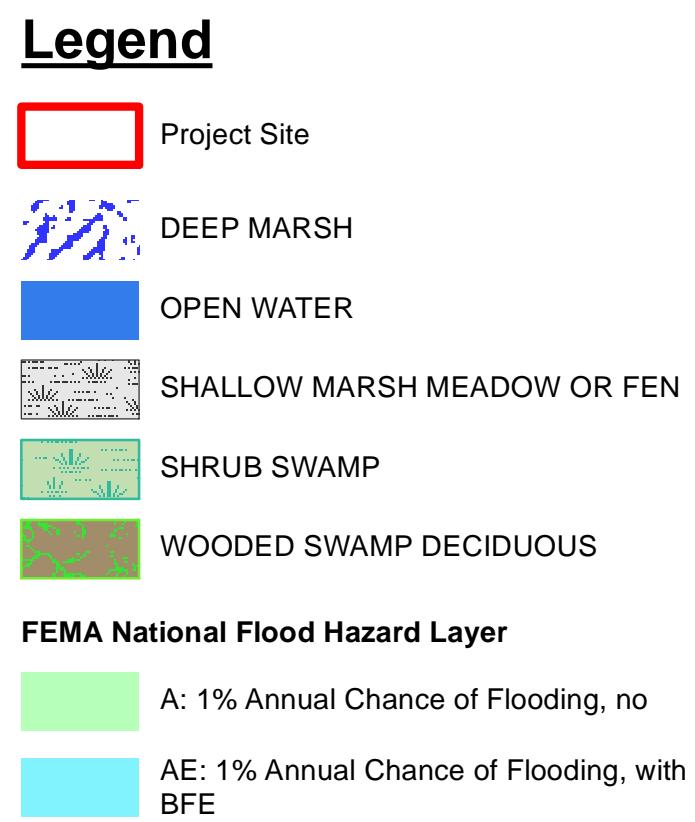
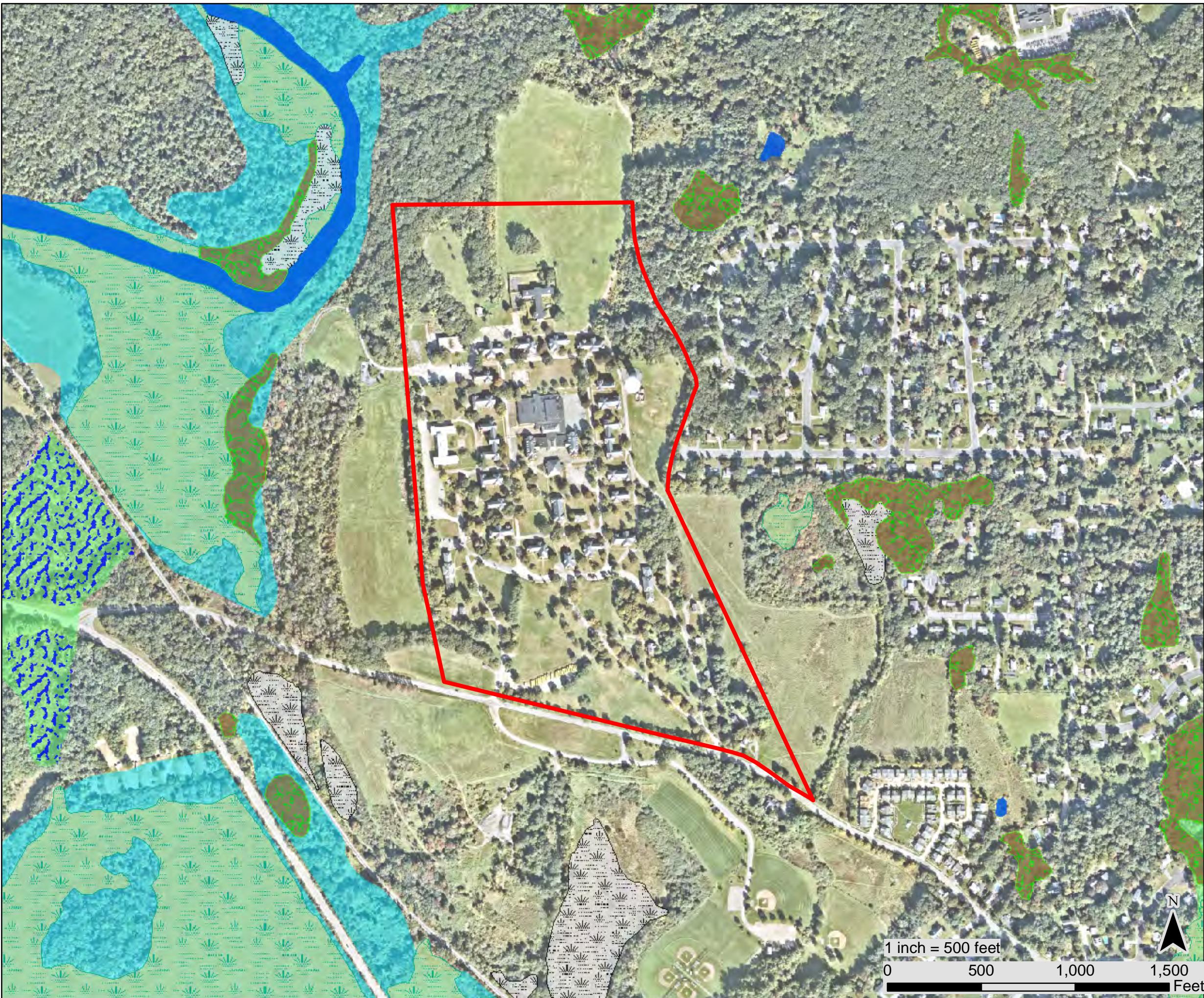
To install sewer connections, a similar application must be filed for a Residential or Commercial Building Sewer Application. The sewer application must follow the same requirements listed within the Residential or Commercial Building Water Application. Similarly, an Application for Sewer Permit must be filed to detail the work being performance on Town of Medfield Sewer. This application also follows the same respective requirements of the Application for Water Permit. The Project does not expect to have any notable delays in the water and sewer connection process but if the applicant does not contact Medfield Water Department prior to applications to notify them of work and understand existing utility locations, additional time may be needed to coordinate work with Town and contractor and any utility conflicts.

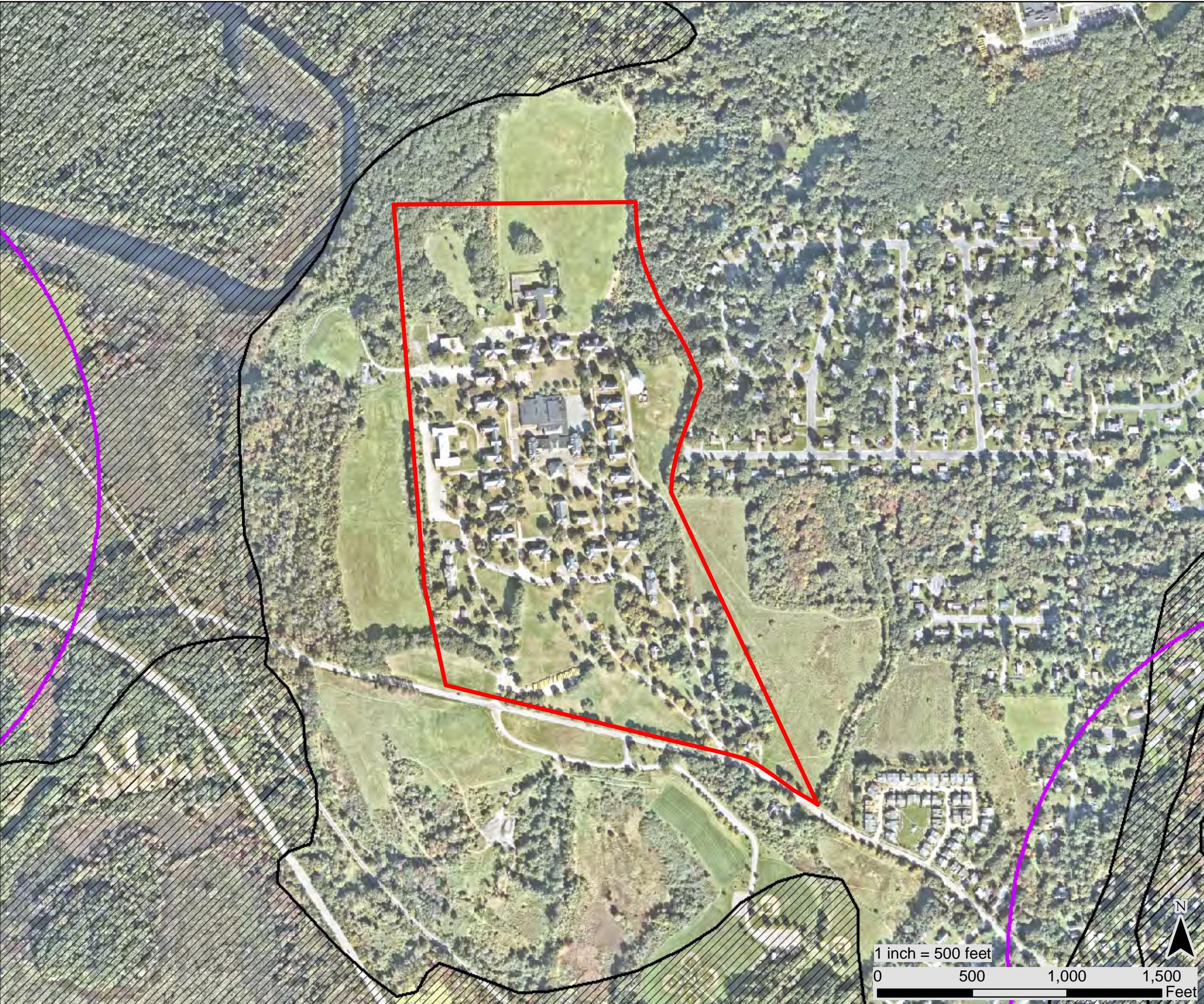
**Federal**

*EPA*

With greater than one acre of land disturbance, the Project will need to file a Notice of Intent ("NOI"), that a Stormwater Pollution Prevention Plan ("SWPPP") has been prepared to comply with the National Pollutant Discharge Elimination System ("NPDES") Construction General Permit (CGP). The SWPPP will need to detail the stormwater, sediment, and erosion

control measures implemented on-site to maintain the water quality of receiving waters during construction. The NOI shall be submitted at least 14 calendar days before the start of construction activities. The permit will be authorized 14 calendar days after the EPA notifies the operator that a complete NOI has been received unless the authorization is delayed or denied due to incompleteness of application or incompliance with the CGP. No site operations can take place until the EPA provides notification of a complete NOI. Additionally, a Remediation General Permit (RGP) may be required for dewatering activities and should be reviewed with the Project Licensed Site Professional (LSP) prior to the commencement of construction activities.





## Legend

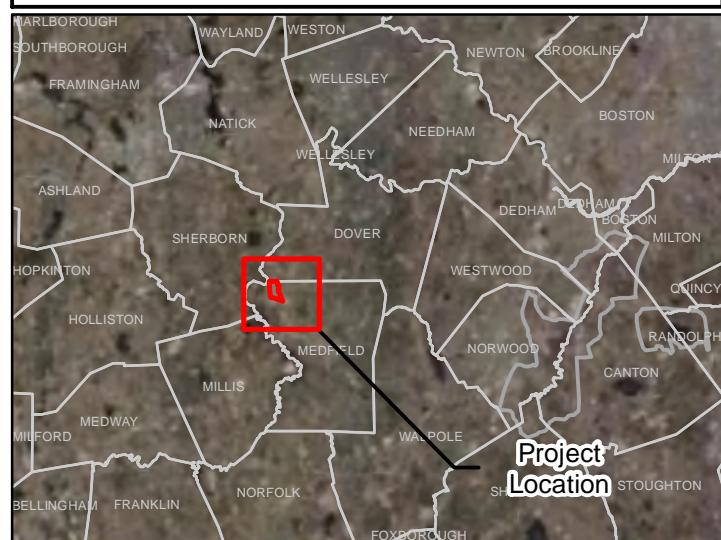
- Project Site (Red Box)
- DEP Approved Zone II (Black Hatched)
- Wellhead Protection District 2,000' Radius - Medfield Article 16 § 300-16.2 (Magenta Line)

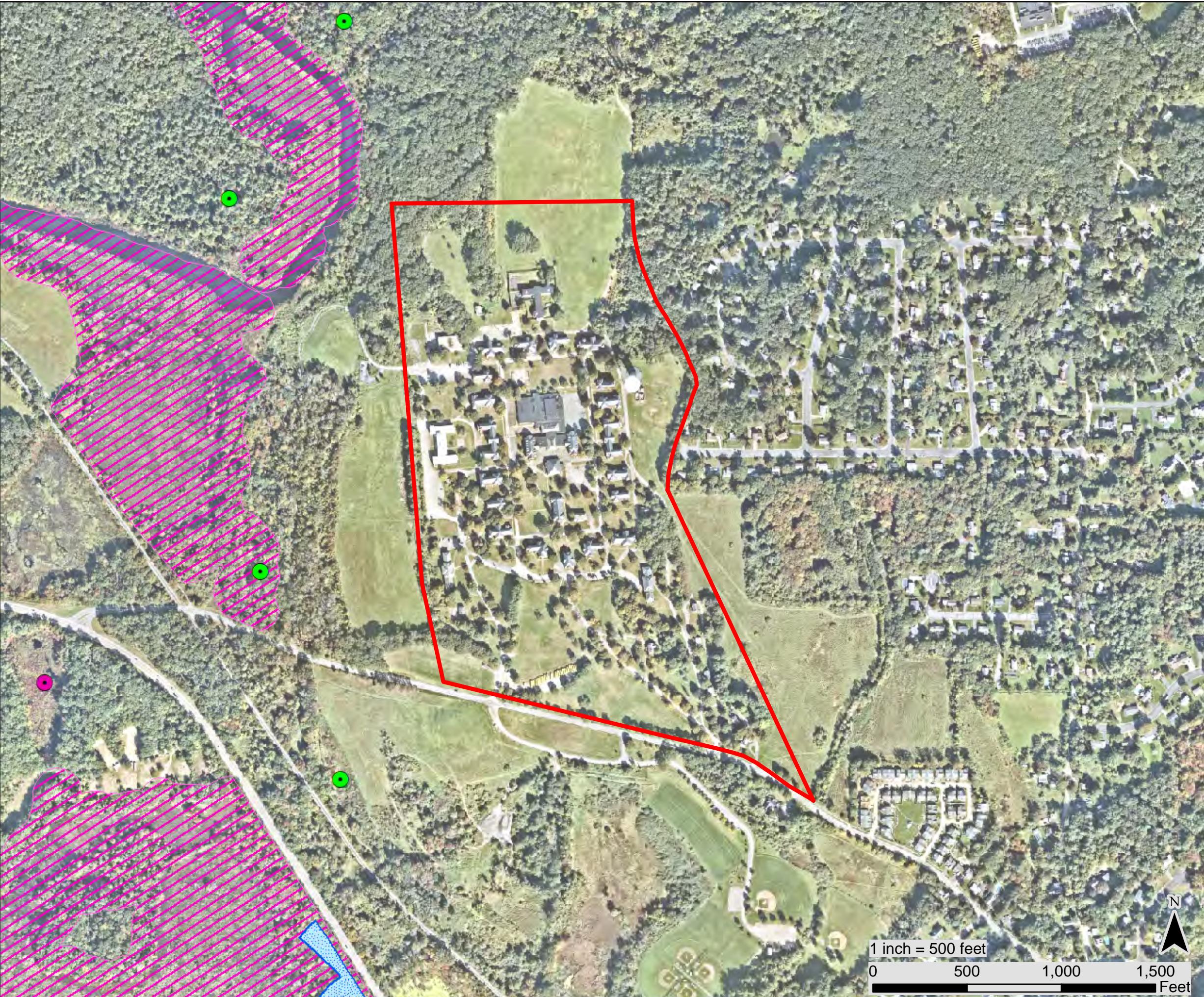
## FIGURE 2: WELLHEAD AND AQUIFER PROTECTION

Prepared For:  
Trinity Acquisitions LLC

Works Cited:  
MassDEP, 2022  
Nearmap, 2021

Coordinate System:  
NAD 1983 Massachusetts State Plane





**FIGURE 3: NHESP PRIORITY HABITATS**

Prepared For:  
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Works Cited:  
MassDEP, 2022  
Nearmap, 2021

Coordinate System:  
NAD 1983 Massachusetts State Plane

