

TOWN OF FALMOUTH

SELECT BOARD

AGENDA

MONDAY, SEPTEMBER 27, 2021 – 7:00 P.M.

SELECT BOARD MEETING ROOM

TOWN HALL

59 TOWN HALL SQUARE, FALMOUTH, MA 02540

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the September 27, 2021 public meeting of the Falmouth Select Board shall be physically closed to the public to avoid group congregation.

Alternative public access to this meeting shall be provided in the following manner:

1. *The meeting will be televised via Falmouth Community Television.*
2. *Real-time public comment can be addressed to the Select Board utilizing the Zoom virtual meeting software for remote access. This application will allow users to view the meeting, send a comment or question to the Chair either via the Chat function, or use the "Raise Hand" button to ask the Chair to appear on the video to make a comment. Submitted text comments will be read into the record at the appropriate points in the meeting.*
 - a. *Zoom Login instructions:*
 - i. *Instructions and the meeting link for this specific meeting can be found at the following web address: <http://www.falmouthma.gov/BOS>.*
 - ii. *Please plan on 10-15 minutes of preparation time to log in though it may be less if you have previously used Zoom on the device you will use to access this meeting.*
3. *Additionally public comments may be sent in advance of the meeting to selectboard@falmouthma.gov at least 5 hours prior to the beginning of the meeting. Documents and audio or video files may also be submitted via email. Submitted email comments and documents will be made a part of the meeting record and may be read into the record, summarized or displayed during the meeting at the discretion of the chair.*
4. *Applicants, their representatives and individuals with enforcement matters before the Board may appear remotely and are not required to be physically present. Applicants, their representatives and individuals with enforcement matters before the Board may contact the Town Manager/Select Board's Office to arrange an alternative means of real time participation if unable to use the Zoom virtual meeting software. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to the Town Manager's Office at townmanager@falmouthma.gov so they may be displayed for remote public access viewing.*

AGENDA

7:00 p.m. OPEN SESSION

1. Call to Order
2. Pledge of Allegiance
3. Proclamations
 - a. National Hispanic Heritage Month
 - b. Falmouth Chamber of Commerce's 2021 Falmouth Citizen of the Year – Brenda Swain
4. Recognition
5. Announcements
6. Public Comment

7:15 p.m. SUMMARY OF ACTIONS

1. Licenses
 - a. Approve application for an Annual Entertainment License – Coonamessett Farm – 277 Hatchville Road, Hatchville
 - b. Approve application for Change of Manager of an All-Alcoholic Beverages Common Victualler License – New Cape Cod Country Club, Inc. d/b/a Cape Cod Country Club, 48 Theatre Drive, Hatchville

- c. Approve application for nine (9) Special One-Day All Alcoholic Beverages Licenses – Cape Cod Theatre Guild – Highfield Theater, 58 Highfield Drive – October 22, 23, 24, 29, 30, 31, November 5, 6, 7; Friday and Saturday hours 6:30 – 9:30 p.m. and Sunday hours 1:00 – 4:00 p.m.
 - d. Approve application for a Change of Officers of an All Alcoholic Beverages Common Victualler License – 99 Restaurants of Boston LLC d/b/a 99 Restaurant & Pub, 30 Davis Straits, Falmouth
2. Administrative Orders
- a. Approve Eversource petition to install approximately sixty (60) feet of 4” conduit and one (1) handhole southeasterly from new handhole at base of pole #215/5 on Fairview Avenue, Falmouth. This work is to be done to provide electric service to 66 Allen Avenue.
 - b. Authorize letter to Steamship Authority regarding Long-Term Parking and Excise Tax
 - c. Vote to accept donation in the amount of \$712.80 from the Old Stone Dock Association to the Beach Department Donation Account to fund the 16 window boxes at the Ellen T. Mitchell Bathhouse at 56 Surf Drive
 - d. Vote to expend funds from the Beach Department Donation Account in the amount of \$712.80 to pay the Soares Flower Garden Nursery invoice for flowers and planting services
 - e. Authorization to extend temporary outdoor restaurant seating approvals from November 1, 2021 to April 1, 2022
 - f. Recommendation to Zoning Board of Appeals on request for flow neutral bylaw variance for development at 763 Main Street and 24 Scranton Ave.
 - g. Authorization for a proposed letter from the Solid Waste Advisory Committee to Cape Cod Commission on proposed Bourne landfill expansion

7:30 p.m. PUBLIC HEARINGS

- 1. Vote to Adopt Stormwater Management Rules and Regulations, continued from 8/9/21, 8/30/21 (15 minutes)
- 2. Vote to Adopt an Order of Taking for the Layout of Winthrop Drive (East Side) (15 minutes)
- 3. Shade Tree Hearing – on application by the Falmouth Parks Department for the removal of two (2) American Elm trees at 300 Main Street, Falmouth (15 minutes)
- 4. Flow Neutral Bylaw – Evaluation of Request for Variance – Eel Pond Realty, LLC – 87 Water Street, Woods Hole (parcel 49A 01 003 000), continued from 9/13/21 (15 minutes)
- 5. Wetlands/Dock Hearing – Chapoquoit Associates – Installation of two 12-inch timber piles on existing licensed timber pier adjacent to licensed and existing stone jetty in and over the waters of West Falmouth Harbor, located at 20 Associates Road, West Falmouth (15 minutes)
- 6. Wetlands/Dock Hearing – Teague I. Campbell – Reconstruct pier, ramp and float on the same general footprint as the existing dock in and over the waters of Rand’s Canal, located at 147 Bay Road Extension, North Falmouth (rescheduled)

8:45 p.m. BUSINESS

- 1. Discussion/update on COVID-19 issues (10 minutes)
 - Masking discussion

8:55 p.m.

- 2. Presentation on proposed Police Department renovation (10 minutes)

9:05 p.m.

- 3. Presentation and Vote on Applications for Funding from Falmouth Affordable Housing Fund (10 minutes)
 - a. Acting as Trustees of the Falmouth Affordable Housing Fund, Vote on application from Falmouth Housing Corp. for \$2,300,000 to construct 48 units of affordable rental housing at the intersection of 763 Main St. and 24 Scranton Ave.

- b. Acting as Trustees of the Falmouth Affordable Housing Fund, Vote on amended application from Megansett Crossing, LLC for \$855,500 for 10 units of affordable rental housing at 676, 688 and 702 North Falmouth Highway:
 - Extend date of expiration for funding award to December 26, 2021;
 - Increase original Falmouth Affordable Housing Fund funding award of \$650,000 by an additional \$205,500 for a total of \$855,500.

9:15 p.m.

- 4. Report – Council on Aging (15 minutes)

9:30 p.m.

- 5. Petition Article Presentations for November 2021 Town Meeting: (5 minutes each)
 - a. Present Petition Article # 22 – Courtney Bird
 - b. Present Petition Article # 23 – Nathaniel Trumbull
 - c. Present Petition Article # 24 – Christopher McGuire
 - d. Present Petition Article # 25 – Nathaniel Trumbull (Becky Connors presenter)

9:50 p.m.

- 6. Initial Discussion of Right of First Refusal on 31.7-acre property on Rt. 151 (10 minutes)

10:00 p.m.

- 7. Review and Vote to Approve minutes of meetings: (5 minutes)
Public Session – July 12, 2021; August 26, 2021; August 30, 2021

10:05 p.m.

- 8. Individual Select Board Members' Reports (5 minutes)

10:10 p.m.

- 9. Town Manager's Report (5 minutes)

Adjourn.

Douglas C. Brown, Chair
Select Board

OPEN SESSION

3. Proclamations

- a. National Hispanic Heritage Month



PROCLAMATION

HISPANIC HERITAGE MONTH

WHEREAS: The Hispanic heritage experience, also known as Spanish Heritage, is a part of many lives and is valued as a part of our Nation's, and our Town's, rich diversity; and

WHEREAS: National Hispanic Heritage Month celebrates the histories, cultures and contributions of American citizens whose ancestors came from Spain, Mexico, the Caribbean and Central and South America; and

WHEREAS: National Hispanic Heritage Month is an important reminder of how much strength we draw as a Nation from our immigrant roots and our values as a Nation of immigrants; and

WHEREAS: September 15th is significant because it is the anniversary of independence for Latin American countries Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, and Mexico and Chile celebrate their independence days on September 16th and 18th respectively; and

WHEREAS: The Town of Falmouth seeks to foster an environment that is welcoming and supportive for all residents and visitors regardless of national origin, ethnic background, or race; and

WHEREAS: Learning about and acknowledging systemic racism is necessary to develop policies that promote equitable experiences and productive lives for Black, indigenous, and people of color (BIPOC);

WHEREAS: Equitable experiences and full inclusion is a matter of social justice. Consequently, creating equitable inclusive environments is a shared responsibility of everyone.

NOW, THEREFORE, The Town of Falmouth Select Board proclaims September 15, 2021 – October 15, 2021 as **Hispanic Heritage Month** and commits to the pursuit of equitable and inclusive policies and a culture that appreciates the value of every resident.

IN WITNESS WHEREOF, We have hereunto set our hand and caused the Great Seal of the Town of Falmouth to be affixed.

Douglas C. Brown, Chair

Megan English Braga

Nancy R. Taylor, Vice Chair

Onjalé Scott Price

Samuel H. Patterson

SELECT BOARD

OPEN SESSION

3. Proclamations

- b. Falmouth Chamber of Commerce's 2021 Falmouth
Citizen of the Year – Brenda Swain



PROCLAMATION

FALMOUTH CHAMBER OF COMMERCE 2021 OUTSTANDING CITIZEN OF THE YEAR

Whereas: **The Falmouth Chamber of Commerce** annually acknowledges and pays tribute to a citizen of the Town of Falmouth who has made a lasting positive impact on the community through participation in a broad scope of activities and whose commitment to the town has been demonstrated by many years of service beyond his or her profession; and

Whereas: **Brenda Swain** is an exceptional citizen of the Town of Falmouth, Massachusetts and New England, well known to all for her professional accomplishments and widespread contributions to the betterment of society; and

Whereas: **Brenda Swain** is a model citizen, admired and esteemed for successfully balancing her devotion to family with years of integrity, tireless civic participation and commitment to community progress; and

Whereas: **Brenda Swain** quietly works to build a better town, to build the physical and moral fiber of our youngsters, to man the action boards and committees so vital to all our interests, to preserve Falmouth open space and to protect the values and rich character of Falmouth Cape Cod; and

Whereas: **Brenda Swain's** many accomplishments and contributions, singularly and collectively, are memorialized in the minds of those she has touched and chronicled on the pages of organizations across this town and as she continues to make a difference in the Town of Falmouth, we do herein declare that this citizen is worthy of high praise and great recognition; and

NOW, THEREFORE, WE, Douglas C. Brown, Nancy R. Taylor, Samuel H. Patterson, Megan English Braga and Onjalé Scott Price, as Select Board of the Town of Falmouth, by the authority vested in us do **PROCLAIM**

BRENDA SWAIN FALMOUTH'S 2021 OUTSTANDING CITIZEN OF THE YEAR

IN WITNESS THEREOF, We have hereunto set our hand and caused the great seal of the Town of Falmouth to be affixed.

Douglas C. Brown, Chair

Megan English Braga

Nancy R. Taylor, Vice Chair

Onjalé Scott Price

Samuel H. Patterson

SELECT BOARD

OPEN SESSION

SUMMARY OF ACTIONS

1. Licenses

- a. Approve application for an Annual Entertainment License –
Coonamessett Farm, 277 Hatchville Road, Hatchville

LICENSE APPLICATION REVIEW FORM

Restaurant/Business: Coonamessett Farm

Address: 277 Hatchville Road, East Falmouth

License Type: Common Victualler

New or Transfer of License Entertainment and
Sunday Entertainment Licenses

or

Change of License _____

Police No objection.

Fire No issues.

Building _____

Health _____

Zoning All set.

Planning _____

DPW _____

Assessors _____

NOTES:



Town of Falmouth
 Office of the Town Manager/Selectmen
 59 Town Hall Square, Falmouth, MA 02540
 508-495-7320



ENTERTAINMENT LICENSE ANNUAL APPLICATION

Massachusetts General Laws, Chapter 140, Section 183A as amended by Chapter 694 of 1981

Required fields are outlined in red.

NAME OF BUSINESS: Coonamessett Farm Inc. D/B/A Coonamessett Farm
 ADDRESS: 277 Hatchville Road
 TOWN: East Falmouth STATE: MA ZIP CODE: 02536
 NAME OF OWNER/MANAGER: Ronald Smolowitz
 TELEPHONE #: 506-563-2560 EMAIL: farm@coonamessett.net
 HOME ADDRESS: as above

LOCATION OF ENTERTAINMENT ON PREMISES: Pavilion

DAYS OF ENTERTAINMENT: on occasions Monday - Sunday

HOURS OF ENTERTAINMENT: noon to 9 on occasions

Provide a detailed description of proposed entertainment:
Music on weekends for weddings and on Wednesday nights from June thru September for our Jamaican Buffet dinners. Usually DJ's or small bands.

PLEASE CHECK THE APPROPRIATE BOX FOR ALL TYPES OF ENTERTAINMENT REQUESTED:
 SUNDAY ENTERTAINMENT: NO YES (complete a separate Sunday Entertainment application)
 1. DANCING By Patrons No Dancing
 2. MUSIC Recorded Live Amplified Acoustic Other

I certify that this application contains a true description of the entertainment provided by this establishment and that I have complied with M.G.L. Chapter 140, Section 183A, Paragraph 3, by stating whether as part of the concert, dance exhibition, cabaret and public show any person will be permitted to appear on the premises in any manner or attire as to expose to public view any portion of the pubic area, anus, or genitals, or any simulation thereof, or whether any female person will be permitted to appear on the premises in any manner or attire as to expose to public view any portion of the breast below the top of the areola, or any simulation thereof.

TAX ATTESTATION: I certify under the penalties of perjury that the information provided in this application is true and that, to my best knowledge, I have filed all state tax returns and paid all state and local taxes as required under law. I understand that Licensees who fail to correct their non-filing or delinquency will be subject to license suspension or revocation:

DATE 9/7/2021 X [Signature]

Signature - OWNER or MANAGER

Total Town Fees: \$110
 Filing Fee: \$10
 License Fee: \$100

Fees payable to Town of Falmouth

THE COMMONWEALTH OF MASSACHUSETTS

Town OF Falmouth

LICENSE

For

PUBLIC ENTERTAINMENT ON SUNDAY



State Fee, \$ 50.00

Municipal Fee, \$ 75.00

The Name of the Establishment is Coonamessett Fram in or on the property at

No 277 Hatchville Road, East Falmouth MA 02536 (address)

The Licensee or Authorized representative, Ron Smolowitz in

accordance with chapter 136 of the General Laws, as amended, hereby request a license for the following program or entertainment:

DATE	TIME	Proposed dancing or game, sport, fair, exposition, play, entertainment or public diversion
		Regular Hours: Sunday 1:00 PM - Midnight - ONLY - \$50 check to Commonwealth of Massachusetts
		- \$75 check to Town of Falmouth
		**Fee of \$75 payable to Town of Falmouth by Money Order or Certified Bank Check only.

Hon. Douglas C. Brown Mayor/ Chairman of Board of Selectman, Falmouth (City or Town)

Fees per occurrence (Individual Sunday(s)): Regular Hours (Sunday 1:00pm – Midnight): \$2.00 Special Hours (Sunday 12:00 am- Midnight): \$5.00. Annual Fee (For Operating on every Sunday in calendar year): Regular Hours (Sunday 1:00pm – Midnight): \$50.00 Special Hours (Sunday 12:00 am- Midnight): \$100.00

This license is granted and accepted, and the entertainment approved, upon the understanding that such entertainment that the licensee shall comply with the laws of the Commonwealth applicable to licensed entertainments, and also to the following terms and conditions: The licensee shall at all times allow any person designated in writing by the Mayor, Board of Selectmen, or Commissioner of Public Safety, to enter and inspect his place of amusement and view the exhibitions and performances therein: shall permit regular police officers, detailed by the Commissioner of Public Safety or Chief of the local Police Department to enter and be about this place of amusement during performances therein: may employ to preserve order in his place of amusement only regular or special police officers designated therefore by the Chief of Police, and shall pay to said Chief of Police for the services of the regular police officers such amount as shall be fixed by him; shall permit at all times to enter and be about his place of amusement such members of the Fire Department as shall be detailed by the Chief of the Fire Department to guard against fire; shall keep in good condition, go as to be easily accessible, such standpipes, hose, axes, chemical extinguishers and other apparatus as the fire department may require: shall allow such members of the fire department in case of any fire in such place, to exercise exclusive control and direction of his employees and of the means and apparatus provided for extinguishing fire therein; shall permit no obstruction of any nature in any aisle, passageway or stairway of the licensed premises, nor allow any person therein to remain in any aisle passageway or stairway during an entertainment; and shall conform to any other rules and regulations at any time made by the Mayor or Board of Selectmen. This license shall be kept on the premise where the entertainment is to be held, and shall be surrendered to any regular police officer or authorized representative of the Department of Public Safety. This license is issued under the provisions of Chapter 136 of the General Laws, as amended, and is subject to revocation at any time by the Mayor, Board of Selectmen, or Commissioner of Public Safety.

Do not write in this box

This application and program must be signed by the licensee or authorized representative of entertainment to be held. No Change to be made in the program without permission of the authorities granting and approving the license.

THIS LICENSE MUST BE POSTED IN A CONSPICUOUS PLACE ON THE PREMISES

SUMMARY OF ACTIONS

1. Licenses

- b. Approve application for Change of Manager of an All Alcoholic Beverages Common Victualler License – New Cape Cod Country Club, Inc. d/b/a Cape Cod Country Club, 48 Theatre Drive, Hatchville

LICENSE APPLICATION REVIEW FORM

Restaurant/Business: Cape Cod Country Club

Address: 48 Theatre Drive, Hatchville

License Type: All Alcoholic Common Victualler

New or Transfer of License _____

or

Change of License Change of Manager

Police _____

Fire No issues.

Building _____

Health _____

Zoning OK.

Planning No concerns.

DPW _____

Assessors No issues.

NOTES:



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission

For Reconsideration

LICENSING AUTHORITY CERTIFICATION

Falmouth

City /Town

00069-RS-0390

ABCC License Number

TRANSACTION TYPE (Please check all relevant transactions):

The license applicant petitions the Licensing Authorities to approve the following transactions:

- New License
- Change of Location
- Change of Class (i.e. Annual / Seasonal)
- Change Corporate Structure (i.e. Corp / LLC)
- Transfer of License
- Alteration of Licensed Premises
- Change of License Type (i.e. club / restaurant)
- Pledge of Collateral (i.e. License/Stock)
- Change of Manager
- Change Corporate Name
- Change of Category (i.e. All Alcohol/Wine, Malt)
- Management/Operating Agreement
- Change of Officers/
Directors/LLC Managers
- Change of Ownership Interest
(LLC Members/ LLP Partners,
Trustees)
- Issuance/Transfer of Stock/New Stockholder
- Change of Hours
- Other
- Change of DBA

APPLICANT INFORMATION

Name of Licensee DBA

Street Address Zip Code

Manager

Type (i.e. restaurant, package store)
Class (Annual or Seasonal)
Category (i.e. Wines and Malts / All Alcohol)

Granted under Special Legislation? Yes No
 If Yes, Chapter
 of the Acts of (year)

DESCRIPTION OF PREMISES Complete description of the licensed premises

Three floors: Club house, golf building and golf shop, snack bar, dining room, social rooms. Alcohol to be served to customers from a beverage cart. Employees will drive the cart paths of the property covering the entire 18 hole golf course.

LOCAL LICENSING AUTHORITY INFORMATION

Application filed with the LLA: Date Time

Advertised Yes No Date Published Publication

Abutters Notified: Yes No Date of Notice

Date APPROVED by LLA Decision of the LLA

Additional remarks or conditions (E.g. Days and hours)

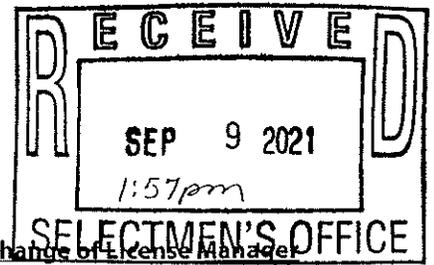
For Transfers ONLY:
 Seller License Number: Seller Name:

The Local Licensing Authorities By:

Alcoholic Beverages Control Commission
Ralph Sacramone
Executive Director



The Commonwealth of Massachusetts
 Alcoholic Beverages Control Commission
 95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
 www.mass.gov/abcc



AMENDMENT-Change of Manager

Change of License Manager

1. BUSINESS ENTITY INFORMATION

Entity Name	Municipality	ABCC License Number
New Cape Cod Country Club	Falmouth Town	00069-RS-0390

2. APPLICATION CONTACT

The application contact is the person who should be contacted with any questions regarding this application.

Name	Title	Email	Phone
Elizabeth Friel	Manager, Friel Golf Mgmt	efriel@friegolf.com	6038893211

3A. MANAGER INFORMATION

The individual that has been appointed to manage and control of the licensed business and premises.

Proposed Manager Name	Edward Kristenson	Date of Birth		SSN	
Residential Address	32 Partridge Lane East Falmouth, MA 02536				
Email		Phone			
Please indicate how many hours per week you intend to be on the licensed premises	40	Last-Approved License Manager	John Munroe		

3B. CITIZENSHIP/BACKGROUND INFORMATION

Are you a U.S. Citizen?* Yes No *Manager must be U.S. citizen
 If yes, attach one of the following as proof of citizenship US Passport, Voter's Certificate, Birth Certificate or Naturalization Papers.
 Have you ever been convicted of a state, federal, or military crime? Yes No
 If yes, fill out the table below and attach an affidavit providing the details of any and all convictions. Attach additional pages, if necessary, utilizing the format below.

Date	Municipality	Charge	Disposition

3C. EMPLOYMENT INFORMATION

Please provide your employment history. Attach additional pages, if necessary, utilizing the format below.

Start Date	End Date	Position	Employer	Supervisor Name
9/1/2021	Current	Golf Professional/GM	Cape Cod Country Club	N/A
4/1/2016	8/31/2021	Assistant Golf Pro	Cape Cod Country Club	John Munroe

3D. PRIOR DISCIPLINARY ACTION

Have you held a beneficial or financial interest in, or been the manager of, a license to sell alcoholic beverages that was subject to disciplinary action? Yes No If yes, please fill out the table. Attach additional pages, if necessary,utilizing the format below.

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Manager's Signature Edward A Kruten Date 9/1/21

APPLICANT'S STATEMENT

I, Elizabeth Friel the: sole proprietor; partner; corporate principal; LLC/LLP manager
Authorized Signatory
of New Cape Cod Country Club, Inc.
Name of the Entity/Corporation

hereby submit this application (hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

- (1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;
- (2) I state that the location and description of the proposed licensed premises are in compliance with state and local laws and regulations;
- (3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;
- (4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the ownership as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;
- (5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;
- (6) I understand that all statements and representations made become conditions of the license;
- (7) I understand that any physical alterations to or changes to the size of the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;
- (8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and
- (9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.
- (10) I confirm that the applicant corporation and each individual listed in the ownership section of the application is in good standing with the Massachusetts Department of Revenue and has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

Signature:



Date: 09/01/2021

Title:

Manager, Friel Golf Management

CORPORATE VOTE

The Board of Directors or LLC Managers of
Entity Name
duly voted to apply to the Licensing Authority of and the
City/Town
Commonwealth of Massachusetts Alcoholic Beverages Control Commission on
Date of Meeting

For the following transactions (Check all that apply):

Change of Manager

Other

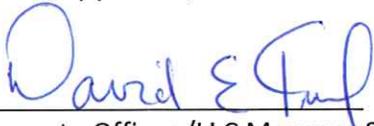
"VOTED: To authorize
Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

"VOTED: To appoint
Name of Liquor License Manager

as its manager of record, and hereby grant him or her with full authority and control of the premises described in the license and authority and control of the conduct of all business therein as the licensee itself could in any way have and exercise if it were a natural person residing in the Commonwealth of Massachusetts."

A true copy attest,



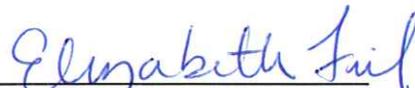
Corporate Officer /LLC Manager Signature

DAVID FRIEL

(Print Name)

For Corporations ONLY

A true copy attest,



Corporation Clerk's Signature

Elizabeth Friel

(Print Name)

Change of Manager

- ✓ • Manager Application
- ✓ • CORI Authorization
- ✓ • Vote of the Entity
- ✓ • Proof of Citizenship (Manager must be U.S. citizen)
- ✓ • Payment Receipt

SUMMARY OF ACTIONS

1. Licenses

- c. Approve application for nine (9) Special One-Day All Alcoholic Beverages Licenses – Cape Cod Theatre Guild – Highfield Theater, 58 Highfield Drive

October 22, 23, 24, 29, 30, 31 and November 5, 6 7.

Friday and Saturday hours: 6:30 – 9:30 p.m.

Sunday hours: 1:00 – 4:00 p.m.

LICENSE APPLICATION REVIEW FORM

Restaurant/Business: Falmouth Theatre Guild

Address: Highfield Theater, 58 Highfield Drive, Falmouth

License Type: All Alcoholic Special One-Day Liquor Licenses

New or Transfer of License _____

or

Change of License _____

Police _____

Fire No issues.

Building _____

Health _____

Zoning _____

Planning _____

DPW _____

Assessors _____

NOTES:

2021

License Alcoholic Beverages

21-3-AA

Fee:

75

The Licensing Board of
The Town of Falmouth
Massachusetts
Hereby Grants a

Special License For The Sale Of All Alcoholic Beverages

License to Expose, Keep for Sale, and to Sell
All Kinds of Alcoholic Beverages

To Be Drunk On the Premises

To Falmouth Theatre Guild
Brian J. Buczkowski, Director-at-Large
Highfield Theater
58 Highfield Drive, Falmouth, MA 02540

On the following described premises:

THE ABOVE NAMED NON-PROFIT ORGANIZATION IS HEREBY GRANTED A SPECIAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES, TO BE DRUNK ON THE PREMISES UNDER CHAPTER 138, SECTION 14, OF THE LIQUOR CONTROL

This license is valid from the 5th day of November 2021 until the 7th day of November 2021, unless earlier suspended, cancelled or revoked.

The hours during which Alcoholic Beverages may be sold are from:

Friday - Saturday 6:30 pm - 9:30 PM; Sunday 1:00 - 4:00 PM

Conditions: 1. Certificate of liquor liability insurance required, 2. Servers must be TIPS certified, 3. Apply for temporary food permit with Health Department, 4. Rope or fence off area where alcohol will be sold and consumed.

IN TESTIMONY WHEREOF, the undersigned have hereunto affixed their official signatures this 27th day of September 2021

Licensing Board

THIS LICENSE SHALL BE DISPLAYED ON THE PREMISES IN A CONSPICUOUS POSITION WHERE IT CAN EASILY BE READ

2021

License Alcoholic Beverages

21-2-AA

Fee:

75

The Licensing Board of
The Town of Falmouth
Massachusetts
Hereby Grants a

Special License For The Sale Of All Alcoholic Beverages

License to Expose, Keep for Sale, and to Sell
All Kinds of Alcoholic Beverages

To Be Drunk On the Premises

To Falmouth Theatre Guild
Brian J. Buczkowski, Director-at-Large

Highfield Theater
58 Highfield Drive, Falmouth, MA 02540

On the following described premises:

THE ABOVE NAMED NON-PROFIT ORGANIZATION IS HEREBY GRANTED A SPECIAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES, TO BE DRUNK ON THE PREMISES UNDER CHAPTER 138, SECTION 14, OF THE LIQUOR CONTROL

This license is valid from the 29th day of October 2021 until the 31st day of October 2021, unless earlier suspended, cancelled or revoked.

The hours during which Alcoholic Beverages may be sold are from:

Friday - Saturday 6:30 pm - 9:30 PM; Sunday 1:00 - 4:00 PM

Conditions: 1. Certificate of liquor liability insurance required, 2. Servers must be TIPS certified, 3. Apply for temporary food permit with Health Department, 4. Rope or fence off area where alcohol will be sold and consumed.

IN TESTIMONY WHEREOF, the undersigned have hereunto affixed their official signatures this 27th day of September 2021

Licensing Board

THIS LICENSE SHALL BE DISPLAYED ON THE PREMISES IN A CONSPICUOUS POSITION WHERE IT CAN EASILY BE READ

2021

License Alcoholic Beverages

21-1-AA

Fee:

75

The Licensing Board of
The Town of Falmouth
Massachusetts
Hereby Grants a

Special License For The Sale Of All Alcoholic Beverages

License to Expose, Keep for Sale, and to Sell
All Kinds of Alcoholic Beverages

To Be Drunk On the Premises

To Falmouth Theatre Guild
Brian J. Buczkowski, Director-at-Large

Highfield Theater
58 Highfield Drive, Falmouth, MA 02540

On the following described premises:

THE ABOVE NAMED NON-PROFIT ORGANIZATION IS HEREBY GRANTED A
SPECIAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES, TO BE DRUNK
ON THE PREMISES UNDER CHAPTER 138, SECTION 14, OF THE LIQUOR CONTROL

This license is valid from the 22nd day of October 2021 until the 24th day of
October 2021, unless earlier suspended, cancelled or revoked.

The hours during which Alcoholic Beverages may be sold are from:

Friday - Saturday 6:30 pm - 9:30 PM; Sunday 1:00 - 4:00 PM

Conditions: 1. Certificate of liquor liability insurance required, 2. Servers must be TIPS certified, 3. Apply for
temporary food permit with Health Department, 4. Rope or fence off area where alcohol will be sold and
consumed.

IN TESTIMONY WHEREOF, the undersigned have hereunto affixed their
official signatures this 27th day of September 2021

Licensing Board

THIS LICENSE SHALL BE DISPLAYED ON THE PREMISES IN A
CONSPICUOUS POSITION WHERE IT CAN EASILY BE READ



Falmouth Theatre Guild

Bringing you the best in Community Theater since 1958

Falmouth Theatre Guild

P.O. Box 383

Falmouth MA, 02541

www.falmouththeatreguild.org

(508) 548-0400

September 10, 2021

Board of Directors

Brett Baird
Joan Baird
Ashley Bolbrock
Rob Bowerman
Brian Buczkowski
Peter D. Cook
Jodi Edwards
Davien Gould
Matthew Gould
Cathy Lemay
Carol Marasa
Tom McCahill
Dan McSweeney
Liz Moakley
Todd Sadler
Victoria Santos
Tom Stackhouse

Application for Special One Day Liquor License:

Falmouth Theatre Guild

for the theatrical run of "*Carousel*"

Oct. 22, 23, 24, 29, 30, 31 & Nov. 5, 6, 7 (9 days)

Dear Town of Falmouth,

Please find attached a completed application requesting special one-day liquor licenses covering the nine performances we have scheduled for our production of "*Carousel*," running Fridays, Saturdays, and Sundays from October 22 to November 7, 2021.

We would like to sell alcoholic beverages to our patrons for an hour before each performance and for approximately 30 minutes during intermission. As we have done in years past, alcoholic beverages would be served from our concessions stand where we also offer cans of soda and seltzer, boxed water, and prepackaged snacks and candy. There is no food preparation at our concessions stand.

There is always a trained TiPS certified server at our concessions to serve any alcoholic beverages (see the attached photocopies of all our active certified servers), and all beverages will be consumed on premises before and during the performance. The attached floor plan shows the location and layout of the outdoor patios, concessions stand ("bar service area"), and audience where beverages and concessions will be consumed.

If you have any questions, please do not hesitate to contact me by phone or by email.

Thank you,

Brian Buczkowski, Director-at-Large

(508) 564-0181

bjbuczkowski@gmail.com



**TOWN OF FALMOUTH
APPLICATION
SPECIAL ONE-DAY LIQUOR LICENSE FOR THE SALE OF ALCOHOLIC BEVERAGES
M.G.L.A. CHAPTER 138, SECTION 14**

NAME OF APPLICANT: Falmouth Theatre Guild - Brian Buczkowski, Director-at-large

ADDRESS OF APPLICANT: P.O. Box 383, Falmouth, MA 02541

NAME OF ORGANIZATION: Falmouth Theatre Guild

MAILING ADDRESS: same as above

TELEPHONE #: (508) 564-0181 EMAIL: bjbuczkowski@gmail.com

LOCATION TO BE LICENSED: Highfield Theater - 58 Highfield Drive, Falmouth

EVENT TITLE: "Crousel" (Community Theatrical Production) APPROXIMATE # OF PEOPLE: 275 per performance

DATE(S) OF EVENT: Oct. 22, 23, 24, 29, 30, 31, Nov. 5, 6, 7 (9 days) HOURS OF EVENT: Friday and Saturday: 6:30pm - 9:30pm; Sunday 1:00pm - 4:00pm

AUTHORIZED MANAGER OF ESTABLISHMENT/EVENT Tomas McCahill, Concessions Chair

TYPE OF LICENSE:

- | | | | | | | |
|----|---------------|---------------|-----------------|---------------|------------|---------------|
| 1. | WINE & MALT | <u> </u> | NON-PROFIT | <u> ✓ </u> | FOR PROFIT | <u> </u> |
| 2. | ALL ALCOHOLIC | <u> ✓ </u> | NON-PROFIT ONLY | <u> </u> | | <u> </u> |

Reqd. **REQUIREMENTS check list:**

- ✓1. Provide a narrative describing the event, including food service and security
- ✓2. Certificate of non-profit status (if your organization is non-profit)
- ✓3. Certificate of liquor liability insurance (*1 million per occurrence and \$2 million aggregate*)
- ✓4. Certificate of TIPS or other alcohol safety training for all persons handling alcohol
- ✓5. Floor plan of area where alcohol will be served and consumed, and security plan
- 6. Temporary Food Permit (Health Department) or confirmation from caterer (*12c license*)

9/10/2021
DATE

Brian Buczkowski
APPLICANT SIGNATURE

Filing Fee: \$10.00

License Fee: \$25.00 per day

SELECT BOARD

SUMMARY OF ACTIONS

1. Licenses

- d. Approve application for a Change of Officers of an All Alcoholic Beverages Common Victualler License – 99 Restaurants of Boston, LLC d/b/a 99 Restaurant & Pub, 30 Davis Straits, Falmouth

LICENSE APPLICATION REVIEW FORM

Restaurant/Business: 99 Restaurants of Boston, LLC d/b/a 99 Restaurant and Pub

Address: 30 Davis Straits, Falmouth

License Type: All Alcoholic Common Victualler License

New or Transfer of License _____

or

Change of License Change of Officers

Police No objection.

Fire No issues.

Building _____

Health _____

Zoning _____

Planning _____

DPW _____

Assessors _____

NOTES:



The Commonwealth of Massachusetts
 Alcoholic Beverages Control Commission
 239 Causeway Street, Boston, MA 02114
www.mass.gov/abcc

APPLICATION FOR AMENDMENT-Change of Officers, Stock or Ownership Interest

- Change of Officers/ Directors/LLC Managers** **Change of Stock Interest**
 (e.g. New Stockholders or Transfer or Issuance of Stock)
- DOR Certificate of Good Standing
 - DUA Certificate of Compliance
 - Change of Officer/Directors Application
 - CORI Authorization
 - Vote of the Entity
 - Business Structure Documents
 - If Sole Proprietor, **Business Certificate**
 - If partnership, **Partnership Agreement**
 - If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth
- Change of Ownership Interest**
 (e.g. LLC Members, LLP Partners, Trustees etc.)
- DOR Certificate of Good Standing
 - DUA Certificate of Compliance
 - Change of Stock Application
 - CORI Authorization
 - Financial Statement
 - Vote of the Entity
 - Purchase & Sale Agreement
 - Supporting Financial Records
 - Advertisement (New Stockholder Only)*
 - Business Structure Documents
 - If Sole Proprietor, **Business Certificate**
 - If partnership, **Partnership Agreement**
 - If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth
- Non-Profit Club Change of Officers/ Directors**
- DOR Certificate of Good Standing
 - DUA Certificate of Compliance
 - Change of Officer/Directors Application
 - Vote of the club signed by an approved officer
 - Business Structure Documents -**Articles of Organization** from the Secretary of the Commonwealth
- Management Agreement**
- DOR Certificate of Good Standing
 - DUA Certificate of Compliance
 - Management Agreement
 - Vote of Entity

**If abutter notification and advertisement is required for transaction, please see the local licensing authority.*

1. BUSINESS ENTITY INFORMATION

Entity Name 99 Restaurants of Boston, LLC	Municipality Falmouth	ABCC License Number 00115-RS-0390
--	--------------------------	--------------------------------------

Please provide a narrative overview of the transaction(s) being applied for. Attach additional pages, if necessary.

Goodloe M. Partee has left the company, and has been replaced by Wendy Harkness as LLC Manager, Chief Administrative Officer, and Secretary.

APPLICATION CONTACT

The application contact is the person who should be contacted with any questions regarding this application.

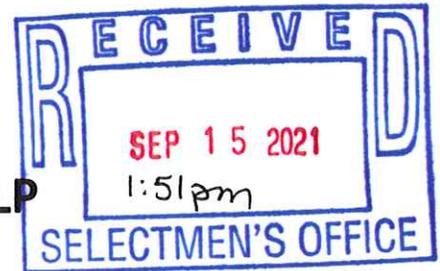
Name Joseph H. Devlin	Title Attorney	Email jdevlin@ucdlaw.com	Phone 617-514-2828
--------------------------	-------------------	-----------------------------	-----------------------

99 Restaurants of Boston, LLC
d/b/a 99 Restaurant & Pub
30 Davis Straits, Falmouth

CHANGE OF OFFICERS/DIRECTORS/LLC MANAGER

- LLA Certification
- ✓ \$200 fee via ePay
- ✓ Monetary Transmittal Form
- ✓ DOR Certificate of Good Standing
- ✓ DUA Certificate of Compliance
- ✓ Change of Officers/Directors Application
- ✓ CORI Authorization Complete one for the proposed manager of record. This form must be *notarized with a stamp or raised seal.*
- ✓ Business Structure Documents
 - If Sole Proprietor, Business Certificate
 - If partnership, Partnership Agreement
 - If corporation or LLC, Articles of Organization from the Secretary of the Commonwealth
- ✓ Vote of the Entity Board
 - Please Note: You may be requested to submit additional supporting documentation if necessary.*

Upton Connell & Devlin, LLP



Contact for Joseph H. Devlin, Esq.
171 High Street
Newburyport, MA 01950
617-514-2837
617-514-2825

Main Office:
112 Water Street, Suite 201
Boston, Massachusetts 02109
617-227-3277 (Tel)
617-227-3222 (Fax)

Falmouth Town Hall
59 Town Hall Square
Falmouth, MA 02540

September 8, 2021

Dear License Administrator:

I am writing on behalf of 99 Restaurants of Boston, LLC and 99 West, LLC (collectively the "Licensee"), one or both of which are licensed entities in your community owned by the same corporate structure.

Per the letter you received from the Massachusetts Alcoholic Beverage Control Commission (the "ABCC"), a copy of which is also enclosed, the "Licensee" has been granted preliminary approval for a Change of Officer relative to all 64 of their Massachusetts locations using the "inverted approval process".

The Officer Change involves the appointment of Wendy Harkness as Chief Administrator Officer, Secretary, and LLC manager of the Licensed Entities, and the removal of Goodloe M. Partee as General Counsel, Secretary, and LLC manager of the same.

Due to the size of the transactions, the ABCC has reviewed and investigated the applications and found that the transaction is in compliance with M.G.L. Chapter 138. In addition to the LLA Form, please send the Application package and all other relative forms and documents back to the ABCC. **If you have any questions, you can call Investigator Jack Carey at 617-727-3065, ext. 736.**

Enclosed please find the following documents relative to the transaction for your records:

1. Letter from Ralph Sacramone, Executive Director of the Alcohol Beverage Control Commission (the "ABCC").
2. DOR and DUA Certificates.
3. Monetary Transmittal Form.

4. Retail alcoholic beverages application – change of officers.
5. CORI Request Forms for the new officer.
6. Proof of US Citizenship for the new officer.
7. Exhibits.
8. Certificate of Authorization.
9. Certificate of Organization.

We would appreciate you putting this on your next available meeting schedule. We will call shortly hereafter to follow up to confirm your local filing fee, which we will send separately, and see if you need us to attend the meeting, though we are anticipating from past experiences that many communities will not require it.

We look forward to speaking and working with you again. If you should have any questions with regard to this Application, please feel free to call my associate, Elizabeth Pisano, at 860-712-2799, or email her at episano@ucdlaw.com.

Very truly yours,



Joseph H. Devlin



*Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
95 Fourth Street
Chelsea, Massachusetts 02150*

August 18, 2021

LOCAL Boards

Andover, Auburn, Billerica, Braintree, Bridgewater, Barnstable, Boston, Chicoppe, Dartmouth, Easton, Fairhaven, Falmouthj, Framingham, Franklin, Greenfield, Haverhill, Hingham, Holyoke, Lowell, Lynnfield, Marlborough, No. Andover, Pembroke, Pittsfield, Plymouth, Quincy, Rockland, Somerville, Springfield, Stoneham, Tewksbury, Westfield, Westford, W. Springfield, Wilmington, Woburn, Worcester

The Alcoholic Beverages control Commission ("Commission") has received a request from 99 Restaurants of Boston, LLC for a change of Officers / Directors in the above noted cities and towns.

Due to the magnitude of these transactions, the Commission has received the information and documents provided by the licensee. The review was to determine whether the contemplated transaction is consistent with the provisions of M.G.L. c. 138. Based upon our review, we are satisfied that the transaction is consistent with the purposes of the law and would not result in the individual corporate licenses being deemed to be out of compliance with the applicable statute. Accordingly, this letter sets forth our recommended procedure for the processing of these applications.

Arrangements have been made for the Corporation to pay all of the \$200 application fees directly to the Commission. Therefore, no fee needs to be collected by the Local Licensing Authority.

The Commission has reviewed and accepted copies of the following documents and instruments:

1. Application for amendment
2. DOR Certificate of Good Standing
3. DUA Certificate of Good Standing
4. CORI Authorization
5. Vote authorizing the license amendment
6. List of exhibit's
7. Secretary of The Commonwealth Corporate Articles.

The applicant will contact you directly for processing the application. We will be processing this group filing differently than we have in the past due to the fact that these applications will be scanned into the e-licencing system.

The local Licensing Authority should send in the whole packet of the application and not just the local licensing review record that was done in the past. Should you or your town/city solicitor have any questions or require information or assistance , please contact Jack Carey at (617) 908-8575.

Sincerely,



Ralph Sacramone
Executive Director

Cc: Fredrick Mahony, Chief Investigator
Ryan Melville, Licensing Coordinator
Joe Devlin, Esq.

SUMMARY OF ACTIONS

2. Administrative Orders

- a. Approve Eversource petition to install approximately sixty (60) feet of 4" conduit and one (1) handhole southeasterly from new handhole at base of pole #215/5 on Fairview Avenue, Falmouth. This work is to be done to provide electric service to 66 Allen Avenue.



TOWN OF FALMOUTH

Office of the Town Manager & Select Board

59 Town Hall Square, Falmouth, Massachusetts 02540

Telephone (508) 495-7320

Fax (508) 457-2573

PUBLIC HEARING NOTICE

You are hereby notified that a hearing will be held at Falmouth Town Hall in the Small Conference Room at 2:00 p.m. on Thursday, September 23, 2021, upon the petition of NSTAR Electric Company d/b/a Eversource Energy to install 60' feet of 4" Conduit and One (1) Handhole Southeasterly from new handhole at base of pole #215/5 on Fairview Avenue, Falmouth. This work is to be done to provide electric service to 66 Allen Avenue.

Per Order of the Falmouth Select Board

Publication Date: Friday, September 10, 2021, Falmouth Enterprise

Account #2056



Town of Falmouth

Department of Public Works - Engineering Division

416 Gifford Street, Falmouth, MA 02540
Office: 508-457-2543, Fax: 508-548-1537

Nicholas Croft, Engineering Technician

nicholas.croft@falmouthma.gov

Date: September 23, 2021

To: Board of Selectmen

From: Nicholas Croft, Hearing Officer

Subject: **Eversource – Petition to install 60' of underground conduit and handhole on Fairview Ave.**

A petition was submitted by Eversource to install 60' of underground conduit and a handhole on Fairview Avenue for a customer at 66 Allen Avenue..

The Engineering recommendation is to approve the request as submitted on Plan No. 5908821, W/O #5908821, dated August 13, 2021.

Eversource Reminder: All Street Openings require a permit obtained from the Engineering Office.

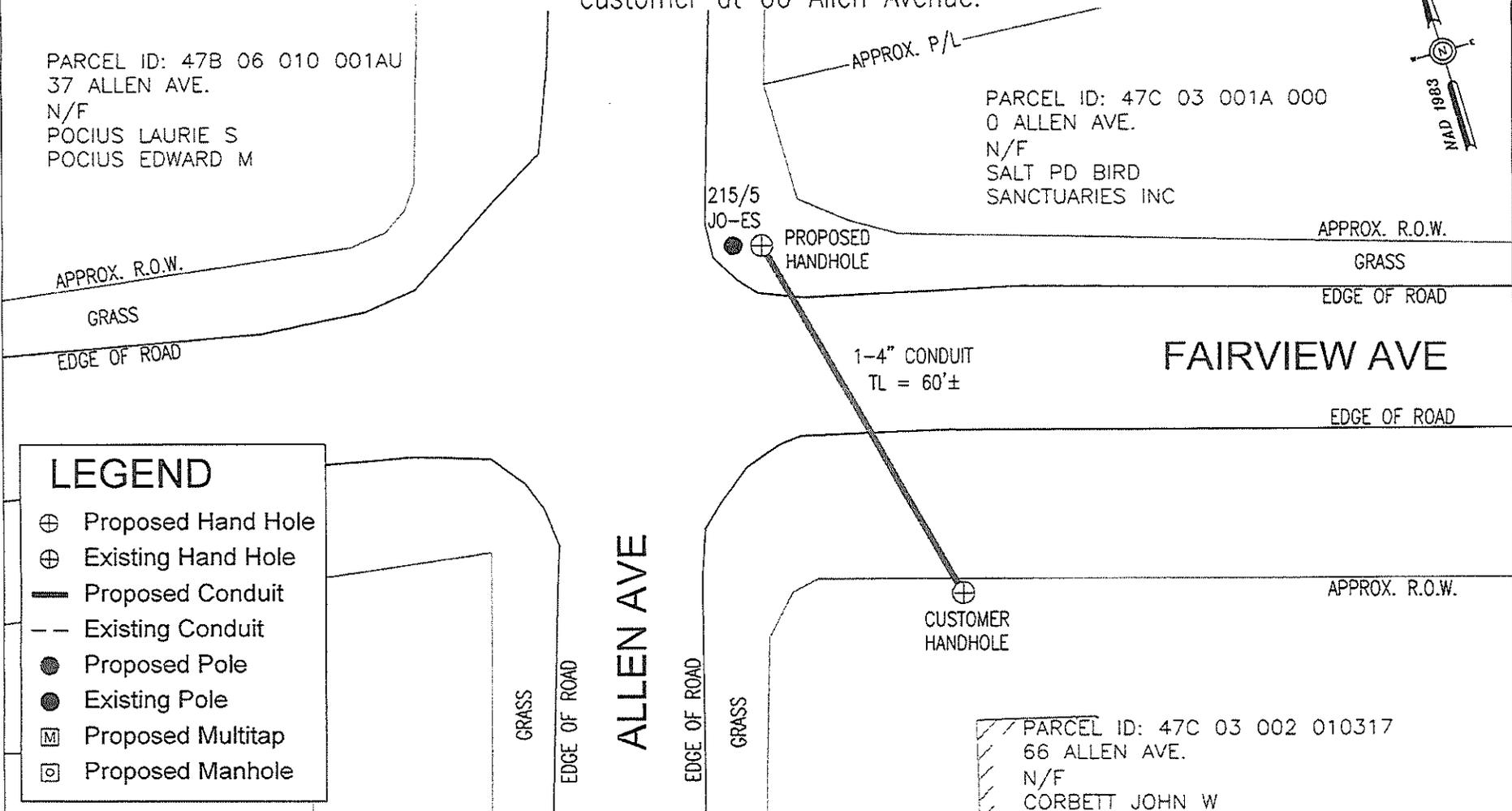
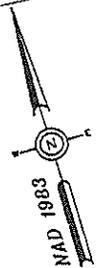
Thank you,

Nicholas Croft
Engineering Technician
DPW Engineering Division

Plan to accompany petition of EVERSOURCE ENERGY
to install 60'± of conduit and handhole for
customer at 66 Allen Avenue.

PARCEL ID: 47B 06 010 001AU
37 ALLEN AVE.
N/F
POCIUS LAURIE S
POCIUS EDWARD M

PARCEL ID: 47C 03 001A 000
0 ALLEN AVE.
N/F
SALT PD BIRD
SANCTUARIES INC



LEGEND

- ⊕ Proposed Hand Hole
- ⊕ Existing Hand Hole
- Proposed Conduit
- - Existing Conduit
- Proposed Pole
- Existing Pole
- Ⓜ Proposed Multitap
- Ⓜ Proposed Manhole



BY YOUR USE OF THE INFORMATION CONTAINED IN THIS MAP, YOU AGREE THAT NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, IS GIVEN WITH RESPECT TO THE INFORMATION. NEITHER NSTAR ELECTRIC COMPANY, NSTAR GAS COMPANY NOR ITS PARENTS, AFFILIATES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES OR AGENTS (COLLECTIVELY THE "NSTAR ENTITIES") SHALL BE LIABLE FOR ANY LOSS OR INJURY CAUSED IN WHOLE OR IN PART BY USE OF THIS INFORMATION OR BY RELIANCE UPON IT, TO THE MAXIMUM EXTENT ALLOWED BY LAW. YOU AGREE BY YOUR ACCEPTANCE OF THE INFORMATION TO RELEASE, INDEMNIFY AND HOLD THE NSTAR ENTITIES HARMLESS FROM ANY SUCH LOSS OR INJURY.

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MASS. LAW

REQUIRES 72 HOURS ADVANCE NOTICE TO UTILITY COMPANIES
BEFORE DIGGING BY ANYONE. CALL DIG-SAFE 1-888-344-7233

Plan #	5908821	NSTAR EVERSOURCE ELECTRIC g/b/a 1165 MASSACHUSETTS AVE. DORCHESTER, MASS. 02125
Ward #		
Work Order #	5908821	Plan of ALLEN AVE, FALMOUTH
Surveyed by:	N/A	
Research by:	GR	
Plotted by:	GR	Showing PROPOSED CONDUIT LOCATION
Proposed Structures:	TL	
Approved:	T THIBAUT	Scale 1"=20' Date AUGUST 13, 2021
P#		SHEET 1 of 1

August 19, 2021

Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540

Dear Nicholas Croft,

Enclosed is a petition to install approximately sixty (60) feet of conduit and one (1) handhole in Fairview Avenue, Falmouth.

This proposed location is required to provide electrical service to customer at #66 Allen Avenue. This petition will require a notice to abutters and a hearing.

Will you please present this petition before the Board for customary action and approval?

If you have any questions please email Jessica.elder@eversource.com .

Warm Regards,

Jessica Elder
Right of Way Agent
NSTAR Electric
d/b/a EVERSOURCE ENERGY

PETITION FOR
UNDERGROUND CABLE AND CONDUIT LOCATIONS
WO#5908821

Barnstable, Massachusetts
To the Select Board of Falmouth, Massachusetts.

August 16, 2021

NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY

request permission to locate underground cables, conduits and manholes, including the necessary sustaining and protecting fixtures, in, under, along and across the following public way or ways:

Fairview Avenue, Falmouth

To install 60' feet of conduit and cable under town road

To install (1) new handhole in public ROW on side of road

This work is to be done to provide electric service to #66 Allen Avenue.

Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to install and maintain underground cables, conduits, and manholes, together with such sustaining and protecting fixtures as it may find necessary, said underground cables, conduits, and manholes to be installed in accordance with the plan files herewith marked Plan No. 5908821 Dated August 13, 2021 .

**NSTAR ELECTRIC COMPANY
d/b/a EVERSOURCE ENERGY**

By *Jessica Elder*

Right of Way Agent
Jessica S. Elder

FORM OF ORDER FOR
UNDERGROUND CABLE AND CONDUIT LOCATIONS
WO#5908821

SELECT BOARD FOR THE TOWN OF FALMOUTH, MASSACHUSETTS.

Notice having been given and a public hearing held, as provided by law,
IT IS HEREBY ORDERED: that the NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY be and it is hereby granted a location for and permission to install and maintain underground cables, conduits and manholes, together with such sustaining and protecting fixtures as said Company may deem necessary, in, under, along and across the public way or ways hereinafter referred to, as requested in petition of said Company dated the 13th day of August, 2021.

All construction under this order shall be in accordance with the following conditions:

Cables, conduits, and manholes shall be installed substantially at the point indicated upon the plan marked Plan No.5908821 Dated August 13, 2021 filed with said petition. The following are the public ways or parts of ways under, along and across which the cables above referred to may be installed under this order.

Fairview Avenue, Falmouth	Southeasterly from new handhole at base of pole 215/5, to install approximately 60' (feet) of conduit	One (1) 4" Conduit One (1) Handhole
---------------------------	---	--

I hereby certify that the foregoing order was adopted at a meeting of the Select Board of the Town of Falmouth, Massachusetts held on the 27th day of September 2021.


Clerk of Select Board

_____, Massachusetts _____ 2021.

Received and entered in the records of location orders of the Town of Falmouth
Book _____ Page _____.

Attest:

Town Clerk

We hereby certify that on September 23 2021, at 2:00 o'clock,
P. M. at Falmouth Town Hall a public hearing was held on the
petition of the

NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY

for permission to install and maintain the underground cables, conduits, manholes and fixtures described in the order herewith recorded, and that we mailed at least seven days before said hearing a written notice of the time and place of said hearing to each of the owners of real estate (as determined by the last preceding assessment for taxation) along the ways or parts of ways upon which the Company is permitted to install underground cables, conduits, manholes and fixtures under said order. And that thereupon said order was duly adopted.

Select Board for the Town of
Falmouth, Massachusetts

CERTIFICATE

I hereby certify that the foregoing is a true copy of a location order and certificate of hearing with notice adopted by the Select Board of the Town of Falmouth, Massachusetts, on the _____ day of _____ 2021, and recorded with the records of location orders of said Town, Book _____, Page _____.

This certified copy is made under the provisions of Chapter 166 of General Laws and any additions thereto or amendments thereof.

Attest:

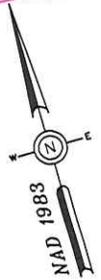
Town Clerk.

Plan to accompany petition of EVERSOURCE ENERGY
to install 60'± of conduit and handhole for
customer at 66 Allen Avenue.

PARCEL ID: 47B 06 010 001AU
37 ALLEN AVE.
N/F
POCIUS LAURIE S
POCIUS EDWARD M

PARCEL ID: 47C 03 001A 000
0 ALLEN AVE.
N/F
SALT PD BIRD
SANCTUARIES INC

PARCEL ID: 47C 03 002 010317
66 ALLEN AVE.
N/F
CORBETT JOHN W



APPROX. R.O.W.

GRASS

EDGE OF ROAD

215/5
JO-ES

PROPOSED
HANDHOLE

APPROX. R.O.W.

GRASS

EDGE OF ROAD

1-4" CONDUIT
TL = 60'±

FAIRVIEW AVE

EDGE OF ROAD

LEGEND

- ⊕ Proposed Hand Hole
- ⊗ Existing Hand Hole
- Proposed Conduit
- - Existing Conduit
- Proposed Pole
- Existing Pole
- Ⓜ Proposed Multitap
- Ⓢ Proposed Manhole

ALLEN AVE

GRASS

EDGE OF ROAD

EDGE OF ROAD

GRASS

CUSTOMER
HANDHOLE

APPROX. R.O.W.



SCALE IN FEET

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MASS. LAW

REQUIRES 72 HOURS ADVANCE NOTICE TO UTILITY COMPANIES
BEFORE DIGGING BY ANYONE. CALL DIG-SAFE 1-888-344-7233

Plan #	5908821
Ward #	
Work Order #	5908821
Surveyed by:	N/A
Research by:	GR
Plotted by:	GR
Proposed Structures:	TL
Approved:	T THIBAUT
P#	

NSTAR EVERSOURCE
ELECTRIC
d/b/a
1165 MASSACHUSETTS AVE. DORCHESTER, MASS. 02125

Plan of ALLEN AVE, FALMOUTH

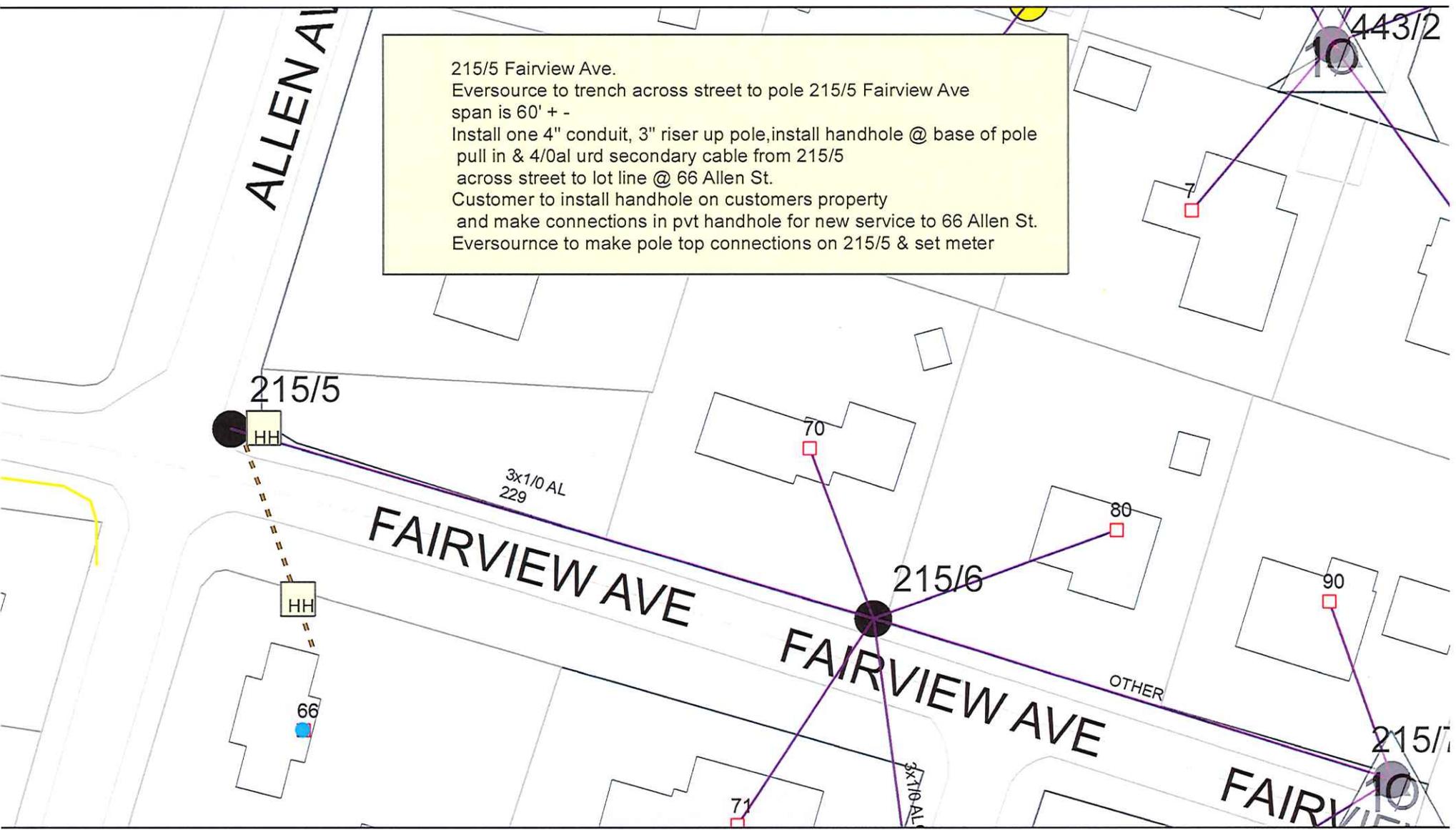
Showing PROPOSED CONDUIT LOCATION

Scale 1"=20' Date AUGUST 13, 2021

SHEET 1 of 1

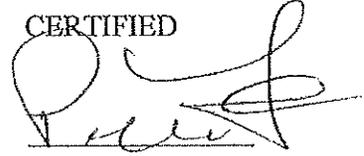
Service Address: 66 Allen Ave	City: Falmouth	Page Number: 1 of 1 Pages	Auth. No.	Work Order Number: 5908821
Customer's Name/Title: Jack Corbett		Prepared by: Joanna Dixon 7/22/21		
Sales Representative: Francis Welles 774-392-3949		Circuit Number: 4-74-436		
Electrician:		TLM:		
Pitch Size:		Secondary Sheet Number:		

215/5 Fairview Ave.
 Eversource to trench across street to pole 215/5 Fairview Ave
 span is 60' + -
 Install one 4" conduit, 3" riser up pole, install handhole @ base of pole
 pull in & 4/0al urd secondary cable from 215/5
 across street to lot line @ 66 Allen St.
 Customer to install handhole on customers property
 and make connections in pvt handhole for new service to 66 Allen St.
 Eversource to make pole top connections on 215/5 & set meter



0 ALLEN AVE
66 ALLEN AVE

CERTIFIED

A handwritten signature in black ink, appearing to read 'Patricia Favulli', written over a horizontal line.

Patricia A Favulli
Director of Assessing
Town of Falmouth
August 25, 2021

WO# 5908821
FAIRVIEW AVE.
FALMOUTH, MA 02540

PARCEL ID: 47C 03 001A 000
0 ALLEN AVE.
N/F
SALT PD BIRD
SANCTUARIES INC
PO BOX 535
WEST FALMOUTH, MA 02574

PARCEL ID: 47B 06 010 001AU
37 ALLEN AVE.
N/F
POCIUS LAURIE S
POCIUS EDWARD M
37 ALLEN AVE
FALMOUTH, MA 02540

PARCEL ID: 47C 02 012 000
63 ALLEN AVE.
N/F
RAFTERY DAVID A
RAFTERY LISA H
63 ALLEN AVE
FALMOUTH, MA 02540

PARCEL ID: 47C 03 002 010317
66 ALLEN AVE.
N/F
CORBETT JOHN W
139 ALLEN AVE
FALMOUTH, MA 02540

SUMMARY OF ACTIONS

2. Administrative Orders

- b. Authorize letter to Steamship Authority regarding Long-Term Parking and Excise Tax

Recommendation for Select Board Action

September 27, 2021

Under “Summary of Actions, Administrative Orders”

Item #2b. Steamship Authority regarding Long-Term Parking/Excise Tax

SB Motion –

To authorize a letter to the Steamship Authority with the following:

“It is requested that the Steamship Authority add the following to its Long-Term Parking Permit Application Form:

-Permit Holders are cautioned that under Massachusetts General Law you are required to report and update to the Registry of Motor Vehicles the jurisdiction in which your vehicle is customarily garaged. There is a block on the registration renewal form which can be updated online. For most permit holders who principally leave their vehicle in Falmouth overnight, Falmouth should be the location reported. This does not change or alter the amount of excise tax that you must pay. There are both criminal and civil penalties for improperly reporting this information.”

SUMMARY OF ACTIONS

2. Administrative Orders

- c. Vote to accept donation in the amount of \$712.80 from the Old Stone Dock Association to the Beach Department Donation Account to fund the 16 window boxes at the Ellen T. Mitchell Bathhouse at 56 Surf Drive

Diane Davidson

From: Maggie Clayton
Sent: Sunday, September 19, 2021 10:43 AM
To: Diane Davidson
Cc: Peter Johnson-Staub
Subject: Agenda Item for Select Board Meeting 9/27

Hi, Diane:

This is a written request to the Select Board to add an item on the 9/27 Meeting Agenda to include (1) vote to approve a donation in the amount of \$712.80 from the Old Stone Dock Association to the Beach Donations Account, 28-632-5655-4830, to fund the 16 window boxes for the Ellen T. Mitchell Bathhouse at 56 Surf Drive and (2) vote to expend those funds for paying the Soares Flower Garden Nursery invoice for 48 New Guinea Impatiens, 32 Blue Scavola, and planting services.

Thank you in advance for your consideration of these requests.

Best,

Maggie Clayton
Assistant Beach Superintendent
Town of Falmouth
(774)392-6900

SUMMARY OF ACTIONS

2. Administrative Orders

- d. Vote to expend funds from the Beach Department Donation Account in the amount of \$712.80 to pay the Soares Flower Garden Nursery invoice for flowers and planting services

SUMMARY OF ACTIONS

2. Administrative Orders

- e. Authorization to extend temporary outdoor restaurant seating approvals from November 1, 2021 to April 1, 2022



Jean M. Lorizio, Esq.
Chairman

*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150*

**ALCOHOLIC BEVERAGES CONTROL COMMISSION ADVISORY
REGARDING THE EXPANSION OF PATIO SERVICE AND TAKEAWAY/DELIVERY OF
ALCOHOL BY ON-PREMISES LICENSEES**

On June 16, 2021, Governor Charlie Baker signed into law An Act relative to extending certain COVID-19 measures adopted during the state of emergency. The text of the legislation can be found [HERE](#).

This Act permits on-premises licensees to continue with (1) expanded patio service and (2) extends the ability to sell alcoholic beverages for takeaway and delivery:

Patios/Outdoor Expansions: licensees that have been approved for expanded patio/outdoor service pursuant to the Governor's executive orders may continue their outdoor operations until April 1, 2022.

Licensees that seek to continue patio/outdoor service after April 1, 2022, are encouraged to apply in the ordinary course for an alteration of premises with their local licensing authorities. Otherwise, these amended licenses automatically revert to the status prior to the approval of the expansion of outdoor service as of April 1, 2022.

Takeaway/delivery of alcohol: establishments licensed for on-premises consumption of alcohol may continue takeaway and delivery sales of alcohol until May 1, 2022. All alcohol sold for takeaway/delivery must be sold with food and at the same price as alcohol for on-premises consumption.

As always, all licensees must ensure that they comply with the laws of the Commonwealth of Massachusetts, and that sales of alcoholic beverages take place only as authorized by federal, state, and local law. All questions should be directed to the ABCC Executive Director Ralph Sacramone at rsacramone@tre.state.ma.us or (617) 727-3040 x 731.

(Issued June 16, 2021)

Diane Davidson

From: Melville, Ryan (TRE) <rmelville@tre.state.ma.us>
Sent: Wednesday, June 16, 2021 2:26 PM
To: Melville, Ryan (TRE)
Subject: ABCC ADVISORY REGARDING THE EXPANSION OF PATIO SERVICE AND TAKEAWAY/DELIVERY OF ALCOHOL BY ON-PREMISES LICENSEES
Attachments: Advisory re extension of patios and take away alcohol 1.pdf

ALCOHOLIC BEVERAGES CONTROL COMMISSION ADVISORY
REGARDING THE EXPANSION OF PATIO SERVICE AND TAKEAWAY/DELIVERY OF ALCOHOL BY ON-PREMISES LICENSEES

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(Issued June 16, 2021)

Ryan Melville
Deputy Executive Director
Massachusetts Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, MA 02150
Phone-1-857-453-2718
Fax-1-617-727-1258

TOWN OF FALMOUTH SELECT BOARD

**Request for Temporary Administrative Extension of Existing
COVID-10 Order No. 35 Outdoor Restaurant Service Approval to
Use Between November 1, 2021 and April 1, 2022 Pursuant to
COVID-19 Order No. 50**

Date received:

Section 1—Applicant & Business Information

A. Applicant Information

- Applicant's Full Legal Name: _____
- Applicant's Legal Home Address: _____
- Applicant's Home and Mobile Telephone Numbers: _____
- Applicant's Primary and Secondary Email Addresses: _____

B. Business Information

- Full Legal Name of the Business: _____
- Full Street Address of the Business: _____
- Mailing Address of the Business (if different): _____
- Telephone Number of the Business (if different): _____
- Email Addresses of the Business (if different): _____

Section 2—Extension of Existing Order No. 35 Approval to Winter Season 2021-2022

- A. Did the applicant previously receive temporary administrative approval of outdoor restaurant service under COVID-19 Order No. 35 (Yes/No)? _____
a. If "No," use the New or Modified Service Form instead.
- B. Does the applicant seek any modification of or changes to the conditions under which such prior approval was issued, including but not limited to seating plan changes, capacity changes, additional tent/enclosure structures, heating elements or open flames, or further reductions in parking
(Yes/No)? _____
a. If "Yes," use the New or Modified Service Form instead.

Section 3—Temporary License to Use Public Property

Any proposal to continue in winter season 2021-2022 expanded outdoor restaurant service on public property, including portions of a closed roadway, sidewalks or parking spaces, must be accompanied by a signed temporary use license issued by the Town Manager covering the period of November 1, 2021 to April 1, 2022. Applicants requiring such a license must separately obtain such a license from the Town Manager’s office.

- A. Does the applicant propose to use any public property for outdoor restaurant service? _____
- B. If yes, has the applicant attached the license agreement, including the associated detailed sketch or plan?

Section 4—Proof of Insurance

Before operating any approved outdoor restaurant seating, the applicant must submit proof that insurance, including liquor liability insurance, covers any area of approved expansion or altered description.

Has the applicant provided proof of insurance coverage for all proposed outdoor table service areas during the period of November 1, 2021 to April 1, 2022? _____

Section 5—Scope of Approval and Effective Dates

The applicant certifies that the applicant understands and agrees that any approval and use hereunder is temporary and not precedent setting and expires on April 1, 2022. The applicant further certifies that any and all structures, furniture, and/or improvements related to 2021-2022 winter season outdoor table service extensions must be immediately removed from the permitted area during any unpermitted period.

The applicant so certifies: _____

(sign name)

(date)

TOWN OF FALMOUTH SELECT BOARD

Application for Temporary Administrative Approval of New or Modified Outdoor Restaurant Service Pursuant to COVID-19 Orders No. 35 & 50

Date received:

Section 1—Applicant & Business Information

A. Applicant Information

- Applicant's Full Legal Name: _____
- Applicant's Legal Home Address: _____
- Applicant's Home and Mobile Telephone Numbers: _____
- Applicant's Primary and Secondary Email Addresses: _____

B. Business Information

- Full Legal Name of the Business: _____
- Full Street Address of the Business: _____
- Mailing Address of the Business (if different): _____
- Telephone Number of the Business (if different): _____
- Email Addresses of the Business (if different): _____

C. Premises Information

- Does the applicant own the entire premises? _____
- Does the applicant lease the entire premises? _____
 - If yes, provide the name and address of the lessor and written evidence of approval of outdoor restaurant service: _____
- Does the applicant propose temporary use of areas not presently owned or leased by the applicant? _____
 - If yes, provide the name and address of the owner of each portion and written evidence of authority for temporary use for outdoor restaurant service: _____

Section 2—Seasonal Operations and Modification of Previously Approved Outdoor Service

A. Seasonal Operation

- Does the applicant propose operation between the dates of November 1, 2021, and April 1, 2022? _____

B. Previous Temporary Administrative Approval of Outdoor Restaurant Service

- Did the applicant previously receive temporary administrative approval of outdoor restaurant service under COVID-19 Order No. 35? _____
 - If yes, does the applicant seek any modification of or changes to the conditions under which such approval was issued, including but not limited to seating plan changes, capacity changes, additional tent/enclosure structures, heating elements or open flames, or further reductions in parking? _____
- Please provide a copy of any prior temporary administrative approval of outdoor restaurant service at this property. _____

Section 3—Description of Outdoor Restaurant Service

Please describe here and attach a detailed sketch or plan showing the changes the applicant wishes to make to restaurant service, as previously governed by existing licenses and/or permits identified in Section 3. All proposed outdoor restaurant service must comply with the requirements of all applicable Governor’s orders, including COVID-19 Orders No. 35 and 50, Massachusetts Department of Public Health orders and guidance documents for social distancing and for food service establishments, and the Governor’s Phased Reopening standards for restaurants. Include the following information, use additional sheets if necessary:

- a. Identification of any portions of the proposed area which are publicly owned and/or controlled by another entity, including roadways, sidewalks, and parking lots.
- b. Location of current table service and food preparation facilities.
- c. Location of proposed expanded table service, including the location of each table, seat, and the distances between seated patrons.
- d. Location and width of walkway corridors, and distance between walkway corridors and seated patrons.
- e. Location of all access and egress points to the business, including abutting businesses, if any.
- f. Location of pedestrian access, including curb cuts/ramps if applicable.
- g. Location of all existing sidewalks and curb cuts.
- h. Location of existing parking, including handicapped spaces, and identification of any parking spaces/loading zones impacted by the proposed changes.
- i. Description of snow/ice removal plans for parking, walkways, and outdoor table service areas, if applying for winter season operation.
- j. Description and location of fencing or other barriers that will be used to separate patrons from non-patrons.

Section 5—Temporary License to Use Public Property

Any proposal to expand outdoor restaurant service onto public property, including portions of a closed roadway, sidewalks or parking spaces, must be accompanied by a signed temporary use license issued by the Town Manager. Applicants requiring such a license must separately obtain such a license from the Town Manager’s office.

Does the applicant propose to use any public property for outdoor restaurant service? _____

If yes, has the applicant attached the license agreement, including the associated detailed sketch or plan? _____

Section 6—Proof of Insurance

Before operating any approved outdoor restaurant seating, the applicant must submit proof that insurance, including liquor liability insurance, covers any area of approved expansion or altered description.

Has the applicant provided proof of insurance coverage for all proposed areas? _____

Section 7—Scope of Approval and Effective Dates

The applicant certifies that the applicant understands and agrees that any approval and use hereunder is temporary and not precedent setting, and expires on the date specified in the approval, but in any event, no later than April 1, 2022. The applicant further certifies that any and all structures, furniture, and/or improvements related to temporary outdoor table service approvals must be immediately removed from the permitted area during any unpermitted period.

The applicant so certifies: _____

(sign name)

(date)

SUMMARY OF ACTIONS

2. Administrative Orders

- f. Recommendation to Zoning Board of Appeals on request for flow neutral bylaw variance for development at 763 Main Street and 24 Scranton Ave.

DRAFT ONLY

[September 27, 2021]

Noreen Stockman
Zoning Board of Appeals
Email: rebecca.frawley@mass.gov

RE: Scranton & Main Comprehensive Permit – Select Board Referral

Dear Ms. Stockman:

This letter shall serve as a referral from the Select Board for the comprehensive permit application filed by the Falmouth Housing Corporation, a private, non-profit, for a 48-unit senior housing rental project for individuals age 62+ located at the site of a former bank building at 763 Main Street and 24 Scranton Avenue in Falmouth, MA. This referral addresses the Flow Neutral Bylaw and the application generally.

The Select Board did not hold a Flow Neutral Bylaw hearing to consider a variance for the proposed project because the authority to make this determination rests with the Zoning Board of Appeals pursuant to MGL 40b. However, the Select Board has considered the matter and offers this referral for the consideration of the Zoning Board of Appeals. The attached memo from Wastewater Superintendent Amy Lowell states that sufficient sewer system capacity currently exists to accommodate the projected additional flow from this property. The estimated Title 5 design flow for the proposed housing is 5,464 gallons per day. With the addition of the flow for this project, the projected average annual flow of the Wastewater System, inclusive of Flow Neutral Bylaw variances granted to date, will increase from 79.8% to 80.3% of permitted system capacity. The Health Agent has advised that a septic system for 48 bedrooms can be sited on the parcel. The Select Board thus finds that the proposed project is eligible for a variance under Section 180-55 of the Town code. The Select Board further notes that affordable housing is one of the priority areas for waivers under the guidelines this Board has adopted for evaluation of Flow Neutral Bylaw variance applications.

The Select Board has been briefed on the merits of this affordable rental housing by the applicant and Town staff. It is our view that this is an ideal location for affordable rental housing for individuals aged 62+. The Local Comprehensive Plan (LCP) calls for “housing for all” with greater infill residential density where appropriate primarily through redevelopment. The subject property is a redevelopment of the former Cape Cod 5 Bank located downtown directly across from the Senior Center and in close proximity to Fire Department Headquarters and the Police Station. It is less than a mile from a grocery store, pharmacy, library, beach and the Marine Park and is accessible to public transportation. The property is located within the sewer service area. The zoning for this property is Business Redevelopment along Main Street and Business 2 on Scranton Ave. The Business Redevelopment District encourages mixed use and the developer included retail space on the first floor.

All 48 units will be deed restricted affordable. The income range for the units is broken down by category as follows (AMI=Area Median Income):

	30% AMI	50% AMI	60% AMI	TOTAL
Studio	1	1	1	3
1-Bedroom	8	8	29	45

The Town's housing needs, as identified in the 2018 Housing Production Plan (HPP), call for 85% of new affordable units to be rental and 15% to be home-ownership. The Falmouth HPP identifies an unmet need of 469 rental units for individuals over the age of 61 specifically. This proposed housing addresses a particularly acute need for renters at 30% to 60% of Area Median Income. The Town has generated very few units at this lower end of the income scale in recent years. The developer, Falmouth Housing Corporation, has a track record of constructing quality rental housing and, perhaps more importantly, managing its properties in a manner that assures they remain an asset to the community over the long term.

The recent escalation of real estate prices on Cape Cod has exacerbated what was already an acute need for housing that is affordable to individuals and families at and below area median income. Increasing the production of deed restricted affordable housing is a top priority for the Select Board. For all of these reasons, the Select Board supports this application as submitted and we respectfully encourage the Zoning Board of Appeals to approve the comprehensive permit without any reduction to the number of units.

Sincerely,

Julian M. Suso
Town Manager

Per vote of the Select Board _____ (date)

ATTACHMENTS:

Wastewater Superintendent Memo 09/21/2021

CC: Linda Clark, Falmouth Housing Corporation
Select Board

Diane Davidson

From: Scott McGann
Sent: Friday, September 24, 2021 4:27 PM
To: Peter Johnson-Staub
Subject: Main/ Scranton Ave referral - FNB

In 2018, the BoH voted a positive referral for the previous proposal for that site which was much larger than the current proposal. Looking at the plot plan provided, there appears to be sufficient room on the lot to support a Title 5 septic system for the proposed 5,464 gallons per day. The footprint for a suitable sized septic system would be roughly 7,500 square feet (such as 75'x100' or 50'x100') which could fit in multiple locations on that lot.

Therefore, I would give a positive referral that a Title 5 septic system could be sited on that lot based on the plot plan provided in the proposal.

Scott McGann R.S.
Director/ Agent
Falmouth Health Department
59 Town Hall Square
Falmouth, MA 02540
508-495-7485
scott.mcgann@falmouthma.gov



TOWN of FALMOUTH

DEPARTMENT OF PUBLIC WORKS, WASTEWATER DIVISION
416 GIFFORD STREET, FALMOUTH, MASSACHUSETTS 02540
TELEPHONE (508) 457-2543

AMY LOWELL
WASTEWATER SUPERINTENDENT

Date: September 21, 2021

To: Board of Selectmen, Town Manager

cc: Falmouth Health Department, Falmouth Zoning Board of Appeals

Re: Flow Neutral Bylaw Variance Request – 763 Main Street and 24 Scranton Ave –
Falmouth Housing Authority

I received a referral under the Flow Neutral Bylaw regarding proposed redevelopment of the above two lots. The proposed redevelopment is within an existing sewer service area and the parcels abut an existing gravity sewer main on Scranton Avenue.

A letter from Michael McGrath dated June 25, 2021 was included in the Zoning Board of Appeals' package regarding this redevelopment. The letter states that the Title 5 design flow for the previous uses on these parcels (bank with a floor area of 3,875 square feet and a 29 room motel) was $291 + 3190 = 3,481$ gallons per day. The letter also states that the Title 5 design flow for the proposed uses on these parcels (2,450 square feet of commercial space and a 40B development with 48 bedrooms) would be $184 + 5280 = 5,464$ gallons per day, an increase of 1,983 gallons per day. Because this is a more than 10% increase in Title 5 design flow, this redevelopment requires a flow neutral bylaw variance. A flow neutral bylaw variance was granted in June of 2018 for a previously proposed project on this site; that flow allocation was deleted from wastewater system capacity calculations when that project was withdrawn.

A precondition for the Select Board (or the ZBA, in the case of a 40B project) to grant a variance to the flow constraints of the Flow Neutral Bylaw is that "Sufficient capacity exists...as determined by the Wastewater Superintendent."

The following is a summary of wastewater system capacity, which is limited by the groundwater discharge permit for the Wastewater Treatment Facility (WWTF):

Permitted Average Annual Discharge Flow (gallons per day):	710,000
Projected Average Annual Flow, With Variances Granted To-Date (gpd):	567,000
Projected Average Annual Flow as % of Permitted Flow	79.8%

[In the last flow-neutral bylaw memo I issued, I rounded this to the nearest percent (i.e., to 80%). In order to show the effect of flows that are less than one percent of current flow, I will in the

future round to the nearest tenth of a percent.] This project, if granted a variance, is estimated to bring the total projected average annual flow from the wastewater system to 80.3% of permitted average annual flow. Therefore, sufficient sewer system capacity currently exists to accommodate the projected additional flow from this property.

When the *actual* average annual flow to the WWTF reaches 80% of permitted flow, which is expected to occur in the next year or two (when Town activity returns to pre-covid levels and when all of the projects granted variances have been completed), the WWTF's discharge permit requires the Town to provide a plan to the Department of Environmental Protection for how the Town will continue to meet its permit requirements. The Targeted Watershed Management Plan for Great Pond, currently in preparation, will include a plan for expanded discharge capacity. If that plan is not approved or implemented as envisioned, redevelopment in sewer areas could be limited by sewer system discharge capacity.

SUMMARY OF ACTIONS

2. Administrative Orders

- g. Authorization for a proposed letter from the Solid Waste Advisory Committee to Cape Cod Commission on proposed Bourne landfill expansion

To: Cape Cod Commission Members

From Falmouth Solid Waste Advisory Committee

Date: September 24, 2021

Subject: Letter of Support for the Town of Bourne Integrated Waste Management Facility's Application for the Phase 7, Phase 8 and Phase 9 Landfill Expansion Site Master Plan

Dear Members of the Cape Cod Commission:

The Solid Waste Advisory Committee, a seven-member Select Board-appointed Committee in the Town of Falmouth, submits this letter in support for the Town of Bourne Integrated Waste Management Facility's Application for the Phase 7, Phase 8 and Phase 9 Landfill Expansion Site Master Plan.

Committee members reviewed the November 13, 2020 Single Supplemental Environmental Impact Report, the May 17, 2021 Development of Regional Impact application and 2021 Technical Memos on Waste Diversion and Out-of-State Disposal prepared for the Commission. Members also read several letters addressed to the Commission requesting that you not approve the application.

Based on review and discussion at our September 7, 2021 monthly meeting. Our members voted 5-2 to support the application and submit a letter in support.

The committee majority believes that operation of a well built and managed landfill in easy reach of Falmouth and other Cape and Island communities is a valuable and necessary element of our communities' waste management future. A number of letter writers, some representing organizations, and two of our members believe that the expansion request should be denied because allowing it will perpetuate our throwaway society. We sympathize with this view. We as a committee are working with a Department of Public Works, the Select Board and the community to reduce our waste tonnage. We are increasing our efforts to initiate and support efforts to reduce food waste and improperly disposed recyclables and redeemable containers in the waste stream. But even with full compliance one day, in accordance with your study, that will only reduce our waste stream for landfilling by roughly 30 percent.

Letter writers also assert that all landfills leak. Further, they state that no landfills should be constructed over the Cape's sole-source aquifer. The "all landfills leak" assertion may have been true for landfills constructed in the 1960s and before, but it is not true for landfills constructed in recent years, including the current Bourne Landfill operation. As summarized in the impact report, the Bourne portion of the aquifer has been well studied, is well understood and is actively monitored. The active landfill is monitored and is not leaking. There is impacted groundwater nearby, but this has been found to be associated with a former dump site. In the small portion of the aquifer proximate to and downgradient from the IWMF, there are no active

public or private drinking water wells Town of Bourne. Furthermore, the Town of Bourne has established a bylaw prohibiting establishment of such wells in that area.

Our committee recognizes that expanding the Bourne landfill does not solve all our Falmouth and our fellow communities' solid waste management needs now or in the future. We do believe that to the greatest extent possible, we should work to address this challenge with local solutions, not just rely on exporting the challenge for landfilling in distant states, as the Commission's Task 4 Report describes.

In closing, The Falmouth Solid Waste Advisory Committee respectfully requests that the Commission members vote to approve the Town of Bourne Integrated Waste Management Facility's Application for the Phase 7, Phase 8 and Phase 9 Landfill Expansion Site Master Plan.

Sincerely,

Alan Robinson

Chair, Solid Waste Advisory Committee

DRAFT

PUBLIC HEARINGS

1. Vote to adopt Stormwater Management Rules and Regulations, continued from 8/9/21, 8/30/21 (15 minutes)

TOWN OF FALMOUTH

NOTICE OF PUBLIC HEARING

Stormwater Management Rules and Regulations

The Falmouth Select Board, under the authority of the Falmouth Home Rule Charter section C3-7 Subsection H of the Code of the Town of Falmouth, will hold a public hearing to establish and adopt Stormwater Management Rules and Regulations for the Town of Falmouth. The hearing will be held on Monday, August 9, 2021 at 7:30 p.m. in the Select Board Meeting Room, Town Hall, 59 Town Hall Square, Falmouth, MA.

The draft proposed regulations related to the NPDES Permit with EPA and DEP, revision date June 21, 2021, can be accessed for viewing on the Engineering page of the Town of Falmouth website at <https://www.falmouthma.gov/1249/Stormwater-Regulations> or at the Town Clerk's office during regular business hours.

Per Order of the Falmouth Select Board

Publication date: Friday, July 16, 2021; Falmouth Enterprise

Account #: 2056

STORMWATER MANAGEMENT RULES AND REGULATIONS

Falmouth Select Board

Adopted: [REDACTED] 2021

ARTICLE I – GENERAL

1.0 Purpose

The purpose of these rules and regulations is to establish Stormwater Management Rules and Regulations for the **Town of Falmouth.**

2.0 Authority

The Falmouth Select Board, under the authority of the Falmouth Home Rule Charter section C3-7 Subsection H of the Code of the Town of Falmouth, and after holding a duly called Public Hearing on _____, 2021 adopts these Stormwater Management Rules and Regulations.

3.0 Definitions

3.1. For the purposes of these rules and regulations, the following shall mean:

- (1) **ABUTTER:** The owner(s) of land abutting the site on which the activity occurs.
- (2) **AGRICULTURAL USE:** The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act, M.G.L. c. 131, § 40, and its implementing regulations.
- (3) **APPLICANT:** Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth of Massachusetts or the federal government to the extent permitted by law requesting a Stormwater Management Permit for proposed land-disturbance activity.
- (4) **ASSESSOR:** Town of Falmouth Assessor's office and/or Director of Assessing.
- (5) **BEST MANAGEMENT PRACTICE (BMP):** An activity, procedure, restraint, or structural improvement that helps reduce the quantity or improve the quality of stormwater runoff.
- (6) **CERTIFICATE OF COMPLETION:** Document issued by the Department of Public Works upon receipt of a final inspection report and acknowledgement that all conditions of the Stormwater Management Permit have been satisfactorily completed.

- (7) **CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CPESC):** A certified specialist in soil erosion and sediment control. This certification program, sponsored by the Soil and Water Conservation Society in cooperation with the American Society of Agronomy, provides the public with evidence of professional qualifications.
- (8) **CERTIFIED VERNAL POOLS:** Temporary bodies of freshwater that provide critical habitat for a number of vertebrate and invertebrate wildlife species, certified by the Massachusetts Natural Heritage and Endangered Species Program (NHESP).
- (9) **CLEARING:** Any activity that removes vegetative surface cover.
- (10) **CLEAN WATER ACT:** The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.
- (11) **CONSTRUCTION WASTE AND MATERIALS:** Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.
- (12) **DISCHARGE OF POLLUTANTS:** The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth of Massachusetts from any source.
- (13) **DISTURBANCE OF LAND:** Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material.
- (14) **ENFORCEMENT ORDER:** A written order issued by the Department of Public Works or Reviewing Agent to enforce the provisions of these rules and regulations.
- (15) **EROSION:** The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.
- (16) **EROSION AND SEDIMENT CONTROL PLAN:** A document containing narrative, drawings, and details developed by a registered professional engineer (P.E.) or CPESC, which includes BMPs, or equivalent measures designed to control surface runoff, erosion, and sedimentation during pre-construction and construction-related land disturbance activities.
- (17) **ESTIMATED HABITAT OF RARE WILDLIFE:** Habitats delineated by the NHESP for state-protected rare wildlife and certified vernal pools for use with

the Wetlands Protection Act Regulations (310 CMR 10.00) and the Forest Cutting Practices Act Regulations (304 CMR 11.00).

- (18) GRADING: Changing the level or shape of the ground surface.
- (19) GROUNDWATER: Water beneath the surface of the ground including confined or unconfined aquifers.
- (20) GRUBBING: The act of clearing land surface by digging up roots and stumps.
- (21) ILLICIT CONNECTION: A surface or subsurface drain or conveyance, which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of these rules and regulations.
- (22) ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Section 3.0 of Article II of these rules and regulations. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or a Surface Water Discharge Permit, or resulting from firefighting activities exempted pursuant to Section 3.0 of Article II of these rules and regulations.
- (23) IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents or delays water from infiltrating the underlying soil, or causes water to runoff in greater quantities or at an increased rate of flow. Impervious surfaces include, but are not limited to, roads, driveways, parking lots, sidewalks, rooftops, patios, storage areas, concrete or asphalt paving, and gravel/dense-graded crushed stone areas.
- (24) LOW IMPACT DEVELOPMENT (LID): An approach to land development design and stormwater management that attempts to mimic the natural hydrology of the site by avoiding, reducing, and mitigating impacts with natural, non-structural and structural measures.
- (25) MASSACHUSETTS ENDANGERED SPECIES ACT (MESA): (G.L. c. 131A) and its implementing regulations at (321 CMR 10.00). This Act prohibits the "taking" of any rare plant or animal species listed as "Endangered", "Threatened", or of "Special Concern".
- (26) MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS (the STANDARDS): The Stormwater Management Standards promulgated by the Massachusetts Department of Environmental Protection (DEP) under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § 40 and

Massachusetts Clean Waters Act G.L. c. 21, §. 23-56, and further described in the Wetlands Protection Act Regulations (310 CMR 10.00) and the 401 Water Quality Certification Regulations (314 CMR 9.00). The Stormwater Management Standards address stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and to control the quantity of runoff from a site.

- (27) **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM:** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Falmouth.
- (28) **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT:** A permit issued by the United States Environmental Protection Agency (EPA) or jointly with the Commonwealth of Massachusetts that authorizes the discharge of stormwater to waters of the United States.
- (29) **NEW DEVELOPMENT:** Any construction, land alteration, or addition of impervious surfaces on previously undeveloped sites resulting in total disturbance of land equal to or greater than 1 acre (or activities that are part of a larger common plan of development disturbing greater than 1 acre) that does not meet the definition of Redevelopment.
- (30) **NATURAL HERITAGE AND ENDANGERED SPECIES PROGRAM (NHESP):** The Commonwealth of Massachusetts' program for implementing MESA requirements.
- (31) **NON-STORMWATER DISCHARGE:** Discharge to the municipal storm drain system not composed entirely of stormwater.
- (32) **OPERATION AND MAINTENANCE PLAN:** A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.
- (33) **OUTFALL:** The point where stormwater flows out from a point source which is a discernible, confined and discrete conveyance into waters of the Commonwealth of Massachusetts.
- (34) **OWNER:** A person with a legal or equitable interest in property.

- (35) **PERSON:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth of Massachusetts or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.
- (36) **POINT SOURCE:** Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which stormwater is or may be discharged.
- (37) **POLLUTANT:** Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or non-point source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth of Massachusetts. Pollutants shall include, but are not limited to:
- (a) Chemicals, paints, varnishes, and solvents;
 - (b) Oil and other automotive fluids;
 - (c) Non-hazardous liquid and solid wastes and yard wastes;
 - (d) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations and floatables;
 - (e) Pesticides, herbicides, and fertilizers;
 - (f) Hazardous materials and wastes, sewage, fecal coliform and pathogens;
 - (g) Dissolved and particulate metals;
 - (h) Animal wastes;
 - (i) Rock, sand, salt, and soils;
 - (j) Concrete truck washout;
 - (k) Sanitary wastes;
 - (l) Construction wastes, demolition debris, and discarded building materials; and/or
 - (m) Noxious or offensive matter of any kind.
- (38) **PRE-CONSTRUCTION:** All activity in preparation for construction.
- (39) **PRIORITY HABITAT OF RARE SPECIES:** Habitats delineated for rare plant and animal populations protected pursuant to the MESA and its regulations.
- (40) **PROCESS WASTEWATER:** Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.
- (41) **PROFESSIONAL ENGINEER (P.E.):** A registered Professional Engineer within the Commonwealth of Massachusetts in good standing.
- (42) **RECHARGE:** The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through soil.

- (43) REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites. Any construction, land alteration, or improvement of impervious surfaces resulting in total disturbance of land equal to or greater than 1 acre (or activities that are part of a larger common plan of redevelopment disturbing greater than 1 acre) that does not meet the definition of New Development.
- (44) REVIEWING AGENT: The Department of Public Works or person designated by the Department of Public Works as responsible for enforcing these rules and regulations.
- (45) RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.
- (46) SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.
- (47) SEDIMENTATION: The process or act of deposition of sediment.
- (48) SITE: Any lot, parcel of land, or area of property where land-disturbing activities are, were, or will be performed.
- (49) SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.
- (50) SOIL: Any earth, sand, rock, gravel, or similar material.
- (51) STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or minimize erosion.
- (52) STORMWATER: Stormwater, snow melt, and surface water runoff and drainage.
- (53) STORMWATER MANAGEMENT PERMIT: The written approval granted by the Department of Public Works to undertake a construction activity pursuant to a Stormwater Management Permit Application.
- (54) STORMWATER MANAGEMENT PLAN: A plan required as part of the application for a Stormwater Management Permit.
- (55) STRIP: Any activity that removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.
- (56) SURFACE WATER DISCHARGE PERMIT. A permit issued by the Department of Environmental Protection pursuant to 314 CMR 3.00 that

authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.

- (57) TOXIC OR HAZARDOUS MATERIAL OR WASTE: Any material, which because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic or organic chemical, petroleum product, heavy metal, radioactive, biological, or infectious waste, acid and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.
- (58) TOTAL SUSPENDED SOLIDS (TSS): Sediment being carried in stormwater.
- (59) WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.
- (60) WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.
- (61) WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth of Massachusetts, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwaters, and vernal pools.
- (62) WETLAND RESOURCE AREAS: Areas specified in the Massachusetts Wetlands Protection Act Regulations, 310 CMR 10.00, as amended, and in the Town of Falmouth Wetland Bylaw, as amended.

4.0 Administration

- 4.1. The Select Board authorizes the Department of Public Works to administer, implement and enforce these rules regulations. Any powers granted to or duties may be delegated in writing by the Department of Public Works to employees or agents of the Planning Board, Board of Health, Conservation Commission, and/or other Town Department, hereby known as the "Reviewing Agent".
- 4.2. The decisions or orders of the Department of Public Works or Reviewing Agent shall be final; provided, however, that the Applicant may apply for administrative review in the following manner. An Applicant who alleges that a decision or order is not authorized by these regulations, is based on an error of law, is unwarranted by facts in the record or is not supported by substantial evidence, may, within 20 days of the decision or order, file a written request for review with the Select Board stating the

grounds of the administrative review. The Select Board shall acknowledge receipt of the request and appoint a hearing officer to conduct the review. The hearing officer is authorized to hear testimony, review written and documentary evidence, conduct site visits and take other appropriate action to prepare and submit a written recommendation to the Select Board. Thereafter, at a public meeting of the board, the Select Board shall consider the matter and the hearing officer's recommendation and affirm, vacate, amend or modify the decision or order as it deems appropriate. The Applicant may thereafter seek any appeal authorized by law.

- 4.3. The Department of Public Works shall not have jurisdiction over stormwater issues within areas where the Conservation Commission has jurisdiction under the Wetlands Protection Act and/or any local regulations.

5.0 Amendments

The Select Board may adopt, and periodically amend, these Stormwater Management Rules and Regulations by majority vote of the Select Board, after conducting a minimum of one (1) advertised public hearing to receive comments on any proposed revisions. The hearings shall be duly advertised in a paper of general circulation in the Town of Falmouth no less than fourteen (14) days prior to the date of the public hearing.

6.0 Orders and Suspension

- 6.1. The Department of Public Works or Reviewing Agent may issue a written order to enforce the provisions of these Rules and Regulations, which may include:
 - (1) Cease and desist from unlawful discharges, practices, operations, construction or land disturbing activity until there is compliance with these Rules and Regulations;
 - (2) Elimination of illicit connections or discharges to the municipal storm drain system;
 - (3) Repair, maintain, or replace the stormwater management system or portions thereof in accordance with the operation and maintenance plan;
 - (4) Maintain, install, or perform additional erosion and sediment control measures;
 - (5) Perform monitoring, analyses, and reporting;
 - (6) Remediate adverse impact resulting directly or indirectly from malfunction of the stormwater management system or erosion and sediment control system; and/or
 - (7) Remediate contamination in connection therewith.

- 6.2. The Department of Public Works may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Department of Public Works may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

7.0 Enforcement

- 7.1. The Select Board, or an authorized agent of the Select Board, shall enforce these rules and regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.
- 7.2. If the Select Board determines that abatement or remediation of adverse impacts is required, the Enforcement Order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Falmouth may, at its option, undertake such work, and all costs incurred by the Town shall be charged to the violator, to be recouped through all available means, including the placement of liens on the property.
- 7.3. Within thirty (30) days after completing all measures necessary to abate the violation, the violator and the property owner shall be notified of the costs incurred by the Town of Falmouth, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Select Board within thirty (30) days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Select Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Ch. 59, § 57, after the thirty-first day at which the costs first become due.
- 7.4. Civil Relief. If a person violates the provisions of these rules and regulations, permit, notices, or order issued thereunder, the Select Board may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- 7.5. Criminal Penalty. Any person who violates any provision of these rules and regulations, order, or permit issued thereunder, shall be punished by a fine of not more than \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

7.6. **Non-Criminal Disposition.** As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in G.L. Ch. 40, section 21D, in which case the Select Board or Reviewing Agent shall be the Authorized Enforcing Agent. The penalty for the 1st violation shall be \$100. The penalty for the 2nd violation shall be \$200. The penalty for the 3rd and subsequent violations shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

8.0 Entry to Perform Duties under these Rules and Regulations

To the extent permitted by Massachusetts law, or if authorized by the owner or other party in control of the property, the Town of Falmouth, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties and may make or cause to be made such examinations, surveys, or sampling as the Department of Public Works or Reviewing Agent deems reasonably necessary.

9.0 Remedies Not Exclusive

The remedies listed in these rules and regulations are not exclusive of any other remedies available under any applicable federal, state or local law.

10.0 Severability

If any provision, paragraph, sentence, or clause of these rules and regulations shall be held invalid for any reason, all other provisions shall continue in full force and effect.

ARTICLE II – ILLICIT DISCHARGE CONTROL

1.0 Purpose and Objectives

1.1. The United States Environmental Protection Agency has identified land disturbance and polluted stormwater runoff as major sources of water pollution. Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of the Town of Falmouth's water bodies and groundwater resources and to safeguard the public health, safety, and welfare and the natural resources of the Town. Increased volumes of stormwater and contaminated stormwater runoff are major causes:

- (1) Impairment of water quality and reduced flow in lakes, ponds, streams, rivers, wetlands, and groundwater;
- (2) Contamination of drinking water supplies;
- (3) Alteration or destruction of aquatic and wildlife habitat; and

(4) Flooding.

1.2. The purpose of this Article is to prohibit and eliminate illicit connections and discharges; safeguard the public health, safety, environment, and general welfare; protect aquatic resources and wildlife habitat; and protect the quality and health of water resources.

1.3. This Article seeks to meet that purpose through the following objectives:

- (1) To prevent pollutants from entering the Town of Falmouth's municipal storm drain system;
- (2) To prohibit illicit connections and unauthorized discharges to the municipal storm drain system;
- (3) To require the removal of all such illicit connections;
- (4) To comply with state and federal statutes and regulations relating to stormwater discharges; and
- (5) To establish the legal authority to ensure compliance with the provisions of this Article through inspection, monitoring, and enforcement.

2.0 Applicability

2.1. This Article shall apply to the following prohibited activities entering the municipal storm drainage system:

- (1) **Illicit Discharges.** No person shall dump, discharge, cause, or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, into a watercourse, or into the waters of the Commonwealth of Massachusetts.
- (2) **Illicit Connections.** No person shall construct, use, allow, maintain, or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation, or custom at the time of connection.
- (3) **Obstruction of Municipal Storm Drain System.** No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Department of Public Works or Reviewing Agent.

3.0 Exemptions

3.1. The following activities are exempt from requirements under this Article:

- (1) Discharge or flow resulting from firefighting activities;
- (2) The following non-stormwater discharges or flows are exempt from this Article, provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:
 - (a) Waterline flushing;
 - (b) Flow from potable water sources;
 - (c) Springs;
 - (d) Natural flow from riparian habitats and wetlands;
 - (e) Diverted stream flow;
 - (f) Rising groundwater;
 - (g) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;
 - (h) Discharge from landscape irrigation or lawn watering;
 - (i) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
 - (j) Water from individual residential car washing;
 - (k) Discharge from dechlorinated swimming pool water (less than one part per million chlorine) provided test data is submitted to the Town substantiating that the water meets the one part per million standard, and the pool is drained in such a way as not to cause a nuisance or public safety issue and complies with all applicable Town Bylaws;
 - (l) Discharge from street sweeping;
 - (m) Dye testing, provided verbal notification is given to the Department of Public Works prior to the time of the test;
 - (n) Non-stormwater discharge permitted under an NPDES permit or a Surface Water Discharge Permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency or the Department of Environmental Protection, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations;
 - (o) Discharge for which advance written approval is received from the Board of Health or Conservation Commission as necessary to protect public health, safety, welfare or the environment; and
- (3) Discharge or flow that results from exigent conditions and occurs during a State of Emergency declared by any agency of the federal or state government, or by the Falmouth Town Manager or Select Board.

4.0 Orders and Suspension

4.1. The Department of Public Works or Reviewing Agent may issue a written order to enforce the provisions of this Article which may include:

- (1) Elimination of illicit connections or discharges to the municipal storm drain system;
- (2) Performance of monitoring, analyses, and reporting;
- (3) That unlawful discharges, practices, or operations shall cease and desist; and
- (4) Remediation of contamination in connection therewith.

4.2. The Department of Public Works may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Department of Public Works may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

5.0 Notification of Spills

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth of Massachusetts, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Falmouth Department of Public Works, Fire Department, and Police Department.

ARTICLE III – CONSTRUCTION AND POST-CONSTRUCTION STORMWATER MANAGEMENT

1.0 Purpose and Objectives

1.1. The purpose of this Article is to establish minimum stormwater management requirements and procedures in order to minimize damage to public and private property and infrastructure; safeguard the public health, safety, environment and general welfare; protect aquatic resources and wildlife habitat; protect the quality and health of water resources; conserve groundwater supplies; and foster climate change resiliency.

1.2. This Article seeks to meet that purpose through the following objectives:

- (1) Establish the Department of Public Works as the authority to ensure compliance with the provisions of this Article through a review process, inspections, monitoring, and enforcement;
- (2) Establish administrative procedures for: the submission, review, and approval or disapproval of Stormwater Management Permits; the inspection of approved active projects; and post construction monitoring;
- (3) Establish decision-making processes surrounding new development and redevelopment that protect watershed integrity and preserves and/or restores the health of local water resources such as lakes, ponds, streams, rivers, wetlands, and groundwater; and
- (4) Ensure compliance with requirements of the NPDES General Permit for Stormwater Discharges from MS4 and other applicable state and federal mandates.

2.0 Applicability

- 2.1. No person may undertake a construction activity, including clearing, grading, or excavation that results in a land disturbance to an area equal to or greater than one (1) acre of land or will disturb less than one acres of land but is part of a larger common plan of development or sale that will ultimately disturb an area equal to or greater than one (1) acre of land within the Town of Falmouth without first obtaining a Stormwater Management Permit issued by the Department of Public Works.
- 2.2. The Department of Public Works shall not have jurisdiction over stormwater issues within areas where the Conservation Commission has jurisdiction under the Wetlands Protection Act and/or any local regulations.
- 2.3. The Department of Public Works or Reviewing Agent shall take any of the following actions as a result of an application for a Stormwater Management Permit as specifically defined within the Stormwater Management Rules and Regulations promulgated as a result of this Article: Approval, Approval with Conditions, or Disapproval.

3.0 Exemptions

- 3.1. The following activities are exempt from requirements under this Article:
 - (1) Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04, as amended;
 - (2) Maintenance of existing landscaping, gardens, or lawn areas associated with a single-family dwelling;

- (3) The construction of fencing that will not substantially alter existing terrain or drainage patterns;
- (4) Normal maintenance and improvements of the Town of Falmouth publicly owned roadways and associated drainage infrastructure;
- (5) Emergency repairs to any stormwater management system or feature that poses a threat to public health or safety, or as deemed necessary by a Town department or board; and
- (6) Projects that are wholly subject to jurisdiction under the Wetlands Protection Act and/or the Falmouth Wetlands Protection Bylaw and demonstrate compliance with the Massachusetts Stormwater Management Policy as reflected in an Order of Conditions issued by the Conservation Commission

4.0 Permit Procedures and Requirements

4.1. The Building Inspector shall not issue a Building Permit without first confirming that a Stormwater Management Permit has been obtained or is otherwise not required. The Stormwater Management Permit process shall be incorporated into existing permits to ensure efficiency of the Town permitting process for the Town and Applicant. The following Town boards or commissions shall serve as the Permit Granting Authority (PGA) as described below and their respective permits may serve as the Stormwater Management Permit upon finding the Project has demonstrated compliance with these rules and regulations:

- (1) Conservation Commission: An Order of Conditions issued by the Falmouth Conservation Commission shall serve as the Stormwater Management Permit, provided the project demonstrates compliance with these rules and regulations and the Order includes a condition as such.
- (2) Department of Public Works: All other applications, including Site Plan Applications, Subdivision Plan Applications, or Special Permit Applications that meet the applicability criteria of this Article shall also be submitted to the Department of Public Works for review for compliance with these rules and regulations.

4.2. Filing Application.

- (1) The site owner or his/her agent shall file with the Department of Public Works, three (3) hard copies and an electronic version of a completed Stormwater Management Permit Application package as outlined below. Permit issuance is required prior to any applicable site-altering activity. While the applicant can be a representative, the permittee must be the owner of the site.
- (2) Proposed projects shall submit the following:

- (a) Completed **Application Form** with original signatures of all owners;
- (b) List of abutters, certified by the Assessor's Office;
- (c) Three (3) copies of the Stormwater Management Plan as specified in Section 5.0 of this Article of these Rules and Regulations;
- (d) Three (3) copies of the Erosion Control Plan as specified in Section 6.0 of this Article of these Rules and Regulations;
- (e) Three (3) copies of the Operation and Maintenance Plan as specified in Section 7.0 of this Article of these Rules and Regulations;
- (f) An acknowledgement of the Site Inspections and Final Reports requirements as specified in Section 8.0 of this Article of these Rules and Regulations; and
- (g) Payment of any application and review fees.

4.3. Fee Structure. The Department of Public Works shall obtain with each submission an Application Fee payable to the Town of Falmouth. Applicants shall pay review fees as listed below to cover any expenses connected with the review of the Stormwater Management Permit Application before the review process commences. The Department of Public Works may, at the applicant's expense, retain a registered P.E. or other professional consultant to advise the Department of Public Works or Reviewing Agent on any or all aspects of these plans. **NOTE, FEES CAN BE WHATEVER WE WANT**

- (1) Application fee for single family residential or duplex (1+ acres)\$100
- (2) Application fee for projects from 1 to 2 acres\$200
- (3) Application fee for projects from 3 to 10 acres\$300
- (4) Application fee for projects greater than 10 acres\$500
- (5) Application fee for a resubmittal / amendment.....\$100
- (6) Fees for a professional peer review Assessed on a case by case basis

4.4. Information Requests. The applicant shall submit all additional information requested by the Department of Public Works or Reviewing Agent to issue a decision on the application.

4.5. Actions. The Department of Public Works or Reviewing Agent's action, rendered in writing, shall consist of either:

- (1) "Approval" of the Stormwater Management Permit Application based upon determination that the proposed Stormwater Management Plan meets the Standards and will adequately protect the water resources of the community and is in compliance with the requirements set forth in these rules and regulations;

- (2) “Approval with Conditions” of the Stormwater Management Permit Application subject to any conditions, modifications, or restrictions that will ensure the proposed Stormwater Management Plan meets the Standards and will adequately protect the water resources of the community and is in compliance with the requirements set forth in these rules and regulations;
- (3) “Disapproval” of the Stormwater Management Permit Application based upon determination that the proposed Stormwater Management Plan, as submitted, does not meet the Standards or will not adequately protect the water resources of the community and is not in compliance with the requirements set forth in these rules and regulations.

4.6. Appeals. The applicant may appeal the decision, within thirty (30) consecutive calendar days, to the Superior Court, in accordance with M.G.L. Ch. 249 §4.

4.7. Access Permission. To the extent permitted by Massachusetts law, the Department of Public Works, Reviewing Agent, or their designee and third-party inspector may enter upon privately owned property for the purpose of performing their duties under these rules and regulations and may make or cause to be made such examinations, surveys or sampling as the Reviewing Agent deems reasonably necessary to determine compliance with the Stormwater Management Permit.

4.8. Plan Changes. The permittee must notify the Department of Public Works in writing of any drainage change or alteration in the system authorized in the Stormwater Management Permit before any change or alteration is made. If the Department of Public Works or Reviewing Agent determines that the change or alteration is significant, based on the Standards, the requirements set forth in these rules and regulations, or accepted construction practices, the Department of Public Works or Reviewing Agent may require that an amended application be filed. If any change or alteration from the Stormwater Management Permit occurs during any land disturbing activities, the Department of Public Works or Reviewing Agent may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

5.0 Stormwater Management Permit Application

5.1. The Stormwater Management Permit Application shall consist of a submittal of a Stormwater Management Plan to the Department of Public Works. This Stormwater Management Plan shall contain sufficient information for the Department of Public Works, Reviewing Agent, or their designee to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The Stormwater Management Plan shall be designed to meet the Standards, as set forth in Section 5.3 of this Article of these Rules and Regulations, and the Massachusetts DEP Stormwater Handbook Volumes 1, 2, and 3, as amended.

5.2. The Stormwater Management Plan shall full describe the project in drawings and narrative. It shall include, as a minimum, the following:

- (1) Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;
- (2) Project narrative containing relevant information related to stormwater requirements;
- (3) Locus map of the site;
- (4) Description of existing and proposed conditions;
- (5) Existing and proposed zoning and land use at the site;
- (6) Existing and proposed easements and utilities at the site;
- (7) Existing and proposed topography (1-foot or 2-foot interval contours with additional spot grades as needed to depict detailed drainage patterns) at the site;
- (8) Existing and proposed hydrology, watershed boundaries, drainage area, and stormwater flow paths;
- (9) Existing and proposed stormwater conveyances, impoundments, and wetlands into which stormwater flows at and adjacent to the site;
- (10) Existing and proposed 100-year flood plain, if applicable;
- (11) Estimated high groundwater elevation (November to April) as determined via completion of representative test pits or other suitable geological investigations in areas to be used for stormwater retention, detention, or infiltration;
- (12) Description of subsurface conditions in areas to be used for stormwater retention, detention, or infiltration;
- (13) Plans, drawings, and descriptions of proposed drainage system and all components including:
 - (a) Locations, cross sections, and profiles of all stormwater conveyances such as drainage swales and their method of stabilization;
 - (b) All measures for the detention, retention, and/or infiltration of stormwater;
 - (c) All measures for the protection of water quality;
 - (d) The structural details and sizing for all components of the proposed drainage systems and stormwater management facilities;
 - (e) Notes on drawings specifying materials to be used, construction specifications, and typical details and cross-sections;
 - (f) Analysis of existing and proposed hydrology with supporting calculations;

- (g) Calculations supporting the estimate of stormwater treatment performance;
 - (h) Calculations supporting the design of infiltration practices, including design infiltration rates, estimated dewatering times, and mounding analyses, where applicable;
- (14) Stormwater runoff shall be calculated using latest Northeast Regional Climate Center (NRCC) extreme precipitation amounts for recurrence intervals (storm events) 2-, 10-, 25-, 50- and 100-year frequencies;
- (15) An Erosion and Sediment Control Plan as detailed in Section 6.0 of this Article of these Rules and Regulations;
- (16) An Operation and Maintenance Plan as detailed in Section 7.0 of this Article of these Rules and Regulations;
- (17) Documents must be stamped and certified by a qualified P.E. registered in Massachusetts; and
- (18) Any other information requested by the Department of Public Works or Reviewing Agent.
- 5.3. Stormwater Management Standards. Projects shall meet the Massachusetts DEP Stormwater Management Standards, as amended, which are as follows: **NOTE, THIS SECTION IS DIRECT FROM THE PERMIT AND CAN'T BE CHANGED.**
- (1) No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of the Commonwealth of Massachusetts.
 - (2) The design of treatment and infiltration practices should follow the guidance in Volume 2 of the Massachusetts Stormwater Handbook, as amended, or other federally or State approved BMP design guidance.
 - (3) Stormwater management systems on new development sites shall be designed to:
 - (a) Not allow new stormwater conveyances to discharge untreated stormwater in accordance with Massachusetts Stormwater Handbook Standard 1;
 - (b) Control peak runoff rates in accordance with Massachusetts Stormwater Handbook Standard 2;
 - (c) Recharge groundwater in accordance with Massachusetts Stormwater Handbook Standard 3;
 - (d) Eliminate or reduce the discharge of pollutants from land uses with higher pollutant loads as defined in the Massachusetts Stormwater Handbook in accordance with Massachusetts Stormwater Handbook Standard 5;

- (e) Protect Zone II or Interim Wellhead Protection Areas of public water supplies in accordance with Massachusetts Stormwater Handbook Standard 6;
 - (f) Implement long term maintenance practices in accordance with Massachusetts Stormwater Handbook Standard 9;
 - (g) Optimize stormwater BMPs for nitrogen and phosphorus removal to the maximum extent practicable; and
 - (h) Require that all stormwater management systems be designed to:
 - i. Retain the volume of runoff equivalent to, or greater than, one (1.0) inch multiplied by the total post-construction impervious surface area on the site AND/OR
 - ii. Remove 90% of the average annual load of Total Suspended Solids (TSS) generated from the total post-construction impervious area AND 60% of the average annual load of Total Phosphorus (TP) generated from the total post-construction impervious surface area on the site. Pollutant removal shall be calculated consistent with EPA Region 1's BMP Performance Extrapolation Tool or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance any federally or state approved BMP design guidance or performance standards (e.g. state stormwater handbooks and design guidance manuals) may be used to calculate BMP performance.
- (4) Stormwater management systems on redevelopment sites shall be designed to:
- (a) Not allow new stormwater conveyances to discharge untreated stormwater in accordance with Massachusetts Stormwater Handbook Standard 1;
 - (b) Control peak runoff rates in accordance with Massachusetts Stormwater Handbook Standard 2;
 - (c) Recharge groundwater in accordance with Massachusetts Stormwater Handbook Standard 3;
 - (d) Meet the pretreatment and structural best management practices requirements of Massachusetts Stormwater Standards 5 and 6;
 - (e) Optimize stormwater BMPs for nitrogen and phosphorus removal to the maximum extent practicable; and
 - (f) Require:
 - i. Retaining the volume of runoff equivalent to, or greater than, 0.80 inch multiplied by the total post-construction impervious surface area on the site AND/OR
 - ii. Removing 80% of the average annual post-construction load of Total Suspended Solids (TSS) generated from the total post-construction impervious area on the site AND 50% of the average annual load of Total Phosphorus (TP) generated from the total post-construction impervious surface area on the site. Pollutant removal shall be calculated consistent with EPA Region 1's BMP Performance Extrapolation Tool or other BMP performance evaluation tool

provided by EPA Region 1 where available. If EPA Region 1 tools do not address the planned or installed BMP performance any federally or state approved BMP design guidance or performance standards (e.g. state stormwater handbooks and design guidance manuals) may be used to calculate BMP performance.

- (5) Stormwater management systems on redevelopment sites may utilize offsite mitigation within the same USGS Hydrologic Unit Code (HUC) 10 as the redevelopment site to meet the equivalent retention or pollutant removal requirements in Section 5.3(4) of this Article of these Rules and Regulations.
- (6) Redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways, (including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving projects) shall improve existing conditions where feasible and are exempt from part Section 5.3(4)(a)-(e) of this Article of these Rules and Regulations. Roadway widening or improvements that increase the amount of impervious area on the redevelopment site by greater than or equal to a single lane width shall meet the above requirements.

6.0 Erosion and Sediment Control Plan

6.1. The Stormwater Management Permit Application shall include submittal of an Erosion and Sediment Control Plan to the Department of Public Works. This Erosion and Sediment Control Plan shall contain sufficient information for the Department of Public Works, Reviewing Agent, or their designee about the nature and purpose of the proposed development, pertinent conditions of the site and adjacent areas, proposed erosion and sedimentation controls, and proposed control for other wastes on construction sites such as demolition debris, litter, and sanitary wastes to ensure they are not discharged to the MS4, drainage system, or waters of the United States or Commonwealth of Massachusetts. The applicant shall submit such material as is necessary to show that the proposed development will comply with the design requirements as follows:

- (1) Minimize total area of disturbance;
- (2) Sequence activities to minimize simultaneous areas of disturbance;
- (3) Minimize soil erosion and control sedimentation during construction, provided that prevention of erosion is preferred over sedimentation control;
- (4) Divert uncontaminated water around disturbed areas;
- (5) Maximize infiltration and groundwater recharge;

- (6) Install, inspect, and maintain all Erosion and Sediment Control measures in accordance with the manufacturer's specifications and good engineering practices;
- (7) Prevent off-site transport of sediment and wastes;
- (8) Protect all storm drain inlets and armor all newly constructed outlets;
- (9) Protect and manage on and off-site material storage areas (overburden and stockpiles of dirt, borrow areas, or other areas used solely by the permitted project are considered a part of the project);
- (10) Comply with applicable federal, state and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control;
- (11) Institute interim and permanent stabilization measures, which shall be instituted on a disturbed area as soon as practicable but no more than fourteen (14) days after construction activity has temporarily or permanently ceased on that portion of the site;
- (12) Properly manage on-site construction waste and materials;
- (13) Stabilize construction site entrances and exits and prevent off-site vehicle tracking of sediments; and
- (14) Ensure that any stormwater BMP (for post-construction stormwater management) installed during construction will be protected from compaction, siltation, and erosion or will be restored or replaced such that the BMP will be capable of functioning as designed in accordance with these rules and regulations.

6.2. The content of the Erosion and Sediment Control Plan shall contain the following information:

- (1) Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing this plan;
- (2) Title, date, north arrow, names of abutters, scale, legend, and locus map;
- (3) Location and description of natural features including:
 - (a) Watercourses and water bodies, wetland resource areas and all floodplain information, including the 100-year flood elevation based upon the most recent Flood Insurance Rate Map, or as calculated by a qualified P.E. for areas not assessed on these maps;

- (b) Existing vegetation including tree lines, canopy layer, shrub layer, and ground cover, and trees with a caliper twelve (12) inches or larger, noting specimen trees and forest communities; and
 - (c) Habitats mapped by the Massachusetts Natural Heritage & Endangered Species Program as Endangered, Threatened or of Special Concern, Estimated Habitats of Rare Wildlife, and Certified Vernal Pools, and Priority Habitats of Rare Species within five hundred (500) feet of any construction activity.
- (4) Lines of existing abutting streets showing drainage and driveway locations and curb cuts, including immediately downstream of the project;
 - (5) Existing soils, volume and nature of imported soil materials;
 - (6) Topographical features including existing and proposed contours at intervals no greater than one (1) feet with spot elevations provided when needed;
 - (7) Surveyed property lines showing distances and monument locations, all existing and proposed easements, rights-of-way, and other encumbrances, the size of the entire parcel, and the delineation and number of square feet of the land area to be disturbed;
 - (8) Drainage patterns and approximate slopes anticipated after major grading activities;
 - (9) Location and details of erosion and sediment control measures with a narrative of the construction sequence/phasing of the project, including both operation and maintenance for structural and non-structural measures, interim grading, and material stockpiling areas;
 - (10) Path and mechanism to divert uncontaminated water around disturbed areas, to the maximum extent practicable;
 - (11) Location and description of and implementation schedule for temporary and permanent seeding, vegetative controls, and other stabilization measures;
 - (12) A description of construction and waste materials expected to be stored on-site. The Plan shall include a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
 - (13) A description of provisions for phasing the project where one acre of area or greater is to be altered or disturbed;
 - (14) A description of how the project owner will inspect the site during the course of construction to monitor the management of stormwater in accordance with

applicable town, state, and federal regulations;

- (15) Plans must be stamped and certified by a qualified P.E. registered in Massachusetts or a CPESC; and
- (16) Such other information as is required by the Department of Public Works or Reviewing Agent.

7.0 Operation and Maintenance Plan

7.1. The Stormwater Management Permit Application shall include a submittal of Operation and Maintenance Plan (O&M Plan) to the Department of Public Works or Reviewing Agent. This O&M Plan shall be designed to ensure compliance with the Stormwater Management Permit, these rules and regulations, and that the Massachusetts Surface Water Quality Standards, 314 CMR 4.00, are met in all seasons and throughout the life of the system. The Department of Public Works or Reviewing Agent shall make the final decision of what maintenance option is appropriate in a given situation. The Department of Public Works, Reviewing Agent, or their designee will consider natural features, proximity of the site to MS4 infrastructure, proximity of the site to waterbodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. The O&M Plan shall remain on file with the Department of Public Works and shall be an ongoing requirement. The O&M Plan shall include:

- (1) The name(s) of the owner(s) of all components of the system;
- (2) Maintenance agreements that specify:
 - (a) The names and addresses of the person(s) responsible for operation and maintenance
 - (b) The person(s) responsible for financing maintenance and emergency repairs.
 - (c) A Maintenance Schedule that includes routine inspection along with routine and non-routine maintenance tasks for each BMP.
 - (d) A list of easements, if applicable, with the purpose and location of each.
 - (e) The signature(s) of the owner(s).
 - (f) Estimated operation and maintenance budget.
 - (g) The responsible party shall:
 - i. Maintain a log of all operation and maintenance activities for the last three years including inspections, repair, replacement, and disposal (the log shall indicate the type of material and the disposal location);
 - ii. Make this log available to the Department of Public Works, Reviewing Agent, or their designee and the Commonwealth of Massachusetts upon request; and

- iii. Allow DEP and the Reviewing Agent or their designee to inspect each BMP to determine whether the responsible party is implementing the Operation and Maintenance Plan.
- (3) Stormwater Management Easement(s).
- (a) Stormwater management easements shall be provided by the property owner(s) as necessary for:
 - i. Access for facility inspections and maintenance;
 - ii. Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event; and
 - iii. Direct maintenance access by heavy equipment to structures requiring regular cleanout.
 - (b) The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
 - (c) Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Department of Public Works or Reviewing Agent.
 - (d) Easements shall be recorded by the Owner with the Barnstable County Registry of Deeds prior to issuance of a Certificate of Completion.
- (4) Changes to Operation and Maintenance Plans.
- (a) The owner(s) of the stormwater management system must notify the Department of Public Works of changes in ownership or assignment of financial responsibility.
 - (b) The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of these rules and regulations by mutual agreement of the Department of Public Works or Reviewing Agent, and the responsible parties. Amendments must be in writing and signed by all responsible parties. Responsible parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility during future years.
- 7.2. Stormwater infrastructure shall be privately owned, inspected and maintained per the Operation and Maintenance procedures approved for the project. Inspection and maintenance logs shall be provided to the Department of Public Works on a yearly basis by final day in June for the Town to use in preparation of its annual report to the US EPA as part of the NPDES MS4 Permit requirements.
- 7.3. Landowner shall provide the Department of Public Works an annual report prepared and stamped by a Massachusetts Licensed Professional Engineer documenting and certifying performance of required maintenance and providing an assessment of overall system performance.

- 7.4. The O&M Plan shall include procedures for using dedicated funds, establishing an escrow account, and/or developing a maintenance contract, if determined appropriate to ensure adequate long-term maintenance.
- 7.5. Stormwater Management operation and maintenance duties shall be recorded with the deed for each lot in a subdivision. The applicant may elect to setup a home owner's association (HOA) or other means to ensure all BMPs are inspected and maintained as required.
- 7.6. Long-term operators responsible for O&M Plan implementation shall submit an annual report to the Department of Public Works documenting all inspection and maintenance completed on the stormwater system.

8.0 Site Inspections and Final Reports

- 8.1. Pre-Construction Meeting. Prior to starting clearing, excavation, construction, or disturbance of land, the Applicant, the Applicant's technical representative, the general contractor, or any other person with authority to make changes to the project, shall meet with the Department of Public Works or Reviewing Agent to review the permitted Stormwater Management, Erosion and Sediment Control, and Operation and Maintenance Plans and their implementation.
- 8.2. Permittee Erosion and Sediment Control Inspections. The permittee shall conduct and document inspections of all erosion and sediment control measures no less than weekly or as specified in the Stormwater Management Permit, and prior to and following anticipated storm events. The purpose of such inspections is to determine the overall effectiveness of the erosion and sediment control plan, and the need for maintenance or additional control measures. The permittee shall submit monthly erosion and sediment control reports to the Department of Public Works in a format approved by the Department of Public Works.
- 8.3. Routine Inspections. Routine inspections shall be performed as follows:
 - (1) Initial Site Inspection: prior to approval of any permit/plan;
 - (2) Erosion and Sediment Control Inspection: to ensure erosion and sediment control measures are in place and stabilized, and to ensure erosion control practices are in accordance with the filed plan.
 - (3) Site Clearing has been substantially completed;
 - (4) Rough Grading has been substantially completed;
 - (5) Final Grading has been substantially completed;

- (6) Bury Inspections: prior to backfilling of any underground drainage or stormwater structures;
 - (7) Close of the Construction Season;
 - (8) Landscaping (permanent stabilization); and
 - (9) Final Inspection. After the stormwater management system has been constructed, and before any surety is released, the Applicant must submit a record as-built plan detailing the actual stormwater management system as installed. Such plans shall show compliance with the final approved plans by the Department of Public Works. The Department of Public Works, Reviewing Agent, or their designee shall inspect the system to confirm its "as-built" features. This inspector shall also evaluate the effectiveness of the system in an actual storm. If the inspector finds the system to be adequate, he/she shall so report to Department of Public Works which will issue a Certificate of Completion.
- 8.4. Inspector Qualifications. Inspections shall be performed by an independent third-party registered Professional Engineer or CPESC. Alternatively, inspections shall be performed by a qualified employee of the Town of Falmouth.
- 8.5. Final Reports. Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) to the Department of Public Works from a P.E. or CPESC. As-built drawings shall be submitted no later than one year after completion of construction projects. The as-built drawings must depict all on site controls, both structural and non-structural, designed to manage the stormwater associated with the completed site (post-construction stormwater management). The report shall certify that all permitted construction, plans, and approved changes and modifications, were completed in accordance with the conditions of the approved Stormwater Management Permit. Any discrepancies should be noted in the report.

If the system is found to be inadequate by virtue of physical evidence of operational failure, even though it was built as called for in the Stormwater Management Plan, it shall be corrected by the permittee before the performance guarantee is released. If the permittee fails to act the Town of Falmouth may use the surety bond to complete the work. Examples of inadequacy include but are not limited to: errors in the infiltrative capability, errors in the maximum groundwater elevation, failure to properly define or construct flow paths, or erosive discharges from basins or other structural BMPs.

9.0 Certification of Completion

The Department of Public Works will issue a letter certifying completion upon receipt and approval of the final inspection reports and/or upon otherwise determining that all work of the Stormwater Management Permit has been satisfactorily completed in conformance with

these rules and regulations. The Department of Public Works or Reviewing Agent may, in addition to certifying satisfactory completion of the project, require ongoing maintenance procedures as outlined O&M Plan and/or work deemed necessary by the Department of Public Works or Reviewing Agent.

10.0 Waivers and Provisions for Relief

10.1. The Department of Public Works or Reviewing Agent may waive strict compliance with any requirement of this Article promulgated hereunder, where:

- (1) Such action is allowed by federal, state and local statutes and/or regulations;
- (2) It is in the public interest;
- (3) A public safety issue exists; and/or
- (4) It is consistent with the purpose and intent of this Article.

10.2. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of this Article does not further the purposes or objectives of this Article. The Department of Public Works or Reviewing Agent may require documentation to be submitted and stamped by a qualified P.E. registered in Massachusetts or a Certified Professional in Erosion and Sediment Control (CPESC).

11.0 Surety

The Department of Public Works may require the permittee to post before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by Department of Public Works, and be in an amount deemed sufficient by the Department of Public Works to ensure that the work will be completed in accordance with the permit. If the project is phased, the Department of Public Works may release part of the bond as each phase is completed in compliance with the Stormwater Management Permit but the bond may not be fully released until the Department of Public Works has received the final inspection report as required by the Stormwater Management Rules and Regulations and issued a Certificate of Completion.

End of Document

PUBLIC HEARINGS

2. Vote to Adopt an Order of Taking for the Layout of Winthrop Drive (East Side) (15 minutes)

Motion: Vote intention to layout and accept Winthrop Drive (East side) and assess betterments.

PUBLIC NOTICE

In accordance with Section 22 of Chapter 82 and Chapter 80 of the Massachusetts General Laws, the Falmouth Select Board will hold a Public Hearing on **Monday, September 27, 2021 at 7:30 p.m.** in the Select Board Meeting Room, Falmouth Town Hall, 59 Town Hall Square, to consider the layout of:

Winthrop Drive (East Side), 726'

and to vote as a Town Way and to vote any betterment assessments.

Any person interested or wishing to be heard on the proposed layout and taking of this road or wishing to be heard on betterments to property owners receiving benefit of the improvements to the roadway described should appear at the time and place designated.

Preliminary plans of the proposed layout of the above named road and betterment estimates will be available for public viewing in the Office of The Town Clerk, Falmouth Town Hall, 59 Town Hall Square, Monday through Friday, 8:00 a.m. to 4:30 p.m.

Per Order of the
Select Board

Publication Date: Friday, September 10, 2021; Falmouth Enterprise

accordance with rules and regulations of the Massachusetts Secretary of State by community sponsored, educationally oriented and professionally directed repair teams, or do or take any other action on the matter. On request of the Select Board.

ARTICLE 21: To see if the Town will vote to accept the doings of the Select Board in the laying out of Winthrop Drive (east side) from Seacoasts Shores Blvd. to Edgewater Drive East a distance of 726 ft. and width of 40 ft. according to plans on file with the Town Clerk for taking as a public way under the Betterment Act, or do or take any other action on the matter. On request of the Select Board.

ARTICLE 22: To see if the Town will vote to authorize the Select Board to take all necessary and appropriate action to establish and maintain, in accordance with the provisions of Chapter 164 of the General Laws and in accordance with the rules, regulations and orders of Department of Public Utilities and the Department of Telecommunications and Cable, a municipal lighting plant for all purposes allowable under the Commonwealth, including without limitation the operation of a telecommunications system and related services, or take any action relative hereto. On petition of FalmouthNet.Inc.

ARTICLE 23: To see if the Town will request the Board of Selectmen in the interest of public safety as allowed by the provision of General Laws Chapter 90, Section 18, and in the interest of public health, as allowed by the provision of General Laws Chapter 111 Section 31 and 122, to develop a bylaw on the use of town-owned roads bordering on residential zones by commercial vehicles from the hours of 11:00PM to 6:00AM. Such bylaw is intended to provide relief to residential neighborhoods that are plagued with early morning truck traffic and to establish quiet hours in those neighborhoods. The Town will develop a quiet hours bylaw based on sound impact data with a completion date of July 1, 2022. On petition of the Southeast Massachusetts Regional Transportation (SMART) Citizens Task Force.

ARTICLE 24: To see if the Town will vote to appropriate \$150,000 of free cash to be used for the design of Compete Streets projects to create a backlog of shovel ready projects eligible for state or federal construction grants. Said sum to be expended under the jurisdiction of the Select Board. On petition of Chris McGuire.

ARTICLE 25: To see if the Town will vote to appropriate or transfer from the Ferry Embarkation Fee Fund* the amount of \$30,000 for the purchase and installation of up to six permanent LED speed signs (cost estimate provided by DPW Director) on Woods Hole Road and Palmer Avenue in order to encourage compliance with posted speed limits, particularly for heavily laden ferry bound truck traffic. On petition of the Southeast Massachusetts Regional Transportation (SMART) Citizens Task Force.

ARTICLE 26: To see if the Town will vote to adopt an amendment to Article II, Town Meeting, of the Falmouth Home Rule Charter by amending Sec. C2-3, A and B, so as to read:
C2-3. Procedures.

- A. Town Meeting shall be held twice annually: in April, on a date chosen by the Select Board, and in the fall on a date chosen by the Select Board.
- B. Town Meeting will consider and act upon, as required, with or without amendments, all proposed operating and capital improvement budgets, appropriations, borrowings, and all other issues that may properly come before it.

Or do or take any other action on this matter. On request of the Select Board and the Charter Review Committee.

ARTICLE 27: To see if the Town will vote to adopt an amendment to Article II, Town Meeting, of the Falmouth Home Rule Charter by amending Sec. C2-6, Moderator, so as to read:
C 2-6. Moderator.

- A. A Moderator shall be elected as provided in sec. C 4-2.
- B. The Moderator shall preside at all sessions of the Town Meeting and shall have no vote unless the members present and voting are equally divided.

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS

TOWN OF FALMOUTH
SELECT BOARD

**ORDER OF TAKING
FOR THE LAYOUT OF
Winthrop Drive (East Side)**

We, Megan English Braga, Douglas C. Brown, Douglas H. Jones, Samuel H. Patterson, and Nancy R. Taylor, as duly elected and qualified members of the SELECT BOARD of the Town of Falmouth, acting for and on behalf of said town, under the provisions of Chapters 79 and 82 of the Massachusetts Laws and in accordance with the provisions of Article X of the Town Meeting held in said Falmouth on June X, 2021 (a copy of which is annexed hereto as **Exhibit A**), and by virtue of every other power, having complied with all preliminary requirements prescribed by law, **DO HEREBY ADOPT AND DECREE THIS ORDER OF TAKING** and do hereby take by eminent domain for public purposes, an easement for the layout of **Winthrop Drive (East Side)**, as a town way in the land described herein.

I. DESCRIPTION. The descriptions are set forth in **Exhibit B** attached hereto. See also plans recorded herewith.

II. INTEREST TAKEN. An easement for all purposes for which roads and ways are commonly used in the Town of Falmouth, including all drainage, slope and turning easements as shown on said plans. This taking shall not disturb any existing easements of record to public utility companies nor claim any interest in the personal property of said utility companies.

III. NAMES OF OWNERS. A list is attached hereto as **Exhibit C**.

IV. PURPOSE. For the laying out of **Winthrop Drive (East Side)** as a Town way.

V. DAMAGES AWARDED. None.

VI. TREES AND STRUCTURES. Trees and structures, including any streetlights, are not included in the taking and may remain undisturbed. Periodic pruning of trees will be permitted to prevent encroachment into the layout or other hazards.

VII. BETTERMENTS ASSESSED. This taking was made under the Betterment Act and the abutting property owners have been assessed by the Select Board 100% of the cost of the improvements to be made or **\$15,565** per lot eligible for betterment as listed in **Exhibit D** attached hereto.

Any party claiming to have been damaged by said taking may file a complaint for assessment of damages in the Superior Court within three (3) years from the date of the right to damages becomes vested.

IN WITNESS WHEREOF, the said Town of Falmouth has caused its corporate seal to be affixed hereto and these present to be executed by its Select Board, duly authorized this ___ day of June 2021.

**TOWN OF FALMOUTH
By its SELECT BOARD**

Megan English Braga, Chair

Douglas C. Brown, Vice Chair

Douglas H. Jones

Samuel H. Patterson

Nancy R. Taylor

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS.

, 2021

Then appeared Megan English Braga, Chair of the Falmouth Select Board and acknowledged that the foregoing instrument is her free act and deed.

Notary Public

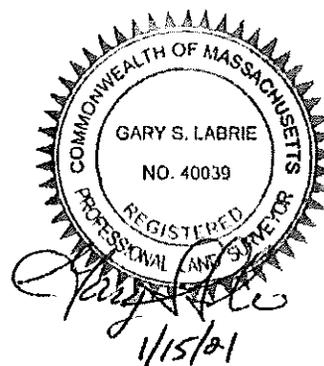
My Commission Expires: _____

Exhibit B
Written Description for
Winthrop Drive (East Side)
Metes and Bounds Description
WINTHROP DRIVE – EAST

- POB At the most northerly and westerly corner of Winthrop Drive East and the easterly side line of Seacoast Shores Boulevard, said corner being N 28°-30'-20" E, 247.82 feet from a concrete bound (held) at the most northerly and westerly corner of Ellsworth Drive and easterly sideline of Seacoast Shores Boulevard.
- Thence S 70°-50'-40" E, 719.75 feet to the most northerly and easterly corner of Winthrop Drive East and the westerly sideline of Edgewater Drive East.
- Thence by a curve to the right with a radius of 660.00 feet and a length of 40.24 feet, a chord direction of S 12°-55'-46" W, and a chord distance of 40.24 feet to the most southerly and easterly corner of Winthrop Drive East and the westerly sideline of Edgewater Drive East.
- Thence N 70°-50'-40" W, 730.70 feet to the most southerly and westerly corner of Winthrop Drive East and the westerly sideline of Seacoast Shores Boulevard.
- Thence N 28°-30'-20" E, 40.54 feet to the POB.

Winthrop Drive East is predominately a 40 foot wide layout.

Winthrop Drive West is approximately 726 feet in length.

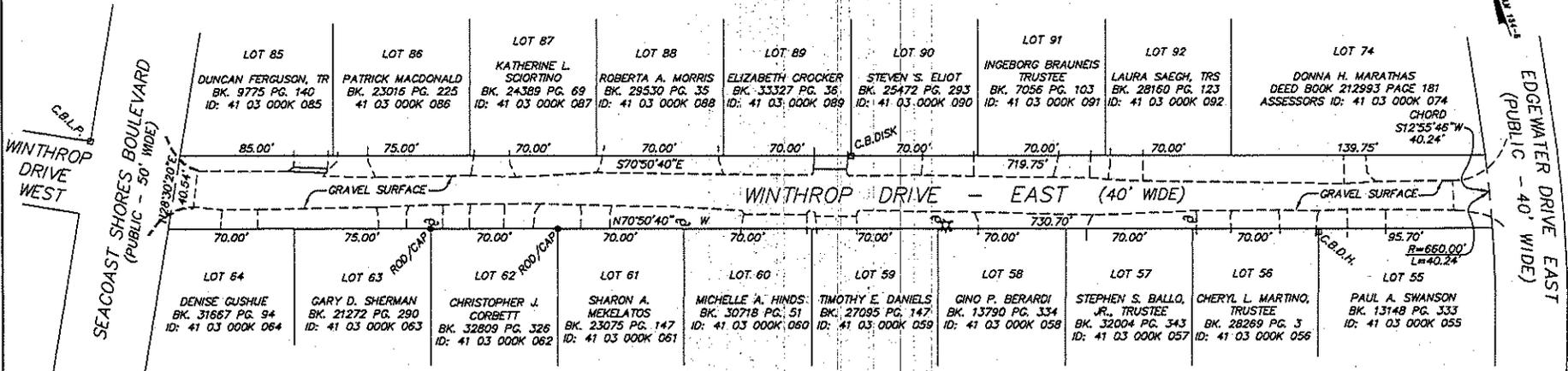
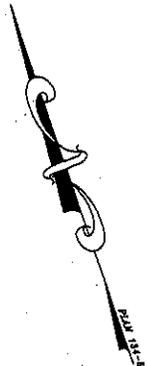


THIS PLAN WAS COMPILED FROM PLANS OF RECORD.

PLAN REFERENCES:
 BOOK 77 PAGE 123
 BOOK 201 PAGE 101
 BOOK 134 PAGE 5

VOTED UNDER ARTICLE _____ OF THE TOWN MEETING
 (NUMBER) (DATE)

FOR REGISTRY USE ONLY



PLAN OF LAND TAKEN UNDER THE BETTERMENT ACT
 BY ORDER OF TAKING ADOPTED: _____
 (DATE)

 Megan E. English Braga, Chair

 Douglas C. Brown, Vice Chair

 Doug Jones

 Samuel H. Patterson

 Nancy R. Taylor

LEGEND

- C.B.D.H. □ CONCRETE BOUND W/DRILL HOLE
- C.B.L.P. □ CONCRETE BOUND W/LEAD PLUG & PIN
- ⊕ EXISTING FIRE HYDRANT
- ⊖ EXISTING UTILITY POLE

**TOWN OF FALMOUTH
 PLAN OF WINTHROP DRIVE EAST**

IN
 EAST FALMOUTH, MASSACHUSETTS
 AS LAID OUT BY THE SELECTMEN

Scale: 1"=40' Date: 12/04/2020

Warwick & Associates Inc.

63 County Road Box 801
 North Falmouth, Mass 02558
 (508) 563 - 7777

DWG: WINTHROP-E REV:



"I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN COMPLIANCE WITH THE RULES AND REGULATIONS OF THE REGISTRARS OF DEEDS FOR THE COMMONWEALTH OF MASSACHUSETTS."

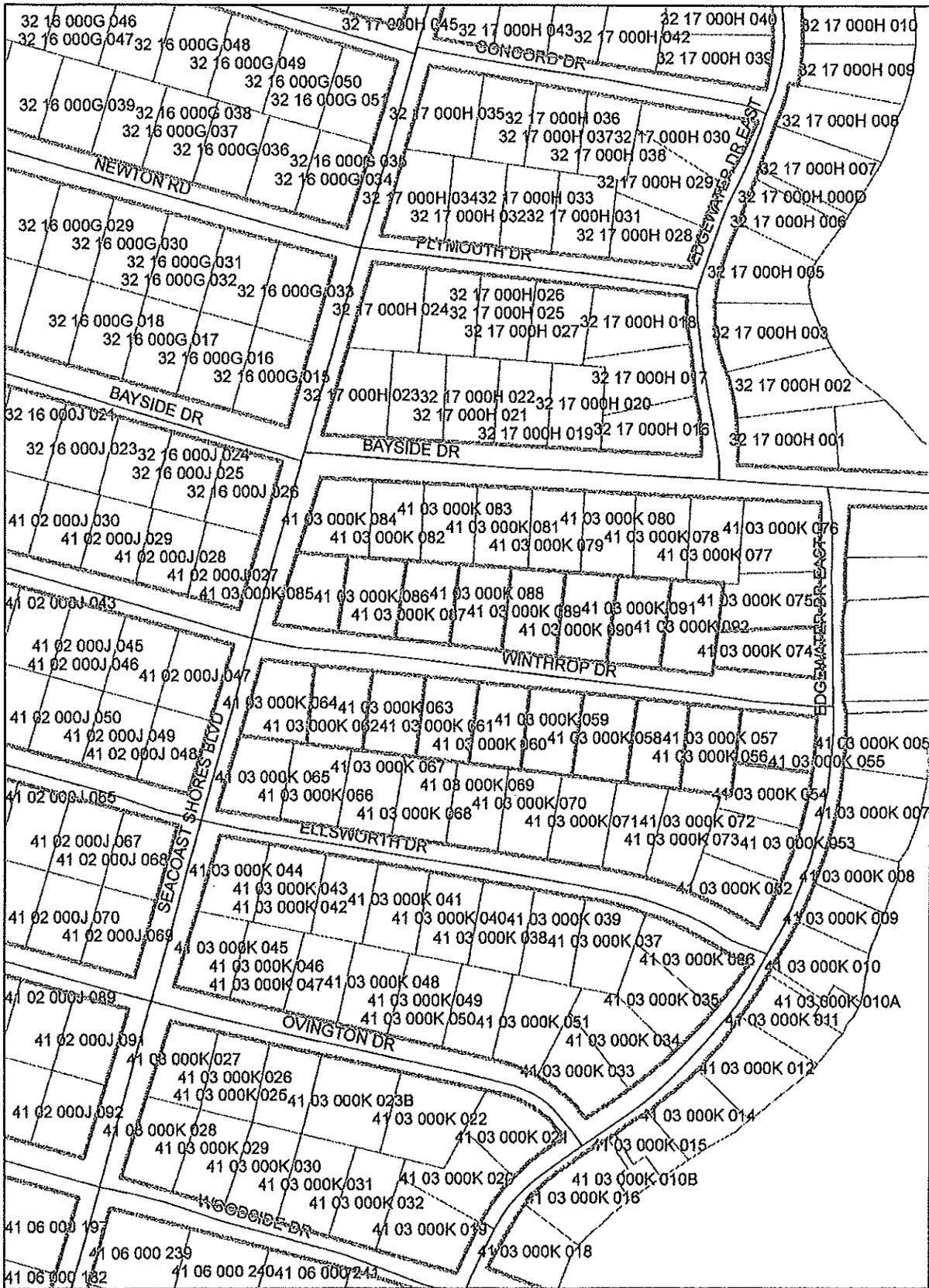
DATE: 12/7/2020

Gary S. Labrie
 GARY S. LABRIE, P.L.S.

Notices mailed
to abuterson
9/3/21.

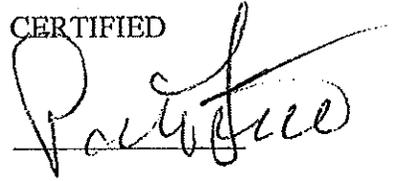
67 WINTHROP DR BALLO JR TRUSTEE STEPHEN S BALLO FAMILY TRUST PO BOX 307 E FALMOUTH, MA 02536	41 03 000K 057 LUC: 101	54 WINTHROP DR LE TAM PHAN TAN 79 SILVER BROOK RD MILTON, MA 02186	41 03 000K 088 LUC: 101
65 WINTHROP DR BERARDI GINO P BERARDI VIRGINIA G 16 HIGH ST CANTON, MA 02021-3609	41 03 000K 058 LUC: 101	48 WINTHROP DR MACDONALD PATRICK MACDONALD NANCY 48 WINTHROP DR EAST FALMOUTH, MA 02536	41 03 000K 086 LUC: 101
66 WINTHROP DR BRAUNEIS TRUSTEE INGEBORG BRAUNEIS TRUSTEE ALAN A 545 FISHER ST WALPOLE, MA 02081	41 03 000K 091 LUC: 101	245 EDGEWATER DR EAST MARATHAS DONNA H 245 EDGEWATER DR E E FALMOUTH, MA 02536-6679	41 03 000K 074 LUC: 101
49 WINTHROP DR CORBETT CHRISTOPHER J CORBETT EILEEN M 41 HEMLOCK DR NORWELL, MA 02061	41 03 000K 062 LUC: 101	71 WINTHROP DR MARTINO TRUSTEE CHERYL L MARTINO BARNSTABLE COUNTY TR 43 DOWNEY ST WATERTOWN, MA 02472	41 03 000K 058 LUC: 101
58 WINTHROP DR CROCKER ELIZABETH CROCKER ROBERT 15 BALD PATE RD GEORGETOWN, MA 01833	41 03 000K 089 LUC: 101	53 WINTHROP DR MEKELATOS SHARON A PO BOX 3523 WAQUOIT, MA 02536-3523	41 03 000K 061 LUC: 101
61 WINTHROP DR DANIELS TIMOTHY E ZHANG LI 319 TURNPIKE ST SOUTH EASTON, MA 02375	41 03 000K 059 LUC: 101	70 WINTHROP DR SAEGH TRUSTEE LAURA SAEGH TRUSTEE JOSEPH 3 MILL POND LN NORWOOD, MA 02062-1913	41 03 000K 092 LUC: 101
62 WINTHROP DR ELIOT STEVEN S ELIOT SHARI 300 MERCER ST #27D NEW YORK, NY 10003	41 03 000K 090 LUC: 101	50 WINTHROP DR SCIORTINO KATHERINE L 65 WELLINGTON AVE LOWELL, MA 01852-4232	41 03 000K 087 LUC: 101
44 WINTHROP DR FERGUSON TRUSTEE DUNCAN FERGUSON TRUSTEE GAIL A 44 WINTHROP DR E FALMOUTH, MA 02536	41 03 000K 085 LUC: 101	45 WINTHROP DR SHERMAN GARY D SHERMAN LINDA PO BOX 683 MEDFIELD, MA 02052	41 03 000K 063 LUC: 101
264 SEACOAST SHORES BLVD GUSHUE DENISE 77 ELLSWORTH DR E FALMOUTH, MA 02536	41 03 000K 064 LUC: 101	253 EDGEWATER DR EAST SWANSON PAUL A SWANSON CATHERINE M 160 VERNON ST NORWOOD, MA 02062-2108	41 03 000K 055 LUC: 101
57 WINTHROP DR HINDS MICHELLE A PO BOX 747 EAST FALMOUTH, MA 02536	41 03 000K 060 LUC: 101		

WINTHROP DR EAST



WINTHROP DR EAST

CERTIFIED

A handwritten signature in black ink, appearing to read "Patricia Favulli", written over a horizontal line.

Patricia A Favulli
Director of Assessing
Town of Falmouth
April 6, 2021

PUBLIC HEARINGS

3. Shade Tree Hearing – on application by the Falmouth Parks Department for the removal of two (2) American Elm trees at 300 Main Street, Falmouth (15 minutes)

NOTICE OF A PUBLIC HEARING

Removal of Public Shade Trees

Town of Falmouth, Department of Public Works

Pursuant to Massachusetts General Laws Chapter 87, Sections 3 and 4, a public hearing will be held on Monday September 27th, 7:30 PM in the Selectmen's Office at 59 Town Hall Square, Falmouth, MA to consider the removal of the following public tree(s):

1. 300 Main Street – Removal of 2 American Elms *Ulmus americana* (DBH 52" & 40") *Diagnosis:* Stem and branch cankering caused by *Botryosphaeria* and *Phomopsis*. New street trees will be planted for their replacement

The tree(s) identified above have been posted for public inspection. Any objections to their removal must be submitted in writing to the Tree Warden prior to or during the hearing. The mailing address for the Tree Warden is Department of Public Works, Town of Falmouth, 416 Gifford Street, Falmouth, MA 02540. Email: jeremiah.pearson@falmouthma.gov, Phone: 508-457-2543 x3008







MEMORIAL
LANE

Diane Davidson

From: Julian Suso
Sent: Friday, September 10, 2021 9:21 AM
To: Falmouth Selectboard
Cc: Phyllis Downey; Diane Davidson; Jeremiah Pearson; Peter McConarty
Subject: FW: Main St Elms
Attachments: Elms.jpg; Elms2.jpg

Dear Board Members,

FYI. As you will note, Tree Warden Jeremiah Pearson has advised that these two pictured Elms fronting on Main Street downtown in front of the Main Library are, unfortunately, declining rapidly in spite of all efforts and have become hazardous. I have advised Jeremiah that we will be scheduling a Shade Tree Hearing before the Select Board in advance of any final action to remove these long-standing trees. We anticipate this SB Hearing to occur at your regular meeting on Monday, September 27 – as this requires advertising. Signage is also being posted on these two trees advising accordingly.

Julian

From: Jeremiah Pearson <jeremiah.pearson@falmouthma.gov>
Sent: Monday, August 30, 2021 8:57 AM
To: Julian Suso <julian.suso@falmouthma.gov>
Cc: Peter McConarty <peter.mcconarty@falmouthma.gov>; Peter Johnson-Staub <peter.johnson-staub@falmouthma.gov>; Thomas Bott <thomas.bott@falmouthma.gov>
Subject: Main St Elms

Hello Julian,

FYI, as you are most likely aware, we have two large American Elms that are in considerable decline bordering Main St. and the Library lawn. Both of these trees have been rapidly declining over the past several years, even though we made last ditch efforts this past winter to mitigate with pruning, unfortunately both trees will need to be removed sometime after the summer season. A job of this magnitude will take a great deal of planning and coordination to minimize disruption to this portion of Main St. No work will commence until our tourism season is at an end, and adequate planning and notice has been issued.

Because both trees are in such decline a shade tree hearing is not required, but if needed I would happily put on the Agenda to notify BOS.

Thanks,
Jeremiah

PUBLIC HEARINGS

4. Flow Neutral Bylaw – Evaluation of Request for Variance – Eel Pond Realty, LLC – 87 Water Street, Woods Hole (parcel 49A 01 003 000), continued from 9/13/21 (15 minutes)

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Select Board of the Town of Falmouth will hold a public hearing on Monday, September 13, 2021 at 7:30 p.m. in the Select Board Meeting Room, Town Hall, 59 Town Hall Square, Falmouth, MA on the application of Eel Pond Realty, LLC, for a wastewater flow variance under Chapter 180, Section 56 of the Code of Falmouth, the so-called Flow Neutral By-law, for a grocery store/deli and a proposed 67-seat restaurant at 87 Water Street in Woods Hole (parcel 49A 01 003 000).

Per Order of the Falmouth Select Board

Publication date: Friday, September 3, 2021, Falmouth Enterprise



TOWN of FALMOUTH

DEPARTMENT OF PUBLIC WORKS, WASTEWATER DIVISION
416 GIFFORD STREET, FALMOUTH, MASSACHUSETTS 02540
TELEPHONE (508) 457-2543

AMY LOWELL
WASTEWATER SUPERINTENDENT

Date: September 9, 2021

To: Board of Selectmen, Town Manager

cc: Falmouth Health Department, Falmouth Zoning Board of Appeals

Re: Flow Neutral Bylaw Variance Request – 87 Water Street

I have received a request for flow neutral bylaw review for proposed redevelopment at 87 Water Street (Parcel ID 49A 01 003 000). This parcel is in an existing sewer service area and is currently connected to Town sewer. The proposed redevelopment plan is to modify the second floor to accommodate a 67 seat restaurant.

The Title 5 design flow for the existing permitted uses (2,176 square foot store, approximately 1536 square foot office and a 2 bedroom dwelling unit) is 546 gallons per day. The Title 5 design flow for the proposed uses (2,176 square foot store and a 67 seat restaurant) would be 2,556 gallons per day, an increase of 2,010 gallons per day. Because this is a more than 10% increase in Title 5 design flow, this redevelopment requires a flow neutral bylaw hearing.

One of the two preconditions for the Board of Selectmen to grant a variance to the flow constraints of the Flow Neutral Bylaw is that “Sufficient capacity exists...as determined by the Wastewater Superintendent.”

The following is a summary of wastewater system capacity, which is controlled by the groundwater discharge permit for the Wastewater Treatment Facility (WWTF):

Permitted Average Annual Discharge Flow (gallons per day):	710,000
Projected Average Annual Flow, With Variances Granted To-Date (gpd):	567,000
Projected Average Annual Flow as % of Permitted Flow	80%

Therefore, sufficient sewer system capacity currently exists to accommodate the projected additional flow from this property.

When the actual average annual flow to the WWTF reaches 80% of permitted flow, which is expected to occur in the next year or two, when Town activity returns to pre-covid levels and when all of the projects granted variances have been completed, the WWTF’s discharge permit requires the Town to provide a plan to the Department of Environmental Protection for how the Town will

continue to meet its permit requirements. The Targeted Watershed Management Plan for Great Pond, currently in preparation, will include a plan for expanded discharge capacity. If that plan is not approved or implemented as envisioned, redevelopment in sewer areas could be limited by sewer system discharge capacity.

Not relevant to the flow neutral process, but as part of the sewer connection modification permit process, the property owner will need to submit to the Wastewater Division a plan to prevent kitchen fat, oil and grease from causing problems in the municipal sewer system.

Phyllis Downey

Subject: FW: Reminder - 87 Water Street flow neutral bylaw WW Division memo

From: Scott McGann <scott.mcgann@falmouthma.gov>

Sent: Friday, September 10, 2021 12:33 PM

To: Phyllis Downey <phyllis.downey@falmouthma.gov>; Julian Suso <julian.suso@falmouthma.gov>

Subject: RE: Reminder - 87 Water Street flow neutral bylaw WW Division memo

This is the BoH voted language - *The Board of Health voted to inform the Select Board that the proposed design flow for the proposed uses of 87 Water Street (existing grocery store and proposed 67 seat restaurant)-or any flow- cannot be served by a Title 5 system sited on that lot.*

My comments:

There is no available land on that property (87 Water Street) that could fit a Title 5 septic system of any size or shape. The building takes up virtually the entire lot and its located on Eel Pond. The applicant cannot demonstrate that a septic system could fit on the lot. Many lots on Water Street and Main Street are unable to site a septic system as there is no available land for it to be placed. Health has no knowledge of the site ever having a septic system there since the sewer has been serving this location for many decades.

Scott McGann R.S.
Director/ Agent
Falmouth Health Department
59 Town Hall Square
Falmouth, MA 02540
508-495-7485
scott.mcgann@falmouthma.gov



Falmouth Health Department

Falmouth Town Hall • 59 Town Hall Square • Falmouth, Massachusetts 02540
(508) 495-7485 • health@falmouthma.gov

BOARD OF HEALTH MEETING AGENDA

August 30, 2021 at 5:30 p.m.

Town Hall lower-level meeting room
59 Town Hall Square, Falmouth, MA 02540

This meeting is being held in-person
Times indicated for the agenda topics are approximate

Please note: the proposed poultry regulation discussion is being postponed due to the increased interest in this topic and the limited space in the normal Board of Health meeting location. A dedicated poultry regulation discussion will be held in the near future in a forum that will accommodate all those who are interested.

5:30 - Opening remarks and public comment

FLOW NEUTRAL BYLAW REFERRAL

5:30 – 87 Water Street – Flow Neutral Bylaw referral request. Applicant seeking an increase in flow to the sewer (food service establishment). The Board's referral will be sent to the Selectboard as part of the bylaw requirement.

Document: narrative of proposed project and a plot plan of the property.

SEPTIC SYSTEMS

5:40 – 5 Keechipam Way – local upgrade approval request

Assessed 3-bedroom home

Seeking reductions in setbacks required in 310 CMR 15.211

- Soil absorption system to a full foundation from the required 20' down to 1'
- Soil absorption system to a property line(street) from the required 10' down to 0.0'
- Soil absorption system to a property line from the required 10' down to 2'
- Pump Chamber to a slab foundation from the required 10' down to 7'
- Pump Chamber to a lot line from the required 10' down to 5'
- Septic tank to a slab foundation from the required 10' down to 1'

Documents:

Cover letter outlining the project and a plan from BSS Design dated 6/14/2021, rev. 8/10/21

SOLID WASTE

5:50 - The Solid Waste Advisory Committee (SWAC) will be presenting proposed regulations for discussion with the Board for a possible Board of Health adoption at a future Board of Health Meeting
- Continued discussion from 5/3/2021, 6/7/2021, 7/12/2021 and 7/26/2021.



Falmouth Health Department

Falmouth Town Hall • 59 Town Hall Square • Falmouth, Massachusetts 02540
(508) 495-7485 • health@falmouthma.gov

Documents: SWAC's proposed regulation named "Rules and Regulations for Solid Waste Collection and Mandatory Recycling"

COVID-19

6:50 - Discussion of the current state of the pandemic

Documents: Health Agent presentation from most recent COVID-19 update.

GENERAL BUSINESS

7:00 – Discuss Board chair position

7:15 – Review and approve minutes from 7/26/2021

Our Mission

The mission of the Falmouth Board of Health is to protect and promote the health, safety and well-being of residents and visitors of the Town of Falmouth. The primary functions of the Board of Health to achieve our mission are to: prevent and control disease, enforce state and local regulations, promulgate local health regulations, identify and protect from environmental hazards, and advocate for a healthy community.

Posted August 26, 2021

Reposted August 27, 2021

AMENT KLAUER LLP

Attorneys at Law
39 Town Hall Square
Falmouth, MA 02540

Robert H. Ament, Esq.
Kevin P. Klauer II, Esq.
Matthew M. Terry, Esq.



Telephone (508) 540-6555
Fax (508) 457-1293
Website: www.amentklauer.com

July 28, 2021

Julian Suso, Town Manager
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540

Re: Application under Flow Neutral By-law for proposed restaurant above Woods Hole Market, 87 Water Street, Woods Hole

Dear Julian:

Our client Eel Pond Realty, LLC owns 87 Water Street, Woods Whole, which includes the Woods Hole Market and Provisions. There has been a food market at the property for many decades. The business is important to Woods Hole. Over the years there has been a deli counter in the store, and seating has been provided in the store or outside where customers can take their food. When Jeff and Colleen Parrish purchased the market in 2011, they improved the patio seating along Eel Pond behind the building, and since 2014 there has been seating on the second-floor deck in the back of the building. Presently there are a total of 69 seats available for store customers to use.

Keeping the grocery store profitable has been a challenge. The store faces increasing competition from larger food stores and delivery services. Help is scarce and more expensive. To help sustain the grocery store on the first floor, Jeff and Colleen Parrish are proposing to open a restaurant on the second floor of the building. The restaurant would be open for breakfast and dinner food service and would use the existing seating areas, with reduced seating, plus 18 restaurant seats in the building on the second floor. The total number of seats will be reduced from 69 to 67 seats.

Applications have been filed with the Board of Appeals for a special permit and with the Planning Board for Site Plan Review. Copies of those applications and related correspondence are enclosed. The correspondence further describes the proposed operations. The ZBA filing includes a copy of the State Architectural Access Board decision allowing the proposed second floor restaurant seating. An application for a liquor license will be filed when the zoning approvals are further along.

Although there has been seating for store customers for many years, the store has not provided table service and the Parrishes have not previously intended to operate a restaurant under the Zoning By-law. The property is served by the municipal sewer system. With the

Julian Suso, Town Manager

July 23, 2021

Page 2

introduction of restaurant seating and the need for a special permit, a variance seems to be needed under the Flow Neutral By-law, Falmouth Code Section 180-51 et sec. Even though the total restaurant seats will be less than the number of seats that have been used by store customers for many years, Title 5, 15 CMR 15.203, specifies design flow of 35 gallons per day per seat, much more than a grocery store. Even if the deli within the store were considered a fast-food restaurant for Title 5 purposes, the design flow would increase from 20 GPD to 35 GPD with the restaurant use that is proposed. Consequently, since the increase in design flow will increase more than 10%, we think that under Code Section 180-55.C(1)(2), a variance should be obtained from the Select Board.

The Title 5 design flow for a restaurant with 67 seats, and a grocery store having floor area of about 2,176 square feet is 2,545 GPD. The design flow for the store and second floor uses that have been permitted (apartment and office) may be calculated to be 820 GPD (200 GPD for the store, 200 GPD for second floor offices, 220 GPD for a dwelling unit with a deed restriction). That suggests an increase in design flow of 1725 GPD.

Per Code Section 180-56A.(1), to grant a variance the Select Board must obtain the determination of the Wastewater Superintendent that sufficient capacity exists in the municipal treatment facility. My understanding is that sufficient capacity does exist for the relatively small increase in design flow. That there has been seating and a restroom used by store customers for many years may or may not be relevant.

At 87 Water Street there is of course no possibility of installing a Title 5 septic system to serve either the existing or proposed uses, so the Select Board will not be able to obtain a positive referral from the Board of Health as described in Section 240-56.A.(2). However, under Code Section 180-56.B., the Select Board may grant a variance even without that referral where the grant of variance will not substantially derogate from the intent or purpose of the Bylaw. Given the history of the property and its current use, and taking into account the importance of the proposed restaurant to support Woods Hole's only true grocery store, the approval of the proposed restaurant use will "support broader community planning objectives."

Please schedule this request for a variance under the Flow Neutral Bylaw for hearing as soon as possible, and let me know the hearing date. Please contact me with any questions.

Thank you for your assistance.

Very truly yours,



Robert H. Ament

RHA/gmb

Enclosure

Cc: Eel Pond Realty, LLC
Zoning Board of Appeals

AMENT KLAUER LLP

Attorneys at Law
39 Town Hall Square
Falmouth, MA 02540

Robert H. Ament, Esq.
Kevin P. Klauer II, Esq.
Matthew M. Terry, Esq.

Telephone (508) 540-6555
Fax (508) 457-1293
Website: www.amentklauer.com

July 14, 2021

Noreen Stockman, Zoning Administrator
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540

Re: Application for Special Permit for restaurant use and increase in nonconforming lot coverage to allow new rear entry steps and walkway
87 Water Street, Woods Hole, MA 02543 - Assessors Parcel 49A 01 003 000
Eel Pond Realty, LLC, Owner

Dear Noreen:

This law firm represents Eel Pond Realty, LLC, and submitted herewith is our client's application for a special permit to allow restaurant use of portions of the building and patio at 87 Water Street, Woods Hole. The first floor Woods Hole Market will continue to operate. A new set of stairs and walkway are proposed for access to the rear of the building, increasing the already nonconforming lot coverage by structure from 74.3% to 77.2%.

This submission includes the following:

1. Application for Special Permit;
2. Owner's Authorization for representation by Ament Klauer LLP;
3. Filing fee of \$500.00;
4. Site Plans, Existing and Proposed, prepared by Holmes and McGrath, Inc.:
 - a. "Plan of Existing Structures prepared for Eel Pond Realty, LLC for Lot 0, #87 Water Street in Woods Hole, Falmouth, MA" date: June 18, 2021, (one full size copy and eight copies 11"x17");
 - b. "Plan of Proposed Deck prepared by Holmes and McGrath, Inc. for Lot 0, #87 Water Street in Woods Hole, MA" date: May 8, 2019, revised 6/24/21, (one full size copy and eight copies 11"x17")
5. Architect's drawings prepared by William F. Roslansky, Registered Architect, showing proposed rear entrance deck and elevation, proposed floor plans, and proposed seating (one full size copy and eight copies 11" x 17");
 - a. portion of plan entitled "Floor Plans Back Egress Woods Hole Market 87 Water St., Woods Hole, MA" Sheet A-1 Date: 4/17/2019 (note: the plan submitted only shows the plan's relevant elevations section labeled "(6) Egress Deck" and "East Elevation (waterfront)");
 - b. "Furnishings Plans Woods Hole Market 87 Water St., Woods Hole, MA" Sheet A-3 date 2/9/2021;

6. Table showing Restaurant Classification (Bylaw Section 240-13.2) estimating proposed Class 2 restaurant;
7. Decision of the Commonwealth of Massachusetts Architectural Access Board, Docket No. V21-025 (Amended), issued May 24, 2021, allowing the restaurant use, as proposed, with conditions.

There has been a food market at 87 Water Street for many decades, perhaps predating zoning in Falmouth. The applicant purchased the property in 2010 and has operated the Woods Hole Market and Provisions there ever since. For many years the store has included a deli counter and some seats where customers could consume purchases; the area behind the store along Eel Pond was laid with pavers and more formally arranged with tables and seating in 2011. At that time there was already a second-floor deck atop the rear portion of the store. In 2011, in Special Permit No. 13-11, the Board of Appeals approved enclosing the second-floor deck and increasing the lot coverage by structures to 80%, but that work was never undertaken. In early 2014, the second-floor deck was rebuilt and then used for seating.

Beginning in 2014 and since, the second-floor deck, the patio behind the store, and several seats inside the rear market have been available for customers of the retail store, including the deli, to consume their purchases. In 2011 the applicant installed a pizza oven and pizza has been sold as part of the deli operation. There are about 69 seats, 32 seats on the patio, 32 seats on the second-floor deck and five seats in the back of the first-floor store. The deli has always operated as a part of the retail grocery store, accounting for a minority of sales and revenue. The deli has become essential in maintaining the Woods Hole Market, the village's only true grocery store.

The proposed restaurant will be substantially separated from the market operation, with some overlap. The restaurant will serve breakfast and dinner, with service at tables and the bar, operating as a Class 1 or 2 restaurant (most likely Class 1). The restaurant food service will be closed at lunch time, when the seating areas will continue to be used by store customers. The restaurant will seek an all alcoholic beverage liquor license.

The restaurant will have 18 seats available inside the restaurant on the second floor; 28 seats on the covered second floor deck, five seats in the rear of the first floor, and 16 seats on the patio along Eel Pond, a total of 67 seats, slightly fewer seats than have been available to store customers. When the restaurant is closed for food service mid-day, all the seating will be available to store customers except for the inside second floor seats. When the restaurant is open for dining, only the first-floor interior seats and the patio seating will be available to store customers. The retail market does not have a liquor license, and alcoholic beverages will not be served from the deli or by store workers, but trained restaurant staff may take orders from and serve store customers who have taken seats.

Under the Zoning Bylaw Requirements, the retail grocery store would require 11 parking spaces, except the store operation predates the parking regulations. Second floor uses, such as offices and an apartment, would require six or seven spaces. The seating available to store

Noreen Stockman, Zoning Administrator

July 14, 2021

Page 3

customers has not been accounted for in the parking requirements, as there has been no table service, and the deli prepares sandwiches to order and is a component of the grocery. The restaurant with 67 seats would require 34 parking spaces, about 25 spaces more than the historical uses would require. But there is no parking available on-site or designated elsewhere, as is true of most of the other retail and restaurant establishments in Woods Hole, including the restaurants on each side of the subject property. As the Board of Appeals stated in its 2011 decision, "Parking for the businesses along Water Street is primarily on-street parking." There is metered parking to the west of locus, on Water Street, MBL Street and North Street. Many people arrive in Woods Hole on public transportation, or by bicycle or on foot. Many customers will be staff or visitors to nearby scientific institutions that provide private parking in Woods Hole village or nearby, with existing shuttle services. The restaurant will have different peak hours than the grocery store. For all these reasons, applicant believes that any additional traffic generated by there being a new restaurant will not materially affect traffic operations or parking conditions in Woods Hole, and that the reduction or waiver of parking requirements may be allowed under Section 240-107.B.

The sustainability of Woods Hole Market and Provisions is important to the Woods Hole community. Staying open year-round has been a financial challenge, such that the store has closed for portions of the off-season. The lack of parking immediately adjacent to the store is a problem for many customers buying groceries; adjacent parking will not be as important for the restaurant customers. Competition with larger markets and delivery services has increased. Insurance costs, including flood insurance, have significantly increased. Hiring grocery store staff has become more difficult and expensive, even in the summer. There needs to be greater revenue from the building operations, and the proposed restaurant, with a liquor license, will contribute to that.

An application for Site Plan Review is being filed, and an application will be filed for a variance under the Flow Neutral By-law with respect to additional waste water flow into the municipal sewer system.

Please contact me with any questions. Please schedule this matter for hearing as soon as possible, and let me know the hearing date scheduled. Thanks.

Very truly yours,

Bob Ament

Robert H. Ament

RHA/gmb
Enclosure

cc. Eel Pond Realty LLC, Branch J. Parrish, Manager



THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF FALMOUTH

TO THE BOARD OF APPEALS:

Date: July 13, 2021

The undersigned hereby petitions the Board of Appeals to vary the terms of the Zoning Bylaws of the Town of Falmouth/Acts of Zoning at premises:

Deed Reference: Book 25136, Page 326 Parcel ID: 49A 01 003 000
Address: 87 Water Street, Woods Hole, MA 02543
Owner's Name: Eel Pond Realty, LLC Phone: (508) 566-5601
87 Water Street, Woods Hole, MA 02543
Applicant's Name: Same
Mailing Address: Same Phone: Same
Zoning/District: B1 Property Use: retail (food market) and restaurant (Class 1 or 2)

Applying with respect to Zoning Bylaw Code: 240-3.C.; 240-18.1 (multiple uses), if applicable; 240-51.D. (Class II restaurant); 240-107.B. (parking reduction)

Size of Existing Structures: 32' x 68' (1st floor), with second floor 32' x 48'
Size of Proposed Structures: no change except new rear steps and walkway, 24.2' x 4.5'

Applying for (circle only one): Special Permit OR Variance OR Administrative Approval

State briefly the reasons for Special Permit: Add new walkway and steps to rear entrance, increasing existing non-conforming lot coverage by structures to 77.2%. Allow restaurant (Class 1 or 2) with 23 inside seats (5 on first floor, 18 new seats on second floor), up to 28 seats on existing rear roof deck, and 16 seats on existing ground level patio, all in addition to the existing food market (but inclusive of seating used for existing food market/deli), without providing any off-street parking.

Property Sewered: YES Projected Wastewater Flow: 2545 GPD per Title 5, 310 CMR 15.203 for 67 seat restaurant & store

NOTE: IF POSSIBLE, SEND PDF OF ALL PLANS PROPOSED TO FALZBA@FALMOUTHMASS.US

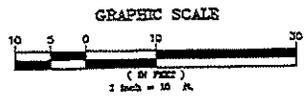
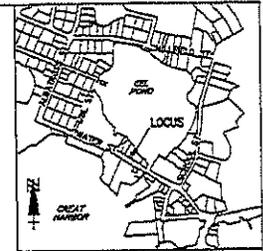
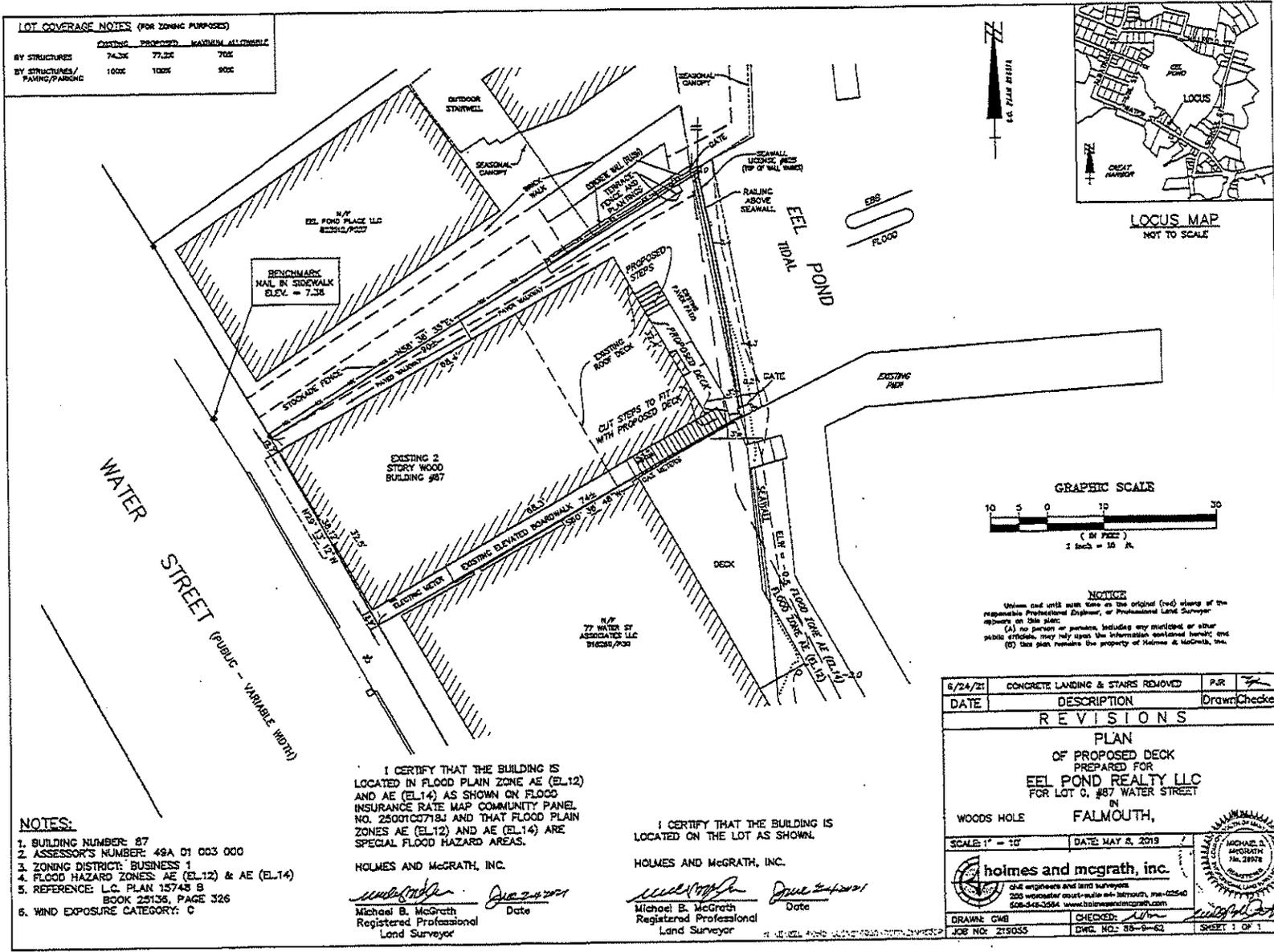
Owner: Eel Pond Realty, LLP Town Clerk:

Agent: Robert H. Ament
Robert H. Ament, Esquire
Address: Ament Klauer LLP
39 Town Hall Square
Falmouth, MA 02540
Phone: 508-540-6555, Facsimile: 508-457-1293
bob@amentklauer.com

NOTE: By filing this application you hereby grant access to the subject property by the Board Members and staff of the Appeals Board. This application and attached requirements must be complete before filing with the Board of Appeals. (REV: April 2018)

LOT COVERAGE NOTES (FOR ZONING PURPOSES)

	EXISTING	PROPOSED	MAXIMUM ALLOWABLE
BY STRUCTURES	74.3%	77.3%	70%
BY STRUCTURES/ PAVING/PARKING	100%	100%	90%



NOTICE
 Unless and until such time as the original (red) stamp of the responsible Professional Engineer, or Professional Land Surveyor appears on this plan:
 (A) no person or persons, including any architect or other public officials, shall rely upon the information contained hereon; and
 (B) this plan remains the property of Holmes & McGrath, Inc.

- NOTES:**
- BUILDING NUMBER: 87
 - ASSESSOR'S NUMBER: 49A 01 003 000
 - ZONING DISTRICT: BUSINESS 1
 - FLOOD HAZARD ZONES: AE (EL.12) & AE (EL.14)
 - REFERENCE: L.C. PLAN 15748 B BOOK 25135, PAGE 326
 - WIND EXPOSURE CATEGORY: C

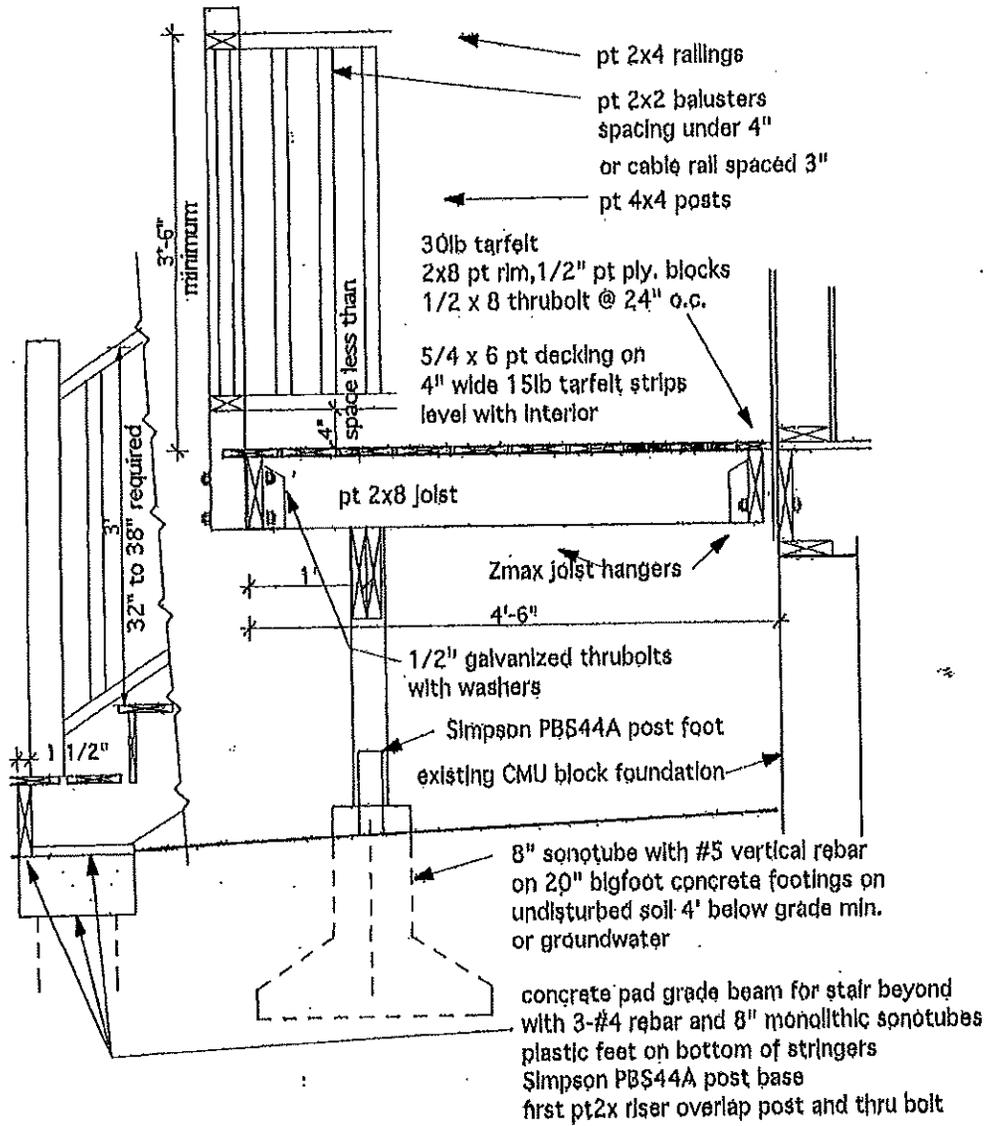
I CERTIFY THAT THE BUILDING IS LOCATED IN FLOOD PLAIN ZONE AE (EL.12) AND AE (EL.14) AS SHOWN ON FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 25001G0718J AND THAT FLOOD PLAIN ZONES AE (EL.12) AND AE (EL.14) ARE SPECIAL FLOOD HAZARD AREAS.

HOLMES AND McGRATH, INC.
 Michael B. McGrath
 Registered Professional Land Surveyor
 Date: June 24, 2021

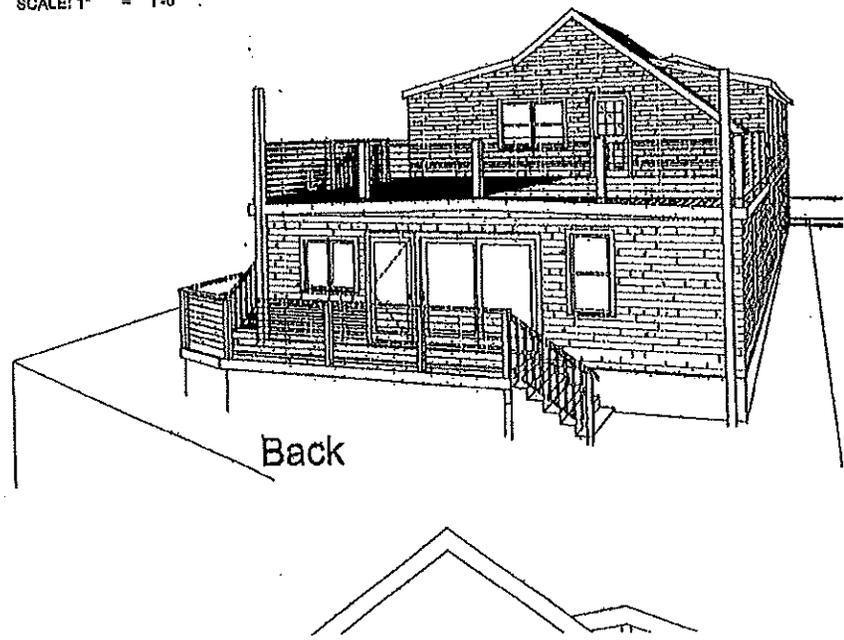
I CERTIFY THAT THE BUILDING IS LOCATED ON THE LOT AS SHOWN.

HOLMES AND McGRATH, INC.
 Michael B. McGrath
 Registered Professional Land Surveyor
 Date: June 24, 2021

6/24/21	CONCRETE LANDING & STAIRS REMOVED	P.R.	<i>[Signature]</i>
DATE	DESCRIPTION	Drawn	Checked
REVISIONS			
PLAN OF PROPOSED DECK PREPARED FOR EEL POND REALTY LLC FOR LOT 0, #87 WATER STREET IN FALMOUTH, WOODS HOLE			
SCALE: 1" = 10'	DATE: MAY 8, 2019		
DRAWN: CMB	CHECKED: <i>[Signature]</i>	JOB NO: 218055	DWG. NO: 88-9-62
			SHEET 1 OF 1



6 Egress Deck
SCALE: 1" = 1'-0"



ARCHITECT

William F. Roslansky

26 Albatross Street, Woods Hole, Massachusetts, 02543 (508) 540-8950

William F. Roslansky

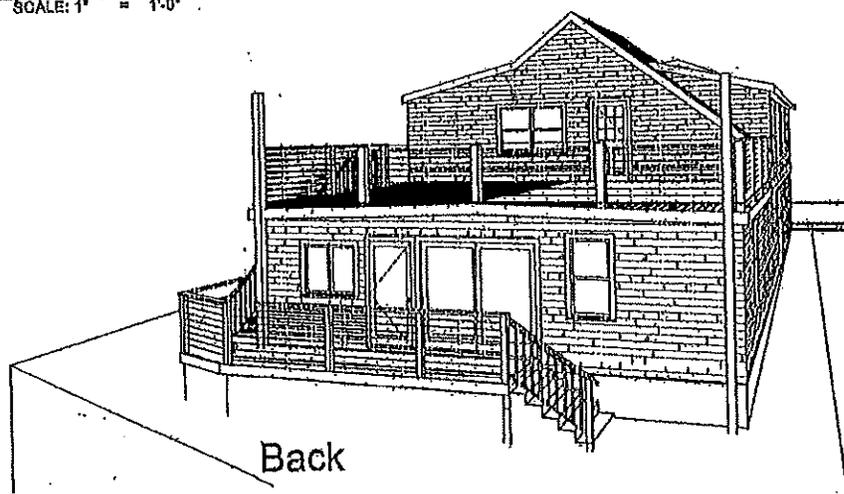
oor Plans Back Egress
 oods Hole Market
 Water St., Woods Hole, MA



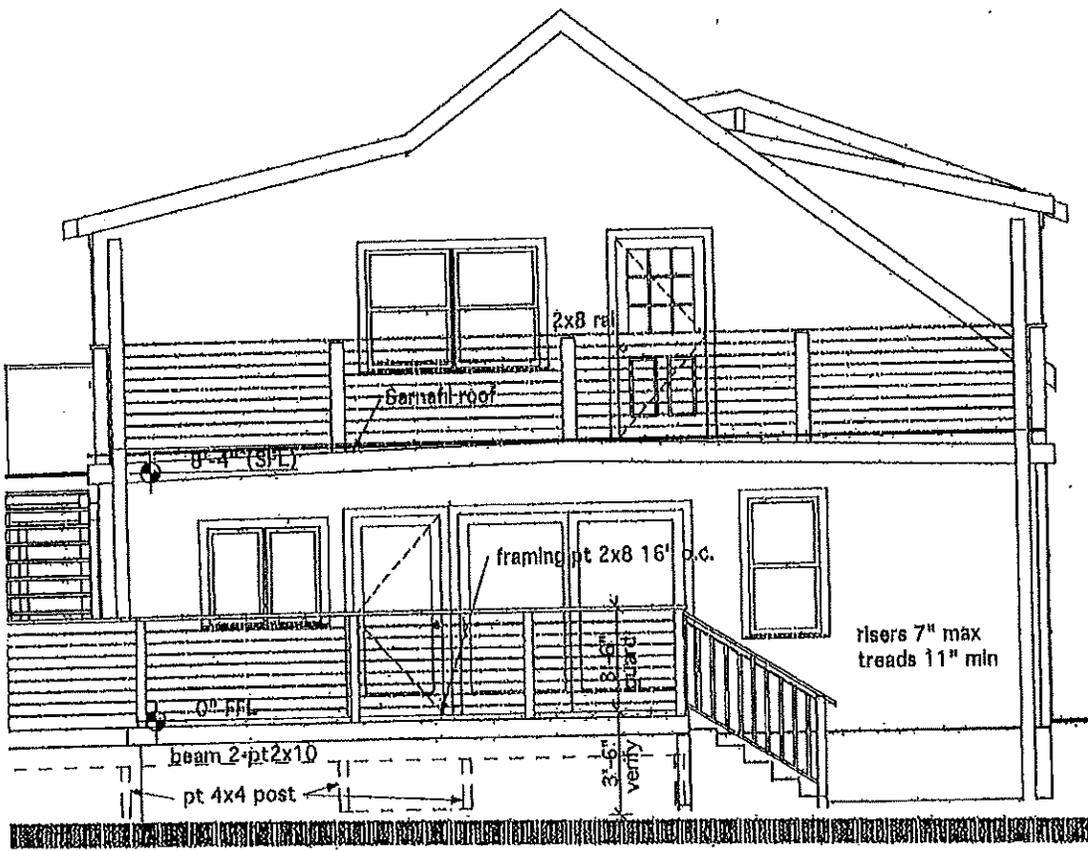
Within 4 weeks

6 Egress Deck

SCALE: 1" = 1'-0"



Back



East Elevation (waterfront)

Floor Plans Back Egress

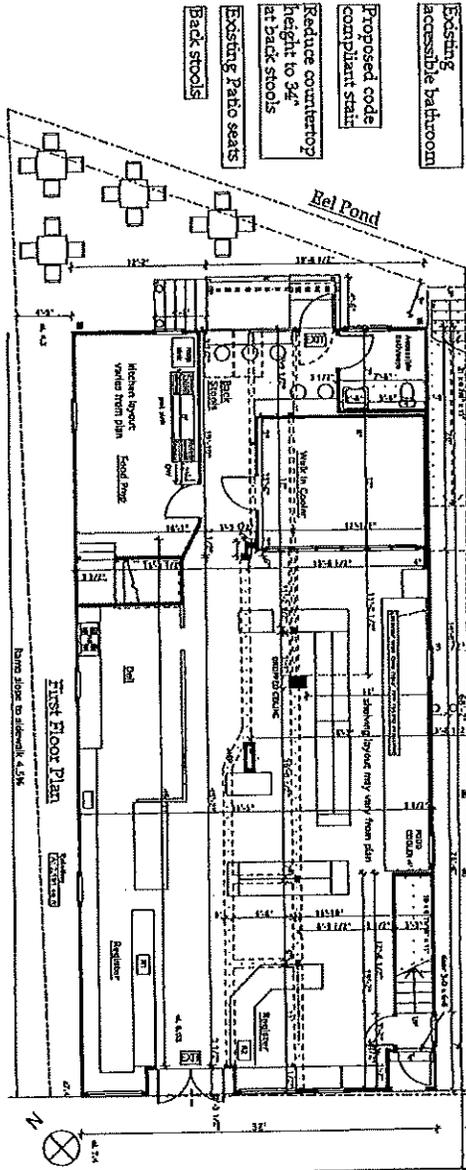
Woods Hole Market

Date: 4/17/2019
Scale: 1/4" = 1'-0"
Rev. Date & Type: ← 1'-0" →

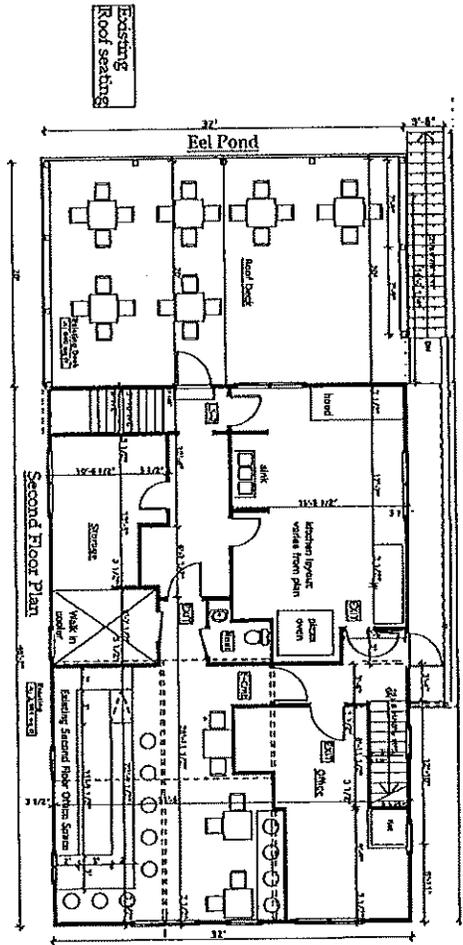
Sheet No.

A-

Woods Hole N



Existing accessible bathroom
 Proposed code compliant stall
 Reduce countertop height to 34"
 at back stools
 Existing Patio seats
 Back stools



Existing Roof seating

Second Floor Plan

Occupancy	
Patio Seating	16
Back Stools	5
Roof Seating	24
Cafe Seating	18
Staff	8
Total:	71

Convert Second Floor Office Space to Cafe seating

There are various existing dimensions and slightly nonconforming conditions which are grandfathered and do not significantly reduce accessibility

existing sidewalk service window
 existing accessible countertop / register

Side Alley ramp only when 3"

<p>A-3</p>	<p>Date: 2/7/201 Scale:</p> <p>Rev. Date & Type:</p>	<p>Furnishing Plans</p> <p>Woods Hole Market 87 Water St., Woods Hole, MA</p>	<p style="text-align: right;">ARCHITECT</p> <p style="text-align: center;">William P. Roslansky</p> <p>26 Albross Street, Woods Hole, Massachusetts, 02543 (508) 540-8330</p>
	<p>WOODS HOLE MARKET</p>		

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

ARCHITECTURAL ACCESS BOARD
Docket No. V21-025

In re)
)
 Woods Hole Market & Provisions)
 87 Water Street)
 Woods Hole)

AMENDED DECISION¹

Procedural History

This matter is before the Architectural Access Board (“AAB” or “Board”) based on an Application for Variance, dated February 6, 2021, pursuant to 521 CMR 4.00, submitted by Branch Parrish, owner of Woods Hole Market & Provisions (the “Petitioner”). The application seeks variances from the requirements of 521 CMR 25.2 (entrance approach) and 521 CMR 28.1 (vertical access).

The Board initially reviewed the matter at its regularly scheduled meeting on March 8, 2021 at which time it voted to schedule an adjudicatory hearing with written notice thereof issued on March 24, 2021.

The hearing was held on April 5, 2021 in accordance with G.L. c. 30A, §§ 10 and 11; 801 CMR 1.02 *et seq.*; and 521 CMR 4.00.² Mr. Parrish appeared on the Petitioner’s behalf as did Colleen Parrish, Bill Roslansky, RA, and Michael Connolly, former chair of the Massachusetts Historical Commission. The Board voted to grant the requested variances with certain conditions. The written decision was issued on April 26, 2021.

Thereafter, the Petitioner submitted a Motion for Reconsideration, pursuant to 801 CMR 1.01(7)(I). In particular, it requested revisions to the Order on the grounds that the noted language would negatively impact “business succession planning that is appropriate for the investments which will help sustain the only grocery store in Woods Hole village.” The Board reviewed the Motion on May 24, 2021 at which time it voted to grant the Motion and to permit the change to the language as requested, finding that it did not substantively alter the conditions set thereby.

¹ The Instant decision addresses the Petitioner’s Motion for Reconsideration, submitted following its receipt of the April 26, 2021 decision that followed the adjudicatory hearing of the matter. The prior decision is unchanged apart from the updates to the procedural history and the change to the second and third paragraphs of the Conclusion and Order, *infra*.

² Due to the ongoing COVID-19 state of emergency, the hearing was held remotely on the Microsoft Teams platform.

Applicable Laws & Regulations

Pursuant to 521 CMR 3.3.1, "[i]f the work being performed amounts to less than 30% of the *full and fair cash value* of the *building* and ... a. if the work costs less than \$100,000, then only the work being performed is required to comply with 521 CMR."

Per 521 CMR 25.1, "[a]ll public *entrance(s)* of a *building* or tenancy in a *building* shall be *accessible*. Public *entrances* are any *entrances* that are not solely service *entrances*, loading *entrances*, or *entrances* restricted to employee use only."

Per 521 CMR 25.2, "[t]he approach to an *accessible entrance* shall be a paved *walk* or *ramp* with a slip resistant surface, uninterrupted by steps. *Entrance(s)* shall have a *level space* on the interior and exterior of the *entrance* doors complying with Fig. 25a and 25b."

Pursuant 521 CMR 28.1, "[i]n all multi-story *buildings* and *facilities*, each level including *mezzanines*, shall be served by a passenger elevator. If more than one elevator is provided, each passenger elevator shall comply with 521 CMR 28. *Accessible* elevators shall be on an *accessible route* and located within the *space* with which it is intended to serve."

Exhibits

The following documentation was entered into evidence:

- Exhibit 1: Board Packet AAB 1-59, including the Application for Variance, all correspondence, photographs and plans submitted.
- Exhibit 2: Email correspondence from Kathleen Haynes, chair of the Falmouth Commission on Disabilities ("FCD"), to the Board, dated March 21, 2021.

Factual Findings

The following findings of fact and conclusions of law are supported by substantial evidence, based on the credited testimony of the witnesses, documents admitted into evidence and AAB records. G.L. c. 30A, § 11(2), § 14(7).

- 1) The Petitioner has owned the market since 2010. AAB 15. The building was constructed around 1920. Falmouth Assessor records.
- 2) The building is two stories in height and is located in a flood plain. AAB 13.
- 3) The building has a total area of 4,362 ft² with 2,181 ft² per floor. AAB 8.
- 4) Customer seating includes 16 located at the rear patio, 24 at the roof deck, and five on the ground floor. AAB 13, 14, 22.
- 5) The seating at the patio is accessible. AAB 13.
- 6) The path along the side of the building from the sidewalk to the patio has a minimum width of 37". AAB 13.
- 7) Access between floors is via a stair. AAB 22.
- 8) The existing ramp at the entrance has a 6" rise and is 30" long. AAB 21.
- 9) The value of building permits applied for within the 36 months prior to submission of the Application for Variance is \$26,125. AAB 9.

- 10) Anticipated construction costs for work not yet permitted is \$30,000. AAB 9.
- 11) The building's assessed value is \$359,100. AAB 9.

Discussion

The Board's jurisdiction is established pursuant to 521 CMR 3.3.1a, which states that, "[i]f the work being performed amounts to less than 30% of the *full and fair cash value* of the *building* and ... if the work costs less than \$100,000, then only the work being performed is required to comply with 521 CMR." Here, the proposed work is estimated to cost \$30,000 with the total spent or anticipated to be spent within 36 months of the Application at \$56,125. This is significantly less than 30% of the value of the building ($\$359,100 \times 30\% = \$107,730$). The Petitioner concedes the Board's jurisdiction.

However, pursuant to 521 CMR 4.1, an "owner or an owner's representative or tenant who thinks that full compliance with 521 CMR is *impracticable* may apply to the *Board* for a *variance* from 521 CMR." Impracticability is defined to mean either that compliance with 521 CMR "would be technologically unfeasible" or that it would "result in excessive and unreasonable costs without any substantial benefit to persons with disabilities." 521 CMR 5.00.

The building is a two-story, wood-framed structure located in a flood plain. The Petitioner uses it as a market and light-fare provider with seating currently available on the ground floor, roof deck and rear patio. Two seats on the first floor can easily be made accessible; these have a direct view of the waterfront. The facility also includes an accessible bathroom that is available for use by the public. There are 16 seats at the rear patio which are also accessible. This area is accessed by a walkway at grade along the side of the building that is minimally 37" wide.

The first-floor retail area has 3' double doors opening onto the street. The Petitioner indicates that all wheelchair traffic has been successful getting in and out of the store at this entrance. Assistance is also on hand from the clerk who operates at the counter immediately inside the door. During good weather the front doors are hooked open, leaving a 6' wide entry.

The Petitioner proposes to add 18 indoor seats on the second floor which is only reached via a stair and seeks a variance from the requirement to make the second floor accessible. Primarily, it argues that installation of an elevator is technologically unfeasible, explaining that the building is extremely old with limited space. In severe conditions, there can be as much as 5' of flood water in the market. An elevator could not be waterproofed or protected from such flooding; a flood would ruin critical components of the elevator.

The Petitioner also maintains that there is insufficient space available for an elevator and that installation is prohibitively expensive, requiring elevating the entire building by 5' in order to satisfy the building code. The cost of an elevator is approximately \$100K in addition to changes to the building to construct a fire-rated shaft which would cost an additional \$40K. In addition, to this the associated reframing of this old building would be disruptive to the second-floor framing which is 8" or less in thickness. The floors are not level so creating level thresholds and landing areas would also be difficult.

Further, replacing the existing ramp would require one that is 6' with a 5' level landing in front of the doors for 11' of lost space inside the building. The affected area would encompass both check-out areas and the total cost for such a retrofit is \$32K along with the loss of critical space.

Mr. Roslansky asserts that the sidewalk cannot be altered because it would require a 12" drop at the curb and the inclusion of a guard rail. In addition, the sidewalk would then bury more of the wood framing which would be prone to rotting and trigger the need for foundation work; this would create multiple problems for the street and adjacent buildings. Nor is it clear that the building code would even allow lowering a section of the floor since it is below the flood plain.

While, the building is not listed as historic, Mr. Connolly nonetheless noted its historic significance to the village of Woods Hole. Ms. Haynes also indicated FCD's support for the requested variances, stating that the age and location of the market make installing an elevator both an excessive expense and technologically unfeasible. Further, the Petitioner has made positive attempts to include persons with disabilities in the community. Particularly, the facility has the only accessible restroom in Woods Hole. Additionally, it will offer the same services on both floors.

Mr. Parrish asserted that the business is continually struggling to remain relevant, facing competition from large grocery chains with their greater discrepancy in pricing, a lack of workforce in the grocery industry, rising food and operations costs and, in the last year, the pandemic. Further, the Petitioner struggles because of the limited parking in the area with rising parking fees hurting the market's ability to attract customers. To survive, it must increase the availability of seating.

Analysis

The Board has now reviewed and considered the submissions and the witnesses' testimony. It finds that the evidence is sufficiently substantial, credible and detailed to establish such impracticability as to warrant the requested variance with the conditions described below.

Conclusion and Order

In light of the foregoing, the Board votes as follows:

- to **GRANT** a variance from the requirements of 521 CMR 25.2 on the following **CONDITIONS**: (1) an automatic door opener is installed at the front entrance³; (2) signage, useful to the visually impaired, is conspicuously posted, directing patrons to the accessible route to the patio; and (3) pertinent information regarding the facility's accessibility features is posted on the Petitioner's website.
- to **GRANT** a variance from the requirements of 521 CMR 28.1 on the following **CONDITIONS**: (1) the variance and these findings apply only to and for the current and proposed market and restaurant uses in accordance with the plan entitled "Furnishing Plans Woods Hole Market 87 Water St., Woods Hole, MA" (Sheet A-3), prepared by William F. Roslansky, Architect, dated 2/9/2021; (2) two interior water view restaurant seats on the first floor will be made accessible; (3) to accommodate a

³ The Petitioner opposed the condition and indicated that it might submit additional evidence to avoid it. The Board may consider such submittal if timely made.

person with a disability who is able to access the second floor by stairs, at least one seat on the second floor shall meet the requirements of 521 CMR Sections 35.3 – 35.6; and (4) pertinent information regarding available accessible seating will be posted on the Petitioner's website.

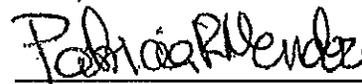
- to **EXPEDITE** this decision of the Board, therefore, bypassing the Board's approval of the decision prior to it being sent out to all parties concerned.
- these variances and these findings apply only with respect to the market and restaurant uses described herein and shown on the referenced plan. At its discretion, the Board may reopen and revisit this matter upon any substantial changes to the use of the facility.

A true copy attest, dated: May 24, 2021.

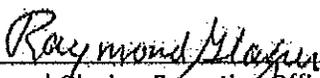
ARCHITECTURAL ACCESS BOARD

By:

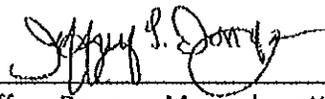
Dawn Guarriello, Chair (Not Present)



Patricia Mendez, Vice Chair

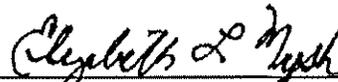


Raymond Glazier, Executive Office of Elder
Affairs Designee

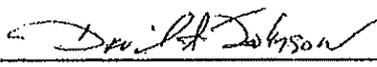


Jeffrey Dougan, Massachusetts Office on
Disability Designee

Andrew Bedar, Member (Not Present)



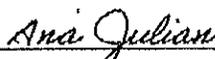
Elizabeth Myska, Member



David Johnson, Member



Meaghan O'Brien, Member



Ana Julian, Member

A complete administrative record is on file at the office of the Architectural Access Board.

This constitutes an order of the Architectural Access Board. In accordance with G.L. c. 30A, §14 and G.L. c. 22, §13A, any person aggrieved by this decision may appeal to the Superior Court of the Commonwealth of Massachusetts within thirty (30) days of receipt of it.

AMENT KLAUER LLP

Attorneys at Law
39 Town Hall Square
Falmouth, MA 02540

Robert H. Ament, Esq.
Kevin P. Klauer II, Esq.
Matthew M. Terry, Esq.

Telephone (508) 540-6555
Fax (508) 457-1293
Website: www.amentklauer.com

July 15, 2021

Thomas Bott, Town Planner
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540

RE: Site Plan Review 87 Water Street, Woods Hole, MA

Dear Tom:

Eel Pond Realty LLC owns 87 Water Street, Woods Hole, site of the Woods Hole Market and Provisions grocery store. The owners propose to open a Class 1 or 2 restaurant to operate there, mainly on the second floor, as the first-floor grocery store continues to operate. Enclosed is a copy of the application for special permit filed with the Board of Appeals.

Apparently, the grocery store predates zoning. For many years there has been a deli as part of the store with seating available in and outside the building where store customers could consume their deli purchases. Since 2014, the second-floor deck has been used that way. There has never been table service and the seating was not considered restaurant seating.

The present restaurant proposal is described in the correspondence to Noreen Stockman dated July 14, 2021. The restaurant would serve breakfast and dinner. At lunch time, there would not be restaurant food service, but we will be requesting a liquor license to allow the restaurant to serve alcoholic beverages to deli customers in the designated seating areas. There are already 69 seats available to store customers. The seating will be slightly reduced, so there will be up to 67 seats available. Because there will now be restaurant seating, this may be considered a change of use, triggering the application of parking requirements and the need for a special permit and site plan review. Of course, on-site parking is not available, so the Board of Appeals is being asked to waive the parking requirements.

Delivered herewith are:

1. Application for Site Plan Review;
2. Site Plans prepared by Holmes and McGrath, titled:
 - a. "Plan of Existing Structures prepared for Eel Pond Realty, LLC for Lot 0, #87 Water Street in Woods Hole, Falmouth, MA" date: June 18, 2021;
 - b. "Plan of Proposed Deck prepared by Holmes and McGrath, Inc. for Lot 0, #87 Water Street in Woods Hole, MA" date: May 8, 2019, revised 6/24/21;
3. Architectural Drawings prepared by William Roslansky;

Thomas Bott, Town Planner
July 15, 2021
Page 2

- a. portion of plan entitled "Floor Plans Back Egress Woods Hole Market 87 Water St., Woods Hole, MA" Sheet A-1 Date: 4/17/2019 (note: the plan submitted only shows the plan's relevant elevations section labeled "(6) Egress Deck" and "East Elevation (waterfront)");
 - b. "Furnishings Plans Woods Hole Market 87 Water St., Woods Hole, MA" Sheet A-3 date 2/9/2021;
4. Copy of Board of Appeals application for special permit; and
 5. Filing fee of \$200.00.

In terms of Site Plan Review, I do not think there is much for the Planning Board to review. Please give me a call about this after you review it.

Please schedule this for Planning Board discussion as soon as possible. Thanks.

Very truly yours,



Robert H. Ament

RHA/gmb
Enclosure

cc: Eel Pond Realty LLC

FORM SP-2

TOWN OF FALMOUTH, MASSACHUSETTS

PLANNING BOARD

APPLICATION FOR A SITE PLAN REVIEW FROM THE PLANNING BOARD

Date: July 13, 2021

To the Planning Board of the Town of Falmouth:

The undersigned hereby applies for a Site Plan Review under Section 240-191 et seq. (Article XXXIX) of the Zoning By-laws of the Town of Falmouth, namely to allow the addition of a new walkway and steps to the rear entrance of the property located at 87 Water Street, Woods Hole, MA, and to allow restaurant use in addition to the existing food market/deli known as the Woods Hole Market and Provisions without providing any off-street parking.

Property located at: 87 Water Street, Woods Hole, MA 02543

Falmouth Assessor's Map: 49A Section 01 Parcel 003 Lot 000.

Applicant's name: Eel Pond Realty, LLC

Address: 87 Water Street, Woods Hole, MA 02543

Telephone: (508) 540-6555 (Ament Klauer LLP)

Applicant's interest: Owner

Applicant's signature: Eel Pond Realty, LLC

By: Robert H. Ament
Robert H. Ament, Esquire
Ament Klauer LLP, Attorney for Applicant
39 Town Hall Square
Falmouth, MA 02540
(508) 540-6555
bob@amentklauer.com

FLOW NEUTRAL BYLAW
ADJUSTED GUIDELINES TO BOS FOR WAIVER/VARIANCE CONSIDERATION

Presented to BOS for Discussion Purposes 6-4-18

Suggested Process:

1. BOS receives confirmation from Board of Health that proposed development *can* be accommodated with an on-site Title 5 system as well as confirmation from wastewater superintendent that sufficient capacity exists in the treatment facility.
2. BOS holds Public Hearing on proposed development.
3. Priority areas for waiver/variance consideration:
 - Economic Development. Wastewater connections that will provide significant year-round economic benefit to the Falmouth community. This should be documented with supporting data on employment, revenue generated, taxes paid, etc.
 - Affordable Housing. Wastewater connections that address affordable housing goals as described in the Local Comprehensive Plan and Housing Production Plan. In the case of a project subject to the MGL Ch. 40B comprehensive permit process, the Zoning Board of Appeals assumes the power of the Board of Selectmen and grants or denies the waiver/variance request.
 - Mixed Use Development in Business Redevelopment Zone. Wastewater connections which include mixed commercial use on the lower level with residential units above. This is consistent with the zoning bylaw and the Local Comprehensive Plan envisioned by the Planning Board for the eastern portion of the Main Street corridor.
 - Municipal Use.

Note: Process above adopted by Falmouth Board of Selectmen on 6-4-18

RM

Chapter 180. Sewers and Septic Systems

Part 3. Service Areas and Districts

Article VIII. Flow Neutral Bylaw for Present and Future Sewer Service Areas

[Added AFTM 11-13-2013, Art. 41, approved 1-27-2014]

§ 180-51. Purpose.

The Town of Falmouth's Wastewater Treatment Facility on Blacksmith Shop Road (WWTF) has limited treatment and disposal capacity as determined by a discharge permit issued by the Massachusetts Department of Environmental Protection (DEP). In order to comply with the terms and conditions of the discharge permit, to manage present and future wastewater flows, to meet present and future water quality standards, and to support broader community planning objectives, the Town adopts this Flow Neutral Bylaw for Present and Future Sewer Service Areas. This bylaw shall apply to all present sewer service areas of the Town, except for the New Silver Beach Sewer Service Area, governed by §§ 180-37 through 180-50 herein, and it shall apply to any future sewer service areas to be serviced by the Wastewater Treatment Facility on Blacksmith Shop Road. Nothing in this bylaw shall exempt the owner of a property in a present or future sewer service area from all other applicable statutes, bylaws, rules and regulations.

§ 180-52. Mandatory sewer connection; elimination of septic systems in sewer service areas.

- A. The requirements for mandatory connection in sewer service areas are detailed in § 180-6 of the Code of Falmouth, Sewers and Septic Systems.
- B. Within thirty (30) days of the property's connection to the public sewer, any septic system or other waste disposal system located on the property shall be decommissioned in accordance with Board of Health regulations.

§ 180-53. Determination of wastewater flow in sewer service areas.

- A. Wastewater flow to the public sewer shall be determined in accordance with either: 1) the provisions set forth in 310 CMR 15; or 2) water meter data provided by the Department of Public Works as adjusted for seasonal occupancy; or 3) any other method acceptable to the Department of Environmental Protection and the Town of Falmouth. Any structure, legally in existence as of January 1, 2014, regardless of its flow, may by right maintain that flow or number of bedrooms. "Bedroom" is defined in 310 CMR 15.002 (Title 5: Standard requirements specified in 310 CMR 15.000, Massachusetts State Environmental Code), and the number of bedrooms in the Assessor's records as of January 1, 2014, are presumed accurate.
- B. The flow allocations for present and future sewer service areas as of January 1, 2014, are as follows:
 - (1) Blacksmith Shop Road Wastewater Treatment Plant: 570,000 gallons per day (excluding Little Pond Sewer Service Area).
 - (2) Little Pond Sewer Service Area: 260,000 gallons per day (subject to approved CWMP).
- C. These flows allocations will be adjusted if additional flow or modifications to sewer service areas are made through (1) approved comprehensive wastewater management plans, (2) approved notice of project change to environmental impact reports for the 2001 West Falmouth Harbor Facilities, or (3) approval from MA Department of Environmental Protection.

§ 180-54. Allocation of available capacity in sewer service areas.

The Wastewater Superintendent shall periodically notify the Board of Selectmen of the available capacity at the Wastewater Treatment Facility. The Selectmen in consultation with the Planning Board may set priorities for the available capacity.

§ 180-55. Modifications to existing parcels or changes in use in sewer service areas.

- A. Single-family residences.
 - (1) Existing development. Modifications of an existing single-family dwelling on a parcel of 40,000 square feet or less may increase the total number of bedrooms to four (4) by right. Modifications of existing single-family residences on parcels over 40,000

square feet may increase the number of bedrooms to one (1) bedroom per 10,000 square feet of lot area by right.

- (2) New development. A single-family residence may have four (4) bedrooms by right on parcels of 40,000 square feet or less. On parcels greater than 40,000 square feet, a single-family residence may have one (1) bedroom per 10,000 square feet of lot area by right.
- (3) Addition of bedrooms, beyond those permitted in Subsection A(1) and (2) above shall require a variance from the Board of Selectmen in accordance with § 180-56.

B. Multifamily residences.

- (1) Existing development. Modifications of an existing multifamily residence may increase the number of bedrooms to one (1) bedroom per 10,000 square feet of lot area by right.
- (2) New development. A new multifamily dwelling is allowed one bedroom per 10,000 square feet of lot area by right. In Zoning Districts where up to six (6) units per acre are allowed, up to three (3) bedrooms per permitted unit are allowed by right.
- (3) Addition of bedrooms in multifamily dwellings, beyond which is allowed by right, shall require a variance from the Board of Selectmen in accordance with § 180-56.

C. Nonresidential development.

- (1) Existing development.
 - (a) Modifications or changes of use, including residential to nonresidential, that increase flow to a level that is no more than ten (10) percent above that permitted as of January 1, 2014, by 310 CMR 15 (Title 5) are allowed by right.
 - (b) Modifications or changes of use that increase flow more than that allowed by right in Subsection C(1)(a) require a variance from the Board of Selectmen in accordance with § 180-56.
- (2) New development.
 - (a) New nonresidential development on a vacant parcel with a wastewater flow up to 110 gallons per day per 10,000 square feet of lot area is allowed by right.
 - (b) New nonresidential development on a vacant parcel with a proposed wastewater flow greater than 110 gallons per day per 10,000 square feet shall require a variance from the Board of Selectmen in accordance with § 180-56.

§ 180-56. Variances in sewer service areas.

- A. The Board of Selectmen, after a public hearing of which notice has been given by publication 1) in a newspaper of general circulation and 2) posting with the Town Clerk and on the Town website for a period of no less than fourteen (14) days prior to the date of hearing, may grant a variance, provided both Subsection A(1) and (2) below are satisfied:
 - (1) Sufficient capacity exists in the treatment facility, as determined by the Wastewater Superintendent. If sufficient capacity does not exist then no variance shall issue.
 - (2) Should the Wastewater Superintendent determine sufficient capacity exists the applicant must then demonstrate, through a positive referral from the Board of Health, that a septic system for the total number of bedrooms or nonresidential flow requested, meeting the provisions of 310 CMR 15.000 (Title 5) without significant variances, can be sited on the parcel. If the Board of Health does not make a referral within 45 days of receipt of the request, it shall be considered a positive referral.
- B. The Board of Selectmen may, at its sole and absolute discretion, issue a variance that in its judgment could be granted without substantially derogating from the intent or purpose of this bylaw should the applicant fail to satisfy criteria in § 180-56A(2) above.

§ 180-57. Rebuilding a building because of casualty loss in sewer service areas.

Relating to Article VIII, a property owner may rebuild a structure destroyed by fire, flood, storm or other acts of nature as a matter of right, provided that the new structure does not exceed the wastewater flow and number of bedrooms of the structure being replaced.

§ 180-58. Mandatory water conservation in sewer service areas.

The Board of Selectmen may adopt mandatory water conservation measures, after public hearing, consistent with the purposes of this bylaw.

§ 180-59. Transferability in sewer service areas.

The number of bedrooms or flow on any particular parcel of land cannot be sold, exchanged, transferred, or otherwise used to benefit the number of bedrooms or flow on another parcel or another's right to a sewer connection.

§ 180-60. Severability.

If any provision of this bylaw is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

§ 180-61. Violations and penalties.

- A. Any person found to be violating any provision of Article VIII shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof.
- B. Any person who shall continue any violation beyond the period permitted in Subsection A shall be guilty of a misdemeanor and subject to a fine in an amount not exceeding fifty dollars (\$50) for each violation. Each day in which such a violation shall continue shall be deemed a separate offense.
- C. This section shall in no way limit the Town's power and authority to seek other remedies at law that it may have. Any person violating any of the provisions contained herein shall be liable to the Town for any expense, loss or damage occasioned the Town by such violation.

PUBLIC HEARINGS

5. Wetlands/Dock Hearing – Chapoquoit Associates – Installation of two, 12-inch timber piles on existing licensed timber pier adjacent to licensed and existing stone jetty in and over the waters of West Falmouth Harbor, located at 20 Associates Road, West Falmouth (15 minutes)



TOWN OF FALMOUTH

Office of the Town Manager & Select Board

59 Town Hall Square, Falmouth, Massachusetts 02540

Telephone (508) 495-7320

Fax (508) 457-2573

PUBLIC HEARING NOTICE

The Falmouth Select Board will hold a public hearing under Section 240-77 (Wetland Regulations) of the Zoning Bylaws of the Town of Falmouth on Monday, September 27, 2021 at 7:30 p.m. in the Select Board Meeting Room, Falmouth Town Hall, 59 Town Hall Square on the application of Chapoquoit Associates for permission to perform a waterfront improvement project which includes the installation of two 12-inch timber piles on an existing licensed timber pier adjacent to a licensed and existing stone jetty in the waters of West Falmouth Harbor located at 20 Associates Road, West Falmouth, MA. Area affected is West Falmouth Harbor. Interested parties may review the file on this hearing at the Office of the Select Board.

Per Order of the
Select Board

Publication dates: Friday, September 10, 2021 and Friday, September 17, 2021; Falmouth Enterprise.

RECEIVED

AUG 20 2021

TOWN OF FALMOUTH
BOARD OF SELECTMEN



APPLICATION FOR PERMIT TO DREDGE, FILL OR OTHERWISE ALTER WETLANDS
(As required under Section 240-77 (Wetland Regulations) of the Zoning Bylaw)

To the Board of Selectmen
Falmouth, Mass.

Date: July 29, 2021

The undersigned hereby applies to the Board of Selectmen as required by Section 240-77 of the Zoning Bylaws, for a permit to alter, as indicated below, the following described premises:

Owner: 20 Associates Road Realty Trust 400 Atlantic Ave. Boston MA 02110
(full name) (address)

Agent: Holmes and McGrath, Inc., 205 Worcester Ct, Suite A4, Falmouth, MA 02540
(full name) (address)

Applicant: Chapoquoit Associates PO Box 59, West Falmouth MA 02574
(full name) (address)

1. Location of Property: Map 24 Section 06 Parcel 011 Lot 029

Street Name and House Number Associates Road, 20

2. Body of water, marsh or stream affected: West Falmouth Harbor

3. Description of property and project site: The existing jetty and timber pier are authorized under the Waterways Regulations Program by a Harbor and Land Commissioner's License #1351, dated May 28, 1891 and Chapter 91 License #10801, dated November 8th, 2007. The structures were authorized and have been in existence and use for over 100 years. The current existing timber deck is 42 feet +/- and attached to southern end of the existing stone jetty. The existing stone jetty and existing pier are in Flood Hazard Zones VE(EL18), VE(EL19) and VE(EL20) as established by the current Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map for this area. The wetland resource areas found on or within 100 feet of this site include land subject to coastal storm flowage, a coastal dune, coastal beach, land under the ocean and land containing shellfish.

a. Dimension, Acreage of total parcel: 170'+/- X 450 '+/- 1.69 acres

b. Length of water marsh frontage: 250 feet +/-

c. Dimension of area to be dredged: none Depth: n/a

d. Dimensions of area to be filled: none

e. Volume of dredging spoil to be removed: none

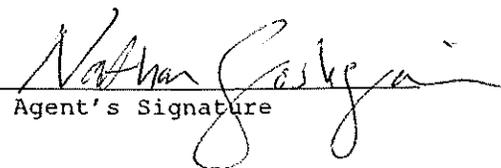
Disposition of Spoil: n/a

APPLICATION FOR PERMIT TO DREDGE
SECTION 240-77, FILL OR OTHERWISE ALTER WETLANDS

- f. Describe proposed riprap or bulkheading, if any: none
- g. Other (docks, piers, and etc): The proposed project involves the installation of two 12 inch timber piles. The piles will be driven, not jettied, and timber type will include either Greenheart or other non-C.C.A. equal. Installation will take place directly adjacent to the existing licensed float as shown on the plan.
- h. Method (equipment to be used) for proposed work: The work will be performed using typical construction equipment.
4. Purpose of proposed work: The purpose of the two additional piles is to increase stability to the existing structure and ensure structural integrity.
5. Zoning which governs area: Marine
6. Date of application for permit to dredge or fill from the Commonwealth of Mass: not yet filed Army Engineers: not yet filed
7. Has a permit ever been approved or refused for this location? By State, Federal or Local Authority: Yes. Ch 91 #10801 and Waterways Regulations Program License #1351 (see project description for issuance dates).
8. Remarks _____
9. Project Summary for legal notice: The proposed waterfront improvement project includes the installation of two 12 inch timber piles on an existing licensed timber pier adjacent to a licensed and existing stone jetty.

Owner: <u>20 Associates Road Realty Trust</u>	Agent: <u>Holmes and McGrath, Inc.</u>
<u>400 Atlantic Ave</u>	<u>205 Worcester Ct, Suite A4</u>
<u>Boston MA, 02110</u>	<u>Falmouth, MA 02540</u>
(name and address)	(name and address)
Tel. # _____	Tel. # <u>508-548-3564</u>


Owner's Signature


Agent's Signature

Applicant: Chapoquoit Associates
PO Box 59, West Falmouth MA 02574
(name and address)
Tel. # _____

DO NOT WRITE BELOW THIS SPACE, FOR SELECTMEN'S USE ONLY

300-FOOT ABUTTERS LIST

To be submitted with application for hearings:

List of property owners notified in connection with a public hearing for
WETLANDS SECTION 4300 on petition of 20 Associates Road Realty Trust
 (type of hearing) (applicant)

400 Atlantic Ave, Boston MA 02110

(mailing address)

as established by the Bylaws of the Town and/or M.G.L.

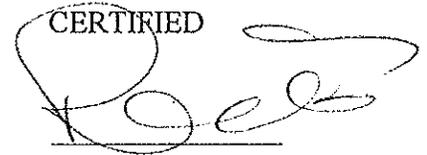
Owners: House Number 20 Street Associates Road

Owners: Map 24 Section 06 Parcel 011 Lot 029

LISTED BELOW ARE ABUTTERS BY MAP- SECTION- PARCEL- LOT NUMBERS AND NAME

MAPNO	OWNER	CO-OWNER	PROPLOC
24 05 001 028	ARCHIBALD PAUL A		9 TORCHWOOD LN
24 06 010 031	FISH TRUSTEE LAWRENCE K		171 HEATH ST
24 02 002 019	HARRISON JOHANNA W		PO BOX 3127
24 06 009 032	SMITH TRUSTEE RICHARD A		55 CHESTNUT HILL RD
24 05 002 027	EGLESTON OLIVER W		PO BOX 352
24 02 001 021	ZEZZA FAMILY LLC		BOX 15717720
24 05 003 026A	AMENT TRUSTEE ROBERT H		39 TOWN HALL SQ

20 ASSOCIATES RD

CERTIFIED


Patricia A Favulli
Director of Assessing
Town of Falmouth
August 25, 2021

mailed notices
to abutters 9/3/21.

40 ASSOCIATES RD 24 05 003 026A
LUC: 101
AMENT TRUSTEE ROBERT H
FORTY ASSOCIATES RD NOM TRUST
39 TOWN HALL SQ
FALMOUTH. MA 02540

20 ASSOCIATES RD 24 06 011 029
LUC: 101
BALK TRUSTEE MARK D
20 ASSOCIATES RD RLTY TRUST
400 ATLANTIC AVE
C/O GOULSTON & STORRS
BOSTON. MA 02110

26 ASSOCIATES RD 24 05 001 028
LUC: 101
CHAPPIE 26 LLC
37 COMMONWEALTH AVE
C/O DEBRA SMITH KNEZ
BOSTON. MA 02116

30 ASSOCIATES RD 24 05 002 027
LUC: 101
EGLESTON OLIVER W
MACLEOD ROBERT W
PO BOX 352
WEST FALMOUTH. MA 02574

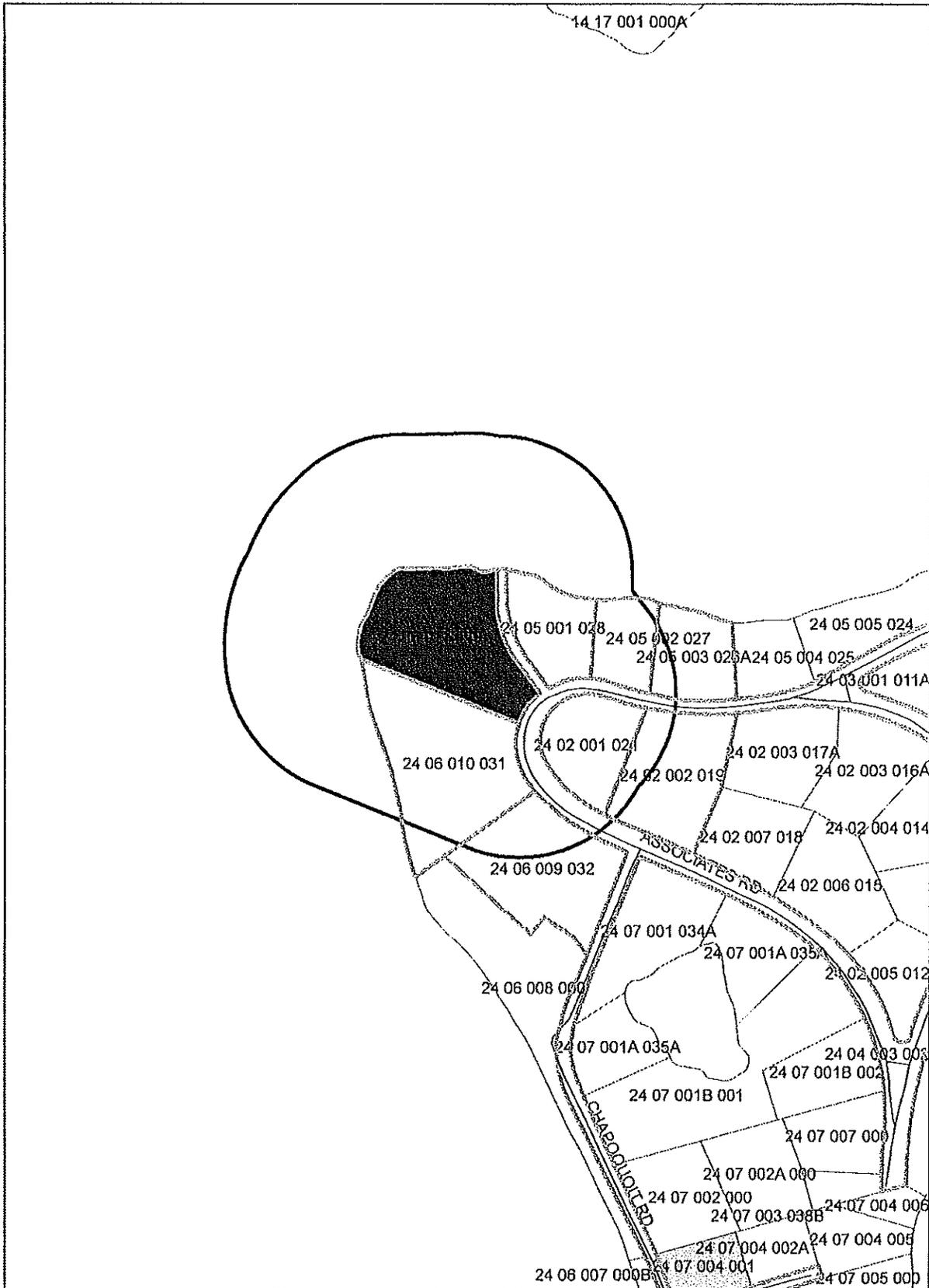
18 ASSOCIATES RD 24 06 010 031
LUC: 101
FISH TRUSTEE LAWRENCE K
FISH TRUSTEE ATSUKO
2 COMMONWEALTH AVE
16 F
BOSTON. MA 02116

41 ASSOCIATES RD 24 02 002 019
LUC: 101
HARRISON JOHANNA W
PO BOX 3127
NAPLES. FL 34106

8 ASSOCIATES RD 24 06 009 032
LUC: 101
SMITH TRUSTEE RICHARD A
CHAPOQUOIT REALTY TRUST
55 CHESTNUT HILL RD
CHESTNUT HILL. MA 02467-1309

19 ASSOCIATES RD 24 02 001 021
LUC: 101
SOULE EDGAR W
SOULE ELIZABETH W
ONE CHARLES ST SOUTH
UNIT 4D
BOSTON. MA 02116

20 ASSOCIATES RD



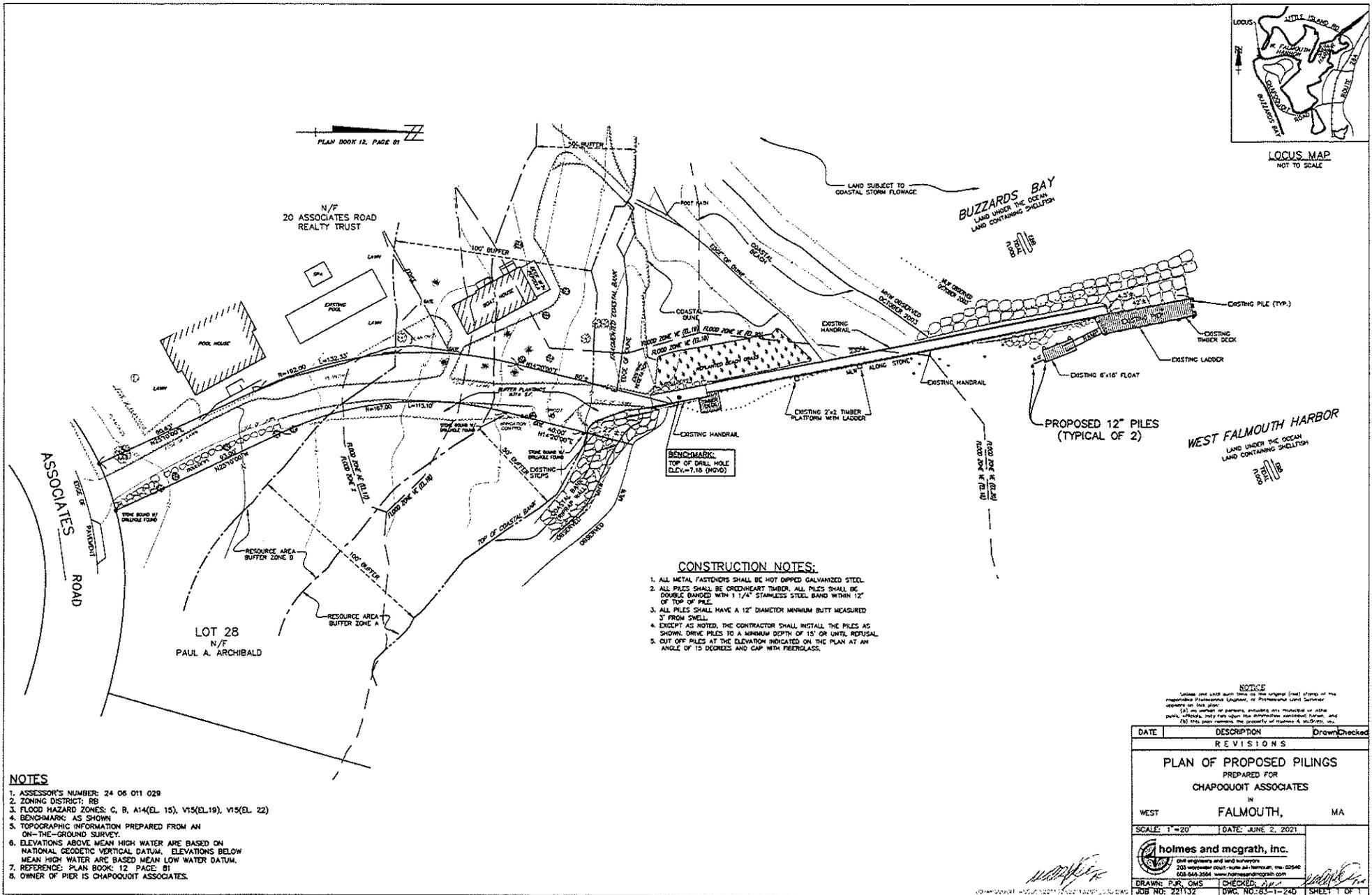


1" = 141 ft



<p>Places of Interest</p> <ul style="list-style-type: none"> Police Fire Stations Golf Library Medical Municipal Buildings Other Schools Sports BEACHES BOAT RAMPS CCRTA Bus Stops <p>Ferry Routes</p> <ul style="list-style-type: none"> FALMOUTH EDGARTOW FALMOUTH-OAK BLUFF WOODS HOLE-OAK BLU WOODS HOLE-VINEYAR 	<p>CCRTA Bus Routes</p> <ul style="list-style-type: none"> Fall-Win-Spr WOOOSH Summer <p>Decks/Patios</p> <ul style="list-style-type: none"> Deck Patio <p>Parking</p> <ul style="list-style-type: none"> Asphalt Concrete Gravel Shell <p>Bridges</p> <ul style="list-style-type: none"> Bridges <p>Road Ownership</p> <ul style="list-style-type: none"> COUNTY; TOWN PRIVATE STATE 	<p>Road Surfaces</p> <ul style="list-style-type: none"> OTHER PAVED Cobblestone, Concrete, Ot Dirt, Gravel Shell <p>Coastal Structures</p> <ul style="list-style-type: none"> Dock Groins Jetty Pier/Wharf Revetment <p>Water Features</p> <ul style="list-style-type: none"> Cranberry Bog Estuary Lake or Pond Sea or Ocean Stream or River Swamp or Marsh 	<p>Parcel's</p> <ul style="list-style-type: none"> Build'ngs <p>Vegetation</p> <ul style="list-style-type: none"> BOG FIELD ORCHARD <p>Layers of Interest</p> <ul style="list-style-type: none"> Public Lands COMMONWEALTH OF M TOWN OF FALMOUTH CONSERVATION STEAMSHIP AUTHORIT UNITED STATES OF AM
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Disclaimer
 The Town of Falmouth makes no claims, no representations and no warranties, express or implied, concerning the validity (express or implied), the reliability or the accuracy of the GIS data and/or GIS products furnished by the Town, including the implied validity of any uses of such data. Parcel lines are graphic representations only.
 Planimetric features derived from 3/05 Aerials.
 Prepared by Falmouth G.I.S.

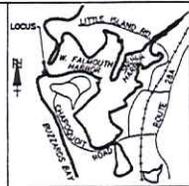






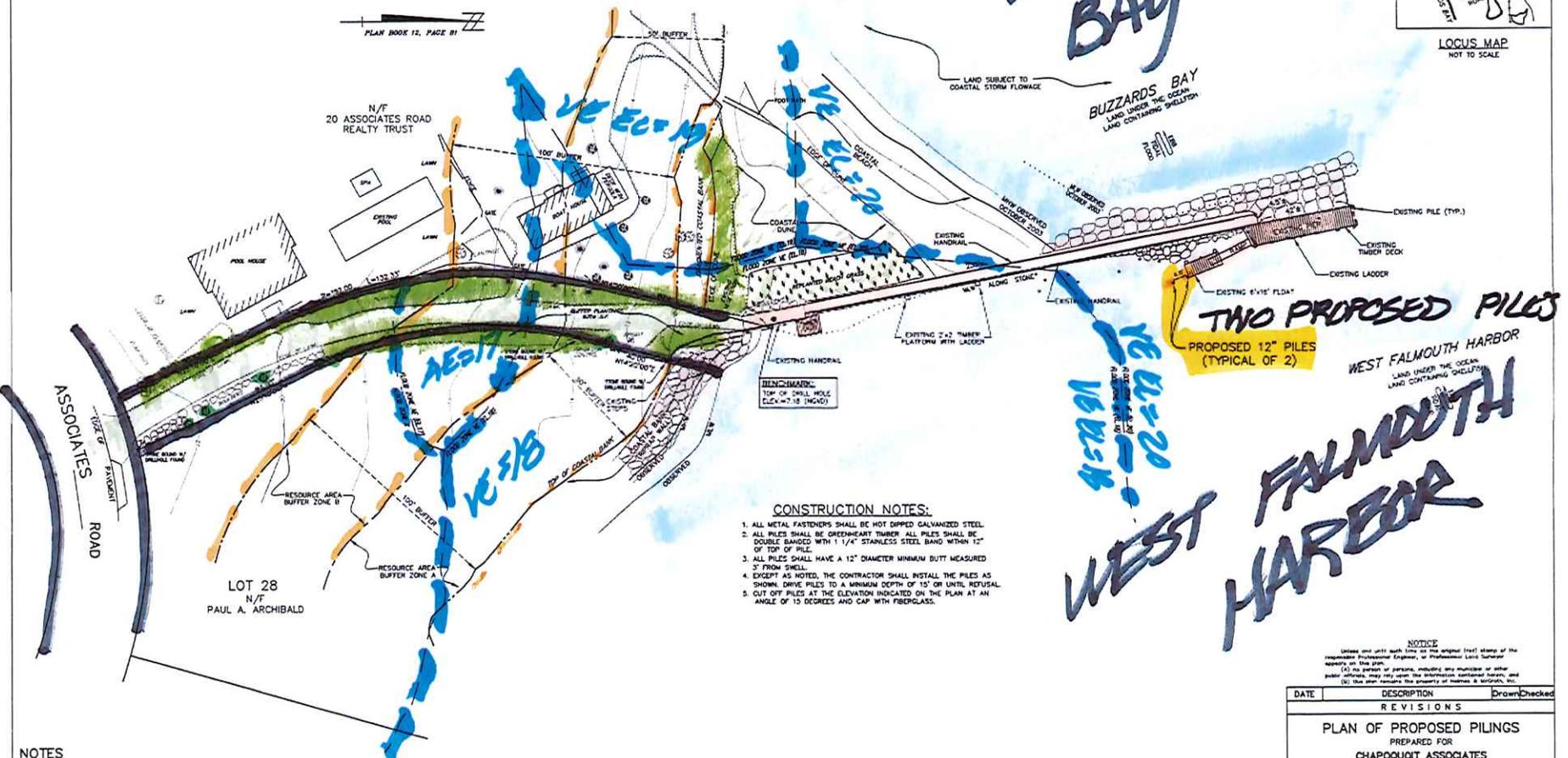


BUZZARDS BAY



LOCUS MAP
NOT TO SCALE

PLAN BOOK 12, PAGE B1



TWO PROPOSED PILES
PROPOSED 12" PILES
(TYPICAL OF 2)

WEST FALMOUTH HARBOR

- CONSTRUCTION NOTES:**
1. ALL METAL FASTENERS SHALL BE HOT DIPPED GALVANIZED STEEL.
 2. ALL PILES SHALL BE GREENHEART TIMBER. ALL PILES SHALL BE DOUBLE BANDED WITH 1 1/4" STAINLESS STEEL BAND WITHIN 12" OF TOP OF PILE.
 3. ALL PILES SHALL HAVE A 12" DIAMETER MINIMUM BUTT MEASURED 3" FROM SHELL.
 4. EXCEPT AS NOTED, THE CONTRACTOR SHALL INSTALL THE PILES AS SHOWN. DRIVE PILES TO A MINIMUM DEPTH OF 15' OR UNTIL REFUSAL.
 5. CUT OFF PILES AT THE ELEVATION INDICATED ON THE PLAN AT AN ANGLE OF 15 DEGREES AND CAP WITH FIBERGLASS.

- NOTES**
1. ASSESSOR'S NUMBER: 24 06 011 029
 2. ZONING DISTRICT: RD
 3. FLOOD HAZARD ZONES: C, B, A14(EL. 15), V15(EL. 19), V15(EL. 22)
 4. BENCHMARK: AS SHOWN
 5. TOPOGRAPHIC INFORMATION PREPARED FROM AN ON-THE-GROUND SURVEY.
 6. ELEVATIONS ABOVE MEAN HIGH WATER ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM. ELEVATIONS BELOW MEAN HIGH WATER ARE BASED MEAN LOW WATER DATUM.
 7. REFERENCE: PLAN BOOK 12, PAGE: B1
 8. OWNER OF PIER IS CHAPOQUIT ASSOCIATES.

NOTICE
Unless and until each sheet is the original (first) stamp of the responsible Professional Engineer, or Professional Land Surveyor, or other professional, they are not valid for construction purposes, and (3) that user remains the property of Holmes & Mcgrath, Inc.

DATE	DESCRIPTION	Drawn/Checked
REVISIONS		
PLAN OF PROPOSED PILINGS PREPARED FOR CHAPOQUIT ASSOCIATES IN WEST FALMOUTH, MA		
SCALE: 1"=20'	DATE: JUNE 2, 2021	
holmes and mcgrath, inc. civil engineers and land surveyors 200 WASHINGTON STREET SUITE 441 FALMOUTH, MA 02540 401.448.1042 www.holmesandmcgrath.com		
DRAWING: PJK, QMS	CHECKED: JJJZ	
JOB NO: 221132	DWG. NO: 24-1-240	SHEET 1 OF 1

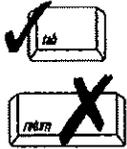
1044000201 ASSOCIATES 20211201 032.DWG



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 2 – 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.



From:

Falmouth
Conservation Commission

To: Applicant

Chapoquoit Associates
 Name
PO Box 59
 Mailing Address
West Falmouth MA 02574
 City/Town State Zip Code

Property Owner (if different from applicant):

 Name

 Mailing Address

 City/Town State Zip Code

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

<u>Plan of proposed Piliings prepared for Chapoquoit Assoc</u>	<u>6/2/2021</u>
Title	Date
_____	_____
Title	Date
_____	_____
Title	Date

2. Date Request Filed:

06/16/2021

B. Determination

Pursuant to the authority of M.G.L. c. 131, § 40, the Conservation Commission considered your Request for Determination of Applicability, with its supporting documentation, and made the following Determination.

Project Description (if applicable):

Proposed project is to install two 12-inch timber piles.

Project Location:

20 Associates Rd
 Street Address
24 06
 Assessors Map/Plat Number

West Falmouth
 City/Town
011 029
 Parcel/Lot Number



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

B. Determination (cont.)

The following Determination(s) is/are applicable to the proposed site and/or project relative to the Wetlands Protection Act and regulations:

Positive Determination

Note: No work within the jurisdiction of the Wetlands Protection Act may proceed until a final Order of Conditions (issued following submittal of a Notice of Intent or Abbreviated Notice of Intent) or Order of Resource Area Delineation (issued following submittal of Simplified Review ANRAD) has been received from the issuing authority (i.e., Conservation Commission or the Department of Environmental Protection).

1. The area described on the referenced plan(s) is an area subject to protection under the Act. Removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.

2a. The boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid.

2b. The boundaries of resource areas listed below are not confirmed by this Determination, regardless of whether such boundaries are contained on the plans attached to this Determination or to the Request for Determination.

3. The work described on referenced plan(s) and document(s) is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area. Therefore, said work requires the filing of a Notice of Intent.

4. The work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act. Therefore, said work requires the filing of a Notice of Intent or ANRAD Simplified Review (if work is limited to the Buffer Zone).

5. The area and/or work described on referenced plan(s) and document(s) is subject to review and approval by:

Name of Municipality

Pursuant to the following municipal wetland ordinance or bylaw:

Name

Ordinance or Bylaw Citation



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

B. Determination (cont.)

6. The following area and/or work, if any, is subject to a municipal ordinance or bylaw but not subject to the Massachusetts Wetlands Protection Act:

7. If a Notice of Intent is filed for the work in the Riverfront Area described on referenced plan(s) and document(s), which includes all or part of the work described in the Request, the applicant must consider the following alternatives. (Refer to the wetland regulations at 10.58(4)c. for more information about the scope of alternatives requirements):

- Alternatives limited to the lot on which the project is located.
- Alternatives limited to the lot on which the project is located, the subdivided lots, and any adjacent lots formerly or presently owned by the same owner.
- Alternatives limited to the original parcel on which the project is located, the subdivided parcels, any adjacent parcels, and any other land which can reasonably be obtained within the municipality.
- Alternatives extend to any sites which can reasonably be obtained within the appropriate region of the state.

Negative Determination

Note: No further action under the Wetlands Protection Act is required by the applicant. However, if the Department is requested to issue a Superseding Determination of Applicability, work may not proceed on this project unless the Department fails to act on such request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. Work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations are listed at the end of this document.

1. The area described in the Request is not an area subject to protection under the Act or the Buffer Zone.
2. The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent. ** under the State (resource area boundaries are not confirmed)*
3. The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any). ** under the bylaw (resource area boundaries are not confirmed)*

4. The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said work does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

B. Determination (cont.)

- 5. The area described in the Request is subject to protection under the Act. Since the work described therein meets the requirements for the following exemption, as specified in the Act and the regulations, no Notice of Intent is required:

Exempt Activity (site applicable statutory/regulatory provisions)

- 6. The area and/or work described in the Request is not subject to review and approval by:

Name of Municipality

Pursuant to a municipal wetlands ordinance or bylaw.

Name

Ordinance or Bylaw Citation

C. Authorization

This Determination is issued to the applicant and delivered as follows: # 7012 0170 0001 3617 8580

- by hand delivery on
- by certified mail, return receipt requested on

Date

Date

7/12/2021

This Determination is valid for **three years** from the date of issuance (except Determinations for Vegetation Management Plans which are valid for the duration of the Plan). This Determination does not relieve the applicant from complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.

This Determination must be signed by a majority of the Conservation Commission. A copy must be sent to the appropriate DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>) and the property owner (if different from the applicant).

VOTE AUTHORIZING SIGNATURES OF
COMMISSIONERS

On March 18, 2020, the Falmouth Conservation Commission met in open session through publicly accessible video-conference software, pursuant to the Order Suspending Certain Provisions of the Open Meeting Law, issued by Governor Charles D. Baker on March 12, 2020. At this duly held meeting, the following action was taken by the Falmouth Conservation Commission.

Motion: To authorize Jennifer Lincoln, Falmouth Conservation Administrator, to physically sign Falmouth Conservation Commission documents on behalf of individual Falmouth Conservation Commission members.

Vote: Unanimous

Vice Chairman Russell Robbins—Aye
Commissioner Elizabeth Gladfelter—Aye
Commissioner Maureen Harlow-Hawkes—Aye
Commissioner Courtney Bird—Aye
Alternate Commissioner Kevin O'Brien—Aye
Alternate Commissioner Peter Walsh—Aye
Commissioner Mark Gurnee—Aye
Chairman James Mathews—Aye

The above is a true and accurate account of the proceedings of the Falmouth Conservation Commission.

James C Mathews
3-27-20
James Mathews, Chairman
Date

The Commonwealth of Massachusetts
County of Barnstable

On this 27 of March 2020, before me, Kimberly Fish
(name of notary public), James Mathews personally appeared and proved to me through satisfactory evidence of identification, which were personally known to me, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated

purpose.



Notary Public Signature

KIMBERLY FISH
NOTARY PUBLIC, COMM OF MASSACHUSETTS
MY COMMISSION EXPIRES MARCH 5, 2021



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 2 – Determination of Applicability

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

C. Authorization (cont.)

Signatures:

Signature *[Handwritten Signature]*

Printed Name
Jaime Matthews, Chair

Printed Name
Peter Walsh

Printed Name
Steve Pethin

Printed Name
Carney Bird

Signature _____

Printed Name _____

Signature _____

Printed Name _____

Signature _____

Printed Name _____

D. Appeals

The applicant, owner, any person aggrieved by this Determination, any owner of land abutting the land upon which the proposed work is to be done, 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 Department of Environmental Protection Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>) to issue a Superseding Determination of Applicability. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and Fee Transmittal Form (see 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 Determination. 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. The request shall state clearly and concisely the objections to the Determination which is being appealed. To the extent that the Determination is based on a municipal ordinance or bylaw and not on the Massachusetts Wetlands Protection Act or regulations, the Department of Environmental Protection has no appellate jurisdiction.

Diane Davidson

From: Diane Davidson
Sent: Wednesday, August 25, 2021 3:36 PM
To: Jennifer Lincoln
Cc: Gregg Fraser - Marine & Environmental Services (gregg.fraser@falmouthma.gov); Charles Martinsen; Amy Coughlin
Subject: Wetlands Permit Application - 20 Associates Road - Chapoquoit Associates
Attachments: Wetland-Dock Application-2021-Chapoquoit Associates.pdf

To all,

The Select Board has received the attached application for a special permit for a waterfront improvement project.

Applicant: Chapoquoit Associates

Location: 20 Associates Road, West Falmouth

Proposed Work: For a proposed waterfront improvement project which includes the installation of two, 12-inch timber piles on an existing licensed timber pier adjacent to a licensed and existing stone jetty.

Body of Water: West Falmouth Harbor

Please forward a copy of the Order of Conditions and/or any recommendations or additional documents you may have for the Select Board by Friday, September 3, 2021. The hearing is scheduled at the Select Board meeting on Monday, September 13, 2021 at 7:30 p.m.

Thank you,

Diane

*Diane S. Davidson
Office Manager/Licensing
Office of the Town Manager and Select Board
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540
diane.davidson@falmouthma.gov
(508) 495-7321*

PUBLIC HEARINGS

6. Wetlands/Dock Hearing – Teague I. Campbell – Reconstruct pier, ramp and float on the same general footprint as the existing dock in and over the waters of Rand’s Canal, located at 147 Bay Road Extension, North Falmouth (rescheduled to October 25).

To Select Board: This hearing is being rescheduled to October 25. The public hearing notice was advertised, but the notices to abutters were not mailed out. Applicant has been notified of new date.

BUSINESS

1. Discussion/update on COVID-19 issues (10 minutes)
 - Masking discussion

BUSINESS

2. Presentation on proposed Police Department renovation (10 minutes)

PROJECT BUDGET

Town of Falmouth Police Station Interior Renovations

Administration

Advertising, Printing & Copying	\$3,000
Subtotal	\$3,000

Architecture and Engineering Fees

Basic Services	\$96,000
AV/IT consultant	\$7,000
Subtotal	\$103,000

Testing and Commissioning

On Site Testing and Inspections	\$5,000
Subtotal	\$5,000

Construction Costs

Construction Estimate	\$1,300,000
Subtotal	\$1,300,000

Furniture and Equipment

Furniture, Equipment, etc.	\$64,000
AV, Training Systems	\$30,000
Generator	\$150,000
Subtotal	\$244,000

Contingency

Soft Costs and Construction	\$141,100 (10% x \$1,4
-----------------------------	------------------------

PROJECT TOTAL **\$1,796,100**

111000)

BUSINESS

3. Presentation and Vote on Applications for Funding from Falmouth Affordable Housing Fund (FAHF) (10 minutes)
 - a. Acting as Trustees of the Falmouth Affordable Housing Fund, Vote on application from Falmouth Housing Corp. for \$2,300,000 to construct 48 units of affordable rental housing at the intersection of 763 Main St. and 24 Scranton Ave.

FALMOUTH AFFORDABLE HOUSING FUND

Established by Ch. 29 of the Acts of 2011
Board of Selectmen, Trustees

59 Town Hall Square
Falmouth, Massachusetts 02540
(508) 495-7344

BOARD OF TRUSTEES' FUNDING ALLOCATION GUIDELINES

Falmouth Affordable Housing Fund monies are available on a limited basis for projects that support the Board of Trustees' Funding Priorities. The FAHF will review the housing pipeline and the target allocations and will adjust awards within the range based on expected applications and a determination of the current housing needs of Falmouth. The Trustees may allocate up to \$100,000 per unit with the specific amount to be determined based upon the review of the community benefit and the particular aspects of each project taking into account criteria including, but not limited to:

- Level of affordability and percentage of units created that are deed restricted affordable
- Extent to which the development meets the Trustees Funding Priorities and the needs as set forth in the HPP
- Strength of the overall concept
- Reasonableness of operating costs for a project of its size
- Availability of additional subsidy funds to leverage FAHF investment

MEMORANDUM

TO: Select Board
FROM: Julian M. Suso, Town Manager *Jim Suso*
CC: Community Preservation Committee
Carla Feroni, Housing Coordinator
Frank Duffy, Town Counsel
DATE: September 21, 2021
RE: Falmouth Housing Corp - Scranton & Main Application for funding from Falmouth Affordable Housing Fund

The Board is well aware of this proposal from the Falmouth Housing Corporation (FHC), a private, non-profit housing developer, to construct 48 units of senior rental housing at the intersection of Scranton Ave and Main Street. The Board voted to approve a letter in support of FHC's application for Low Income Housing Tax Credits at your last meeting. At the upcoming meeting on September 27th, the Board will be asked to consider approval of FHC's application for funding.

Falmouth Housing Corporation has applied for \$2,300,000 from the Falmouth Affordable Housing Fund (FAHF). This represents a subsidy of \$47,917 per unit which is below the maximum of \$100,000 per unit set forth in the Funding Allocation Guidelines adopted by the Select Board as Trustees of the FAHF. The FAHF Working Group met with representatives of the developer on August 25th and provided me with a recommendation in support of the application as submitted. For the reasons outlined below, I recommend that the Select Board vote to approve this request for funding.

The proposal consists of 3 studio apartments and 45 1-Bedroom units in one building on 1.8 acres. All units will be deed restricted affordable for individuals age 62 and older. The income range for the units is broken down by category as follows (AMI=Area Median Income):

	30% AMI	50% AMI	60% AMI	TOTAL
Studio	1	1	1	3
1-Bedroom	8	8	29	45

The subject property is downtown directly across from the Police Station and Senior Center. It is located less than a mile from a grocery store, pharmacy, library, beach and the Marine Park and is accessible to public transportation. The property is located within the sewer service area. The zoning for this property is Business Redevelopment along Main Street and Business 2 on

Scranton Ave. The Business Redevelopment District encourages mixed use which is why the developer included retail space on the first floor. It should be noted that the commercial space likely decreases, rather than increases, the revenue potential of the property.

The Local Comprehensive Plan (LCP) calls for "housing for all" with greater infill residential density where appropriate primarily through redevelopment in some areas and discouraging further development in others. Per the LCP, this location is ideally suited for greater density, and for individuals age 62+ in particular, given available sewer infrastructure and access to transportation and services noted above.

The Town's housing needs, as identified in the 2018 Housing Production Plan (HPP), call for 85% of new affordable units to be rental and 15% to be home-ownership. The Falmouth HPP identifies an unmet need of 469 rental units for individuals over the age of 61 specifically. This proposed housing addresses a particularly acute need for renters at 30% to 60% of Area Median Income. The Falmouth Housing Corp maintains a waiting list for its existing rental units that confirms there continues to be a demand for affordable studio and 1-bedroom rental apartments. The Town has generated very few units at this lower end of the income scale in recent years. The developer, Falmouth Housing Corporation, has a track record of constructing quality rental housing and managing its properties in a manner that assures they remain an asset to the community over the long term.

Proposed Motion:

- I move that the Select Board, acting as Trustees of the Falmouth Affordable Housing Fund, vote to authorize a grant of \$2,300,000 to the Falmouth Housing Corporation for the construction of 48 units of affordable rental housing for seniors age 62 and older at 24 Scranton Ave and 763 Main Street subject to terms and conditions as deemed appropriate by the Town Manager in consultation with legal counsel and to authorize the Town Manager to execute said letter.

Attachments:

- FHC Application for Funding

FALMOUTH AFFORDABLE HOUSING FUND

Established by Ch. 29 of the Acts of 2011
Board of Selectmen, Trustees

59 Town Hall Square
Falmouth, Massachusetts 02540
(508) 495-7344

AFFORDABLE HOUSING FUND APPLICATION Calendar Year 2019

General Information

Project Name: Scranton and Main

Project Location and Parcel ID#: 24 Scranton Ave and 763 Main Street, 47B 09 013 022 and 47B 09 010 002

Type of Project: 100% affordable age-restricted (62+) housing

Applicant(s) name/ Organization: Falmouth Housing Corporation

Contact Person: Linda Clark

Mailing Address: 704 Main Street Falmouth MA 02540

Telephone Number: 508-540-4009

Email Address: lclark@falmouthhousingcorp.org

Property Ownership

Legal Property Owner of Record: Cape Cod 5 Savings Bank

Is the owner the applicant? No

If not, does the applicant have site control or written consent of the property owner to submit an application? If yes, attach documentation. Without this documentation the project will be ineligible for funding for this applicant.

Yes, see attached for Purchase and Sale Agreement

For projects that have an acquisition expense the applicant must provide an appraisal from an independent party that justifies the acquisition cost.

See attached appraisal and related narrative discussing acquisition cost.

Development Team

Please submit as attachments the resumes of the development team and a list and description of affordable housing projects completed by the applicant.

Project Information

Describe the proposed project including:

Project Style:

Intended to match neighboring and nearby buildings in the commercial district by using a masonry base, clapboards, shingles, and smooth panels.

Type of Units (condo ownership, fee simple ownership, rental, etc.): Rental

Total Number of Units: 48
 Number of Market Units: 0
 Number of Affordable Units: 48
 Proposed Sale Prices/Rents: N/A
 Proposed Condo Fees: N/A

Number of BRs: _____
 Number of BRs: 48
 Market: _____
 Market: _____

1 studio and 29 1 bedroom units will be rented at 60% AMI (currently \$970 & \$1,039/month) and tenants in the remaining 18 units will pay rent that is equal to between 30-35% of their income.
 Affordable: _____
 Affordable: N/A

Proposed % of AMI target beneficiaries: 30-60% AMI

Describe how this project addresses the unmet affordable housing needs of the community as identified in the Town of Falmouth *Housing Demand Study & Needs Analysis (2014)* and the Town of Falmouth *Local Comprehensive Plan (2016)*.

The project will address the significant need for affordable senior housing in Falmouth. The current 1-bedroom waitlist at FHC's Schoolhouse Green, a senior property close to this proposed project site, is over 73, and there are many qualifying elderly households included in the 158 households on 1-bedroom waitlists at other FHC properties. As noted in the Falmouth Housing Demand Study & Needs Analysis, "Falmouth has a shortage of affordable, suitable housing both for retirement age residents and frail elders. Developing this kind of housing is very difficult because seniors who need affordable housing often need deeply subsidized housing." Furthermore, the Update of Housing Needs and Demand Analysis in 2017 found that "the greatest increase in demand for rental units will come from seniors age 65 and older" between 2016 and 2021. This project will exclusively serve senior households earning less than 60% AMI and will strive for deep affordability (a minimum of 20% under 30% AMI).

Site Information

Please provide a description of the surrounding area and community profile including a description of the current site characteristics, zoning, environmental, and any regulatory requirements or constraints. Attach a map and photos of the project site and neighborhood along with any zoning/permitting relief required.

The surrounding area is largely commercial and residential. The project is in close proximity to other apartment complexes, such as 704 Main Street apartments and Harborview Apartments on Scranton Avenue. Additionally, it is located across the street from the newly constructed Falmouth Senior Center. There are no major environmental or regulatory constraints that the development team is aware of. While a portion of the rear of the site at the rear of the site is located in Flood Hazard Zone AE, the building will not be built in that elevation. Overall, this site is extremely well located and well suited for the proposed project.

Building:

The site currently has a vacant former bank building on site and the location of a multi-building motel that has since been demolished

Zoning:

The property is located in the Business Redevelopment zoning district abutting Main Street as well as the Business 2 Zoning District abutting Scranton Avenue. The Business Redevelopment District encourages mixed-use redevelopment that integrates commercial and community services uses with housing to foster pedestrian-friendly streetscapes.

Health:

There are no health considerations or issues associated with the site.

Conservation:

About 19% of the parcel, at the southeast portion of the land, lies in a Special Flood Hazard Area for Coastal Flooding, with a Base Flood Elevation of 13. The elevation of Scranton Ave. and Main Street vary from 17' Elevation to 18' Elevation, based on NAVD88. There are isolated coastal banks on the land on site. The project is about 270 feet north of the north end of Falmouth Inner Harbor. There is a Motel building, Robbins Road and a park between the site and Falmouth Inner Harbor.

Infrastructure:

The project will be able to connect to Town water and sewer off of Main St./Scranton Ave.

Amount of FAHF Request: 2,300,000

Project Feasibility

Attach project budget information on the included Attachment A --OneStop 2000 Affordable Housing Finance Application Sections 3: Sources and Uses and Section 4: Budget Pro Forma together with at least one bank letter of reference.

Community Outreach

Provide a description of the applicant efforts to engage the community members through outreach, meetings, and other educational initiatives.

This project will include community outreach and public engagement before the project is finalized and construction begins. The project has presented to the Select Board and Town staff representing DPW, building department, fire department, health board, planning board, and zoning board. The project will go through several public meetings as part of the comprehensive permitting process, which is expected to take place throughout this summer.

Development Schedule

Describe the timeframe for the proposed project and how it will be implemented. Provide a timeline for all project milestones included as *Attachment B – Project Schedule*.

List of Attachments

- Attachment A-OneStop 2000
- Attachment B-Project Schedule
- Attachment C- Resumes of Development Team
- Attachment D-Map and Site Photos
- Attachment E- Bank Letter of Reference
- Attachment F- Appraisal
- Attachment G-Purchase and Sale Agreement
- Attachment H - Project Eligibility Letter
- Attachment I-Architectural Drawings

If you have any questions, please do not hesitate to contact Carla Feroni at 508 495-7344 or at the email address below.

Submit one electronic copy to Carla.Feroni@falmouthma.gov
and (6) hard copies to:
Carla Feroni, Housing Coordinator, Town of Falmouth, 59 Town Hall Square, Falmouth, MA 02540

Provide a schedule for project implementation using the Milestones below. If Milestone B or C is not applicable to your project, mark the Milestone "NA." *Note: Implementation Schedules must be realistic. Carefully consider projected Milestone dates. Unrealistic Implementation Schedules may have a negative impact on the project's application review. Project implementation delay may be considered in recommendation for grant award.*

Milestones (Month/Year):

- A. Project Start (Month/Year): December 2020
- B. Procurement Documents Submitted to FAHF (Month/Year): N/A
- C. Project Construction/Professional Contract Submitted FAHF (Month/Year): N/A
- D. Project/Construction Start (Month/Year): March 2023
- E. 50% Project Completion (Month/Year): October 2023
- F. 100% Project Completion (Month/Year): And full occupancy May 2024
- G. Close-Out Complete (Month/Year): July 2024

Comments:

Comprehensive Permit application: June 2021
Application submitted to State DHCD for funding: January 2022
Notice of Award of State DHCD funding: Summer 2022
RFP for General Contractor and GC Selection: Winter 2022-2023

ATTACHMENT B PROJECT SCHEDULE

Attachment A- OneStop 2000Pro- forma

Section 3 SOURCES AND USES OF FUNDS

Sources of Funds							
Private Equity:			<i>Optional user calculations</i>				
81 . Developer's Cash Equity							
82 . Tax Credit Equity (net amount) (see 360, Section 5, page 18.)		\$11,461,352					
83 . Developer's Fee/Overhead, Contributed or Loaned		\$					
84 . Other Source: Falmouth Affordable Housing Fund		\$2,300,000					
Public Equity:							
85 . HOME Funds, as Grant		\$67,025	Sponsor Equity				
86 . Grant:	Foundations	\$250,000					
87 . Grant:	Barnstable HOME	\$140,000					
88 . Total Public Equity		\$457,025					
Subordinate Debt (see definition):							
		<i>Amount</i>	<i>Rate</i>	<i>Amortiz.</i>	<i>Term</i>		
89 . Home Funds-DHCD, as Subordinate Debt		\$715,000	0.00%	yrs.	yrs.		
	Source: HOME						
90 . Home Funds-Local, as Subordinate Debt		\$1,000,000	0.00%	yrs.	yrs.		
	Source: AHTF						
91 . Subordinate Debt		\$550,000	0.00%	yrs.	yrs.		
	Source: HSF						
92 . Subordinate Debt		\$750,000	0.00%	yrs.	yrs.		
	Source: CBH						
93 . Subordinate Debt		\$1,000,000	%	yrs.	yrs.		
	Source: CATNHP						
94 . Total Subordinate Debt		\$4,015,000					
Permanent Debt (Senior):							
		<i>Amount</i>	<i>Rate</i>	<i>Override</i>	<i>Amortiz.</i>	<i>Term</i>	<i>MIP</i>
95 . MHFA	MHFA Program 1	\$	%	%	yrs.	yrs.	%
96 . MHFA	MHFA Program 2	\$	%	%	yrs.	yrs.	%
97 . MHP Fund Permanent Loan		\$	%		yrs.	yrs.	%
98 . Other Permanent Senior Mortgage		\$2,192,176	4.75%		30.00	30.00	0.000%
	Source: Mortgage-Residential						
99 . Other Permanent Senior Mortgage		\$610,228	5.00%		25.00	25.00	0.000%
	Source: Mortgage-Commercial						
100 . Total Permanent Senior Debt		\$2,802,404					
101 . Total Permanent Sources		\$21,035,781					
Construction Period Financing:							
		<i>Amount</i>	<i>Rate</i>	<i>Term</i>			
102 . Construction Loan		\$9,000,000	4.10%	24.0			
	Source:						
	Repaid at:	(event)					
103 . Other Interim Loan		\$0	%	mos.			
	Source:						
	Repaid at:	(event)					
104 . Syndication Bridge Loan		\$0	%	mos.			
	Source:						
	Repaid at:	(event)					

Uses of Funds

The Contractor certifies that, to the best of their knowledge, the construction estimates, and trade-item breakdown on this page are complete and accurate.

Direct Construction:

105 . Who prepared the estimate?
Name Signature

106 . Basis for estimates?

DV	Trade Item	Amount	Description
107 .	3 Concrete	\$13,450,805	
108 .	4 Masonry		
109 .	5 Metals		
110 .	6 Rough Carpentry		
111 .	6 Finish Carpentry		
112 .	7 Waterproofing		
113 .	7 Insulation		
114 .	7 Roofing		
115 .	7 Sheet Metal and Flashing		
116 .	7 Exterior Siding		
117 .	8 Doors		
118 .	8 Windows		
119 .	8 Glass		
120 .	9 Lath & Plaster		
121 .	9 Drywall		
122 .	9 Tile Work		
123 .	9 Acoustical		
124 .	9 Wood Flooring		
125 .	9 Resilient Flooring		
126 .	9 Carpet		
127 .	9 Paint & Decorating		
128 .	10 Specialties		
129 .	11 Special Equipment		
130 .	11 Cabinets		
131 .	11 Appliances		
132 .	12 Blinds & Shades		
133 .	13 Modular/Manufactured		
134 .	13 Special Construction		
135 .	14 Elevators or Conveying Syst.		
136 .	15 Plumbing & Hot Water		
137 .	15 Heat & Ventilation		
138 .	15 Air Conditioning		
139 .	15 Fire Protection		
140 .	16 Electrical		
141 .	Accessory Buildings		
142 .	Other/misc		
143 .	Subtotal Structural	\$13,450,805	
144 .	2 Earth Work		
145 .	2 Site Utilities		
146 .	2 Roads & Walks		
147 .	2 Site Improvement		
148 .	2 Lawns & Planting		
149 .	2 Geotechnical Conditions		
150 .	2 Environmental Remediation		
151 .	2 Demolition		
152 .	2 Unusual Site Cond		
153 .	Subtotal Site Work	\$0	
154 .	Total Improvements	\$13,450,805	
155 .	1 General Conditions	\$0	
156 .	Subtotal	\$13,450,805	
157 .	1 Builders Overhead		
158 .	1 Builders Profit		
159 .	TOTAL	\$13,450,805	

160 Total Cost/square foot: Residential Cost/s.f.:

Development Budget:

	Total	Residential	Commercial	Comments
161 . Acquisition: Land	\$2,260,000	\$2,260,000		
162 . Acquisition: Building	\$0	\$0		
163 . Acquisition Subtotal	\$2,260,000	\$2,260,000	\$0	
164 . Direct Construction Bu	\$13,450,805	\$12,873,680	\$577,125	(from line 159)
165 . Construction Contingen	\$670,790	\$641,934	\$28,856	5.0% of construction
166 . Subtotal: Constructio	\$14,121,595	\$13,515,614	\$605,981	

General Development Costs:

167 . Architecture & Enginee	\$750,000	\$720,000	\$30,000	
168 . Survey and Permits	\$125,000	\$125,000		
169 . Clerk of the Works	\$30,000	\$30,000		
170 . Environmental Enginee	\$51,400	\$51,400		Includes Geotechnical Engineer
171 . Bond Premium	\$0	\$0		
172 . Legal	\$177,500	\$172,500	\$5,000	
173 . Title and Recording	\$36,500	\$35,000	\$1,500	
174 . Accounting & Cost Cert	\$45,000	\$45,000		
175 . Marketing and Rent Up	\$40,000	\$40,000		
176 . Real Estate Taxes	\$54,276	\$54,276		
177 . Insurance	\$108,333	\$103,571	\$4,762	
178 . Relocation	\$0	\$0		
179 . Appraisal	\$15,000	\$15,000		Includes Market Study
180 . Security	\$38,032	\$38,032		
181 . Construction Loan Inter	\$350,000	\$331,145	\$18,855	
182 . Inspecting Engineer	\$30,700	\$30,700		
183 . Fees to: Bank Fee	\$90,900	\$90,900		
184 . Fees to: LIHTC	\$94,974	\$94,974		
185 . MIP	\$0			
186 . Credit Enhancement Fee	\$144,075	\$136,313	\$7,762	Predevelopment Loan Interest & Fees
187 . Letter of Credit Fees	\$12,090	\$12,090		Application Fees
188 . Other Financing Fees	\$0			
189 . Development Consultan	\$75,000	\$75,000		FFB
190 . Other: Testing	\$62,500	\$62,500		Includes Commissioning, and Traffic
191 . Other: Utility Back	\$50,000	\$50,000		
192 . Soft Cost Contingency	\$119,064	\$115,670	\$3,394	5.0% of soft costs
193 . Subtotal: Gen. Dev.	\$2,500,344	\$2,429,071	\$71,273	

194 . Subtotal: Acquis., Co and Gen. Dev.	\$18,881,939	\$18,204,685	\$677,254	
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195 . Capitalized Reserves	\$269,990	\$269,990		
196 . Developer Overhead	\$941,926	\$941,926		
197 . Developer Fee	\$941,926	\$941,926		

198 . Total Development C	\$21,035,781	\$20,358,527	\$677,254	TDC per unit	\$424,136
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199 . TDC, Net	\$20,765,791	\$20,097,229	\$668,562	TDC, Net per unit	\$418,692
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Section 4 OPERATING PRO-FORMA

Operating Income				
Rent Schedule:				
	Contract	Utility	Total	No. of
	Rent	Allowance	Gross Rent	Units
222 . Low-Income (Rental Assisted):				
SRO		\$0	\$0	
0 bedroom	\$1,061	\$0	\$1,061	2
1 bedroom	\$1,169	\$0	\$1,169	16
2 bedrooms			\$0	
3 bedrooms			\$0	0
4 bedrooms			\$0	0
223 . Low-Income (below 50%):				
SRO			\$0	0
0 bedroom	\$0	\$0	\$0	0
1 bedroom			\$0	0
2 bedrooms			\$0	0
3 bedrooms			\$0	0
4 bedrooms			\$0	0
224 . Low-Income (below 60%):				
SRO			\$0	0
0 bedroom	\$970	\$0	\$970	1
1 bedroom	\$1,039		\$1,039	29
2 bedrooms			\$0	0
3 bedrooms			\$0	0
4 bedrooms			\$0	0
225 . Other Income (User-defined)				
SRO			\$0	0
0 bedroom			\$0	0
1 bedroom			\$0	0
2 bedrooms			\$0	0
3 bedrooms			\$0	0
4 bedrooms			\$0	0
226 . Market Rate (unrestricted occupancy):				
SRO				0
0 bedroom				0
1 bedroom				0
2 bedrooms				0
3 bedrooms				0
4 bedrooms				0
Commercial Income:				
227 . Square Feet:	2,565	@	(average) \$24.00 /square foot =	\$61,560
Parking Income:				
228 . Spaces:	0	@	(average) /month x 12 =	\$0

Year 14	\$	\$
Year 15	\$	\$
Year 16	\$	\$
Year 17	\$	\$
Year 18	\$	\$
Year 19	\$	\$
Year 20	\$	\$
Year 21	\$	\$

\$
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249 . Annual Operating Income (year 1) \$658,494

Scranton Main

Application Date: 5/17/21 revised Date: 4/12/2021

Operating Expenses				
Annual Operating Exp.:	Total	Residential	Commercial	Comments
250 . Management Fee	\$31,159	\$31,159		
251 . Payroll, Administrative	\$37,000	\$37,000		
252 . Payroll Taxes & Benefits, Adm	\$12,000	\$12,000		
253 . Legal	\$3,100	\$3,100		
254 . Audit	\$12,000	\$12,000		
255 . Marketing	\$6,000	\$6,000		
256 . Telephone	\$2,000	\$2,000		
257 . Office Supplies	\$0			
258 . Accounting & Data Processing	\$7,000	\$7,000		
259 . Investor Servicing	\$0			
260 . DHCD Monitoring Fee	\$1,440	\$1,440		
261 . Other: IT and HR	\$1,500	\$1,500		
262 . Other: HONE Monitoring Fee	\$1,000	\$1,000		
263 . Subtotal: Administrative	\$83,040	\$83,040	\$0	
264 . Payroll, Maintenance	\$21,000	\$21,000		
265 . Payroll Taxes & Benefits, Adm	\$7,109	\$7,109		
266 . Janitorial Materials	\$9,888	\$9,888		
267 . Landscaping	\$5,000	\$5,000		
268 . Decorating (inter. only)	\$3,461	\$3,461		Fire Alarm
269 . Repairs (inter. & ext.)	\$11,064	\$11,064		
270 . Elevator Maintenance	\$11,500	\$11,500		
271 . Trash Removal	\$12,000	\$12,000		
272 . Snow Removal	\$12,000	\$12,000		
273 . Extermination	\$0			
274 . Recreation	\$0			
275 . Other: Misc Ops & Maint exp	\$2,000	\$2,000		
276 . Subtotal: Maintenance	\$95,022	\$95,022	\$0	
277 . Resident Services	\$48,000	\$48,000		
278 . Security	\$4,000	\$4,000		Cameras
279 . Electricity	\$43,260	\$43,260		
280 . Natural Gas	\$14,832	\$14,832		
281 . Oil	\$0			
282 . Water & Sewer	\$25,956	\$25,956		
283 . Subtotal: Utilities	\$84,048	\$84,048	\$0	
284 . Replacement Reserve	\$15,600	\$15,600		
285 . Operating Reserve	\$0			
286 . Real Estate Taxes	\$38,400	\$38,400		
287 . Other Taxes	\$2,000	\$2,000		
288 . Insurance	\$30,900	\$30,900		
289 . MIP	\$0	\$0		
290 . Other:	\$0			
291 . Subtotal:Taxes, Insurance	\$71,300	\$71,300	\$0	
292 . TOTAL EXPENSES	\$432,169	\$432,169	\$0	

Other Operating Expense Assumptions

Trending Assumptions for Expenses

	Year 2	Year 3	Years 4-5	Years 6-20
293 . Sewer & Water	3.0%	3.0%	3.0%	3.0%
294 . Real Estate Taxes	3.0%	3.0%	3.0%	3.0%
295 . All Other Operating Expenses	3.0%	3.0%	3.0%	3.0%

Reserve Requirements:

296 . Replacement Reserve Requirement	\$325.00	per unit per year
297 . Operating Reserve Requirement		per unit per year

Debt Service:

		Annual Payment
298 . MHFA	MHFA Program 1	N/A
299 . MHFA	MHFA Program 2	N/A
300 . MHP Fund Permanent Loan		N/A
301 . Other Permanent Senior Mortgage		\$137,225
	Source: Residential	
302 . Other Permanent Senior Mortgage		\$42,808
	Source: Commercial	
303 . Total Debt Service (Annual)		\$180,033
304 . Net Operating Income		\$226,325 (in year one)
305 . Debt Service Coverage		1.26 (in year one)

Attachment C -
Resumes of
Development Team

Birds Eye View



Attachment D- Maps and Site Photos

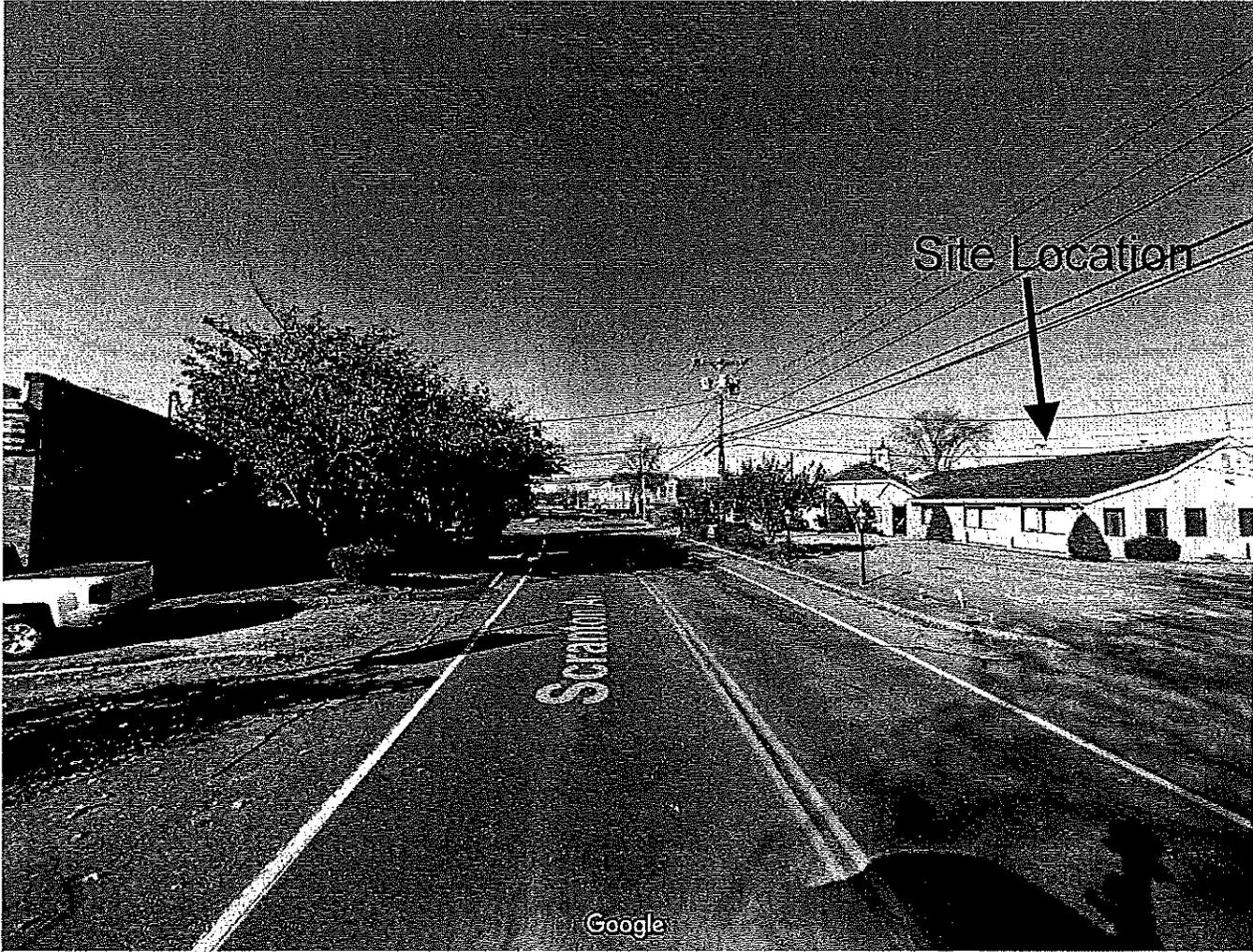
Site Location





Site Location

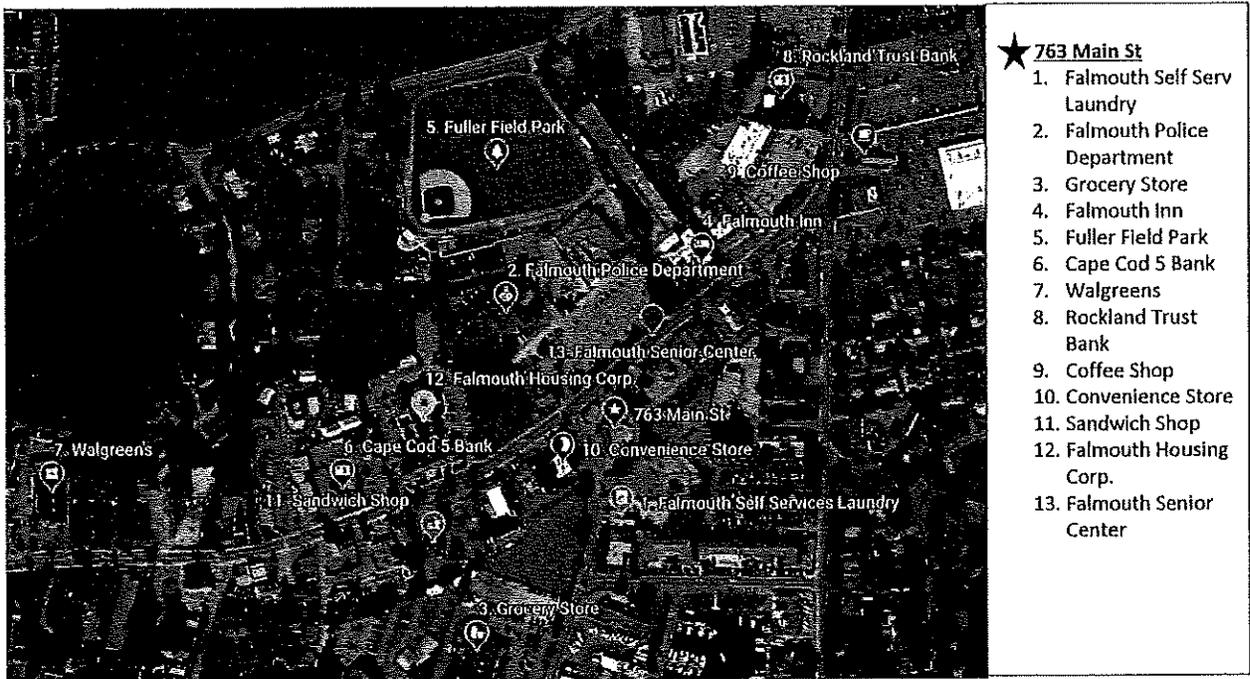
Google



Site Location

Google

763 Main St. Amenities Map



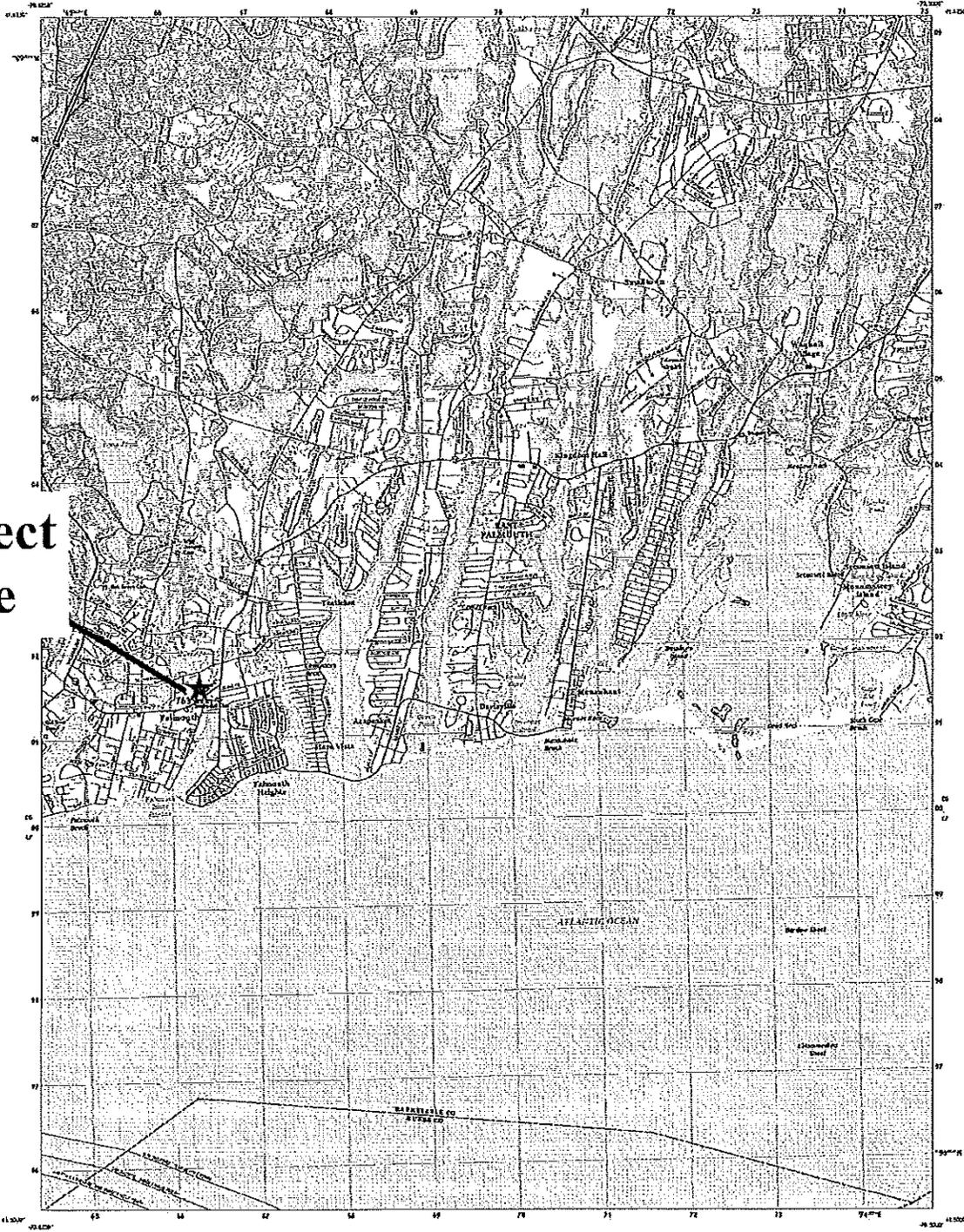


U.S. DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY

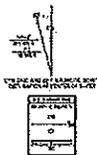


FALMOUTH QUADRANGLE
MASSACHUSETTS
7.5-MINUTE SERIES

**Project
Site**



Produced by the United States Geological Survey
North American Datum of 1983 (NAD83)
Vertical datum: Mean Sea Level (MSL)
Horizontal datum: North American Datum of 1983 (NAD83)
This map is a digital reproduction of a paper map
published for the public domain under the
Department of the Interior, Geological Survey,
Bureau of Land Management.
Original map scale: 1:25,000
Original map title: FALMOUTH QUADRANGLE
Original map number: 7.5-MINUTE SERIES
Original map date: 2001



ROAD CLASSIFICATION

Impervious Road
Unimproved Road
Local Center Road
Local Road
Other

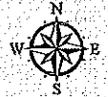
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FALMOUTH, MA
2011

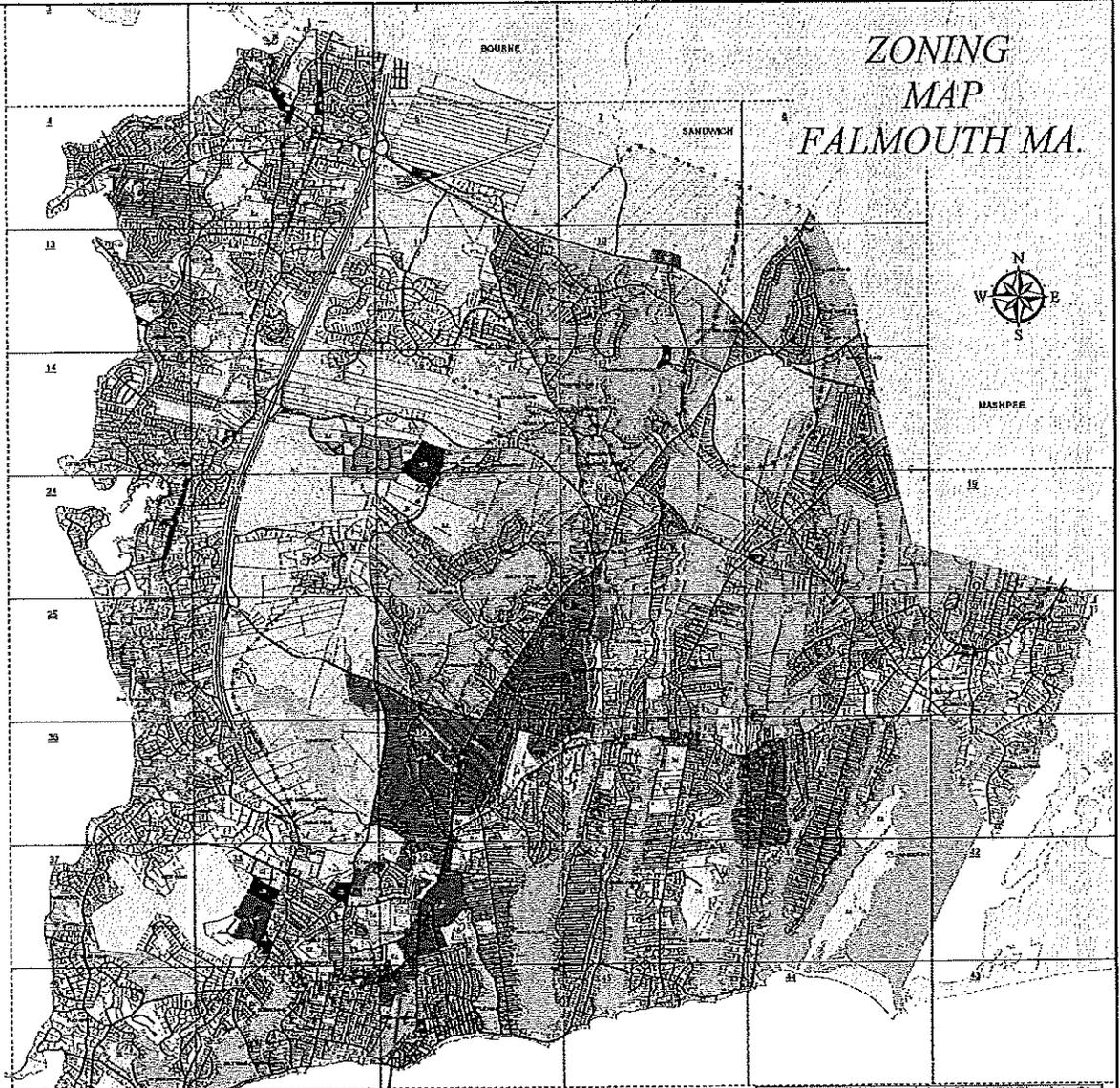




ZONING MAP FALMOUTH MA.



MASHPEE



Under the
The Town of Falmouth, Massachusetts, is hereby authorized to amend its zoning ordinance, Chapter 141A, to conform to the provisions of the Massachusetts Zoning Act, Chapter 40B, as amended, and to conform to the provisions of the Massachusetts Zoning Act, Chapter 40B, as amended, and to conform to the provisions of the Massachusetts Zoning Act, Chapter 40B, as amended.

Project Site

This represents the building on lot 100 of parcel 100, bounded on the north by the highway, on the east by the highway, on the south by the highway, and on the west by the highway.

This represents the building on lot 100 of parcel 100, bounded on the north by the highway, on the east by the highway, on the south by the highway, and on the west by the highway.

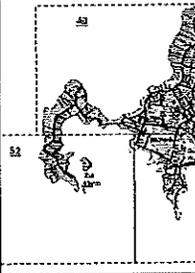
This represents the building on lot 100 of parcel 100, bounded on the north by the highway, on the east by the highway, on the south by the highway, and on the west by the highway.

This represents the building on lot 100 of parcel 100, bounded on the north by the highway, on the east by the highway, on the south by the highway, and on the west by the highway.

-Note: THIS MAP IS FOR INFORMATIONAL PURPOSES ONLY-



Zoning District	Lot Area (sq. ft.)	Lot Width (ft.)	Plot Area (sq. ft.)
Single Residential A	30,000	300	150
Single Residential B	15,000	150	100
Single Residential C	40,000	150	100
General Residential	30,000	150	100
Public Use	15,000	150	100
Professional A	30,000	300	150
Professional B	15,000	150	100
Office	40,000	150	100
Industrial	20,000	100	100
Business 1	40,000	300	300
Business 2	40,000	300	300
Business 3	40,000	300	300
Business 4	40,000	300	300
Business 5	40,000	300	300
Business 6	40,000	300	300
Business 7	40,000	300	300
Business 8	40,000	300	300
Business 9	40,000	300	300
Business 10	40,000	300	300
Business 11	40,000	300	300
Business 12	40,000	300	300
Business 13	40,000	300	300
Business 14	40,000	300	300
Business 15	40,000	300	300
Business 16	40,000	300	300
Business 17	40,000	300	300
Business 18	40,000	300	300
Business 19	40,000	300	300
Business 20	40,000	300	300
Business 21	40,000	300	300
Business 22	40,000	300	300
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Business 25	40,000	300	300
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Business 39	40,000	300	300
Business 40	40,000	300	300
Business 41	40,000	300	300
Business 42	40,000	300	300
Business 43	40,000	300	300
Business 44	40,000	300	300
Business 45	40,000	300	300
Business 46	40,000	300	300
Business 47	40,000	300	300
Business 48	40,000	300	300
Business 49	40,000	300	300
Business 50	40,000	300	300



DRAFT List of Waivers – Scranton Main These waivers will be sought through the Comprehensive Permit process

1. **Section 240-67.A – Minimum Lot Width.** The Business Redevelopment (“BR”) zoning district requires minimum lot width of 125 feet for new lots (Section 240-240.H.(2). The Business 2 (“B2”) zoning district require a minimum lot width for new lots at 200 feet. The proposed lot width for the subject site is 195 feet. The subject site is partially located in the BR zoning district and partially located in the B2 zoning district. A waiver of Section 240-67.A. of the Zoning Bylaw is required for the B2 zoning district.
2. **Section 240-69 and Section 240-240.H (3) – Maximum Lot Coverage by Structures, Pavement and Parking.** The BR zoning district requires a maximum lot coverage of 60% for structures, pavement and parking (Section 240-240.H (3). The B2 zoning district requires a maximum lot coverage of 70% for structures, pavement and parking (Section 240-69). The proposed lot coverage for structures, pavement and parking is 51.9% over the entire site, 67.9% in the B2 zoning district, and 72.5% in the BR zoning district. The proposed lot coverage over the entire site at 51.9% meets the requirement of maximum lot coverage for structures, pavement and parking in the B2 and BR zoning districts. A waiver of this provision of the Zoning Bylaw is required as to the lot coverage by structures, pavement and parking located in the BR zoning district.
3. **Section 240-69 and Section 240-240.H (4) – Maximum Lot Coverage by Structures.** The BR zoning district requires a maximum lot coverage of 20% for structures (Section 240-240.H.(4). The B2 zoning district requires a maximum lot coverage of 40% for structures (Section 240-69). The proposed lot coverage for structures is 21.3% over the entire site, 26% in the B2 zoning district, and 38.4 % in the BR zoning district. The proposed lot coverage over the entire site at 21.9 % and at 26% within the B2 zoning district meets the requirement of maximum lot coverage for structures in the B2 zoning district of 40%. A waiver of the provisions of Section 240-240.H (4) of the Zoning Bylaw is required as to the lot coverage by structures located in the BR zoning district.
4. **Section 240-70 and Section 240-240 H (5) – Maximum Building Height.** The zoning bylaw requires a maximum building height of 35 feet for principal structures. The proposed building height is 37 feet not including the elevator enclosure. A waiver of this provision of the Zoning Bylaw is required.
5. **Section 240-70 – Maximum Building Stories.** The zoning bylaw requires a maximum number of stories at 2 ½ stories for principal structures. The proposed building is 3 stories. A waiver of this provision of the Zoning Bylaw is required.
6. **Section 240-68. A (2) – Front Yard Setback.** The Zoning Bylaw requires a minimum front yard setback of 50 feet in the B2 zoning district for multifamily dwellings exceeding 2 ½ stories. The BR zoning district requires a minimum front yard setback of 20 feet for all buildings (Section 240-220.H.(6)(a)). The proposed front yard setback to Main Street is 26 feet. The building front yard is located in the BR zoning district. A waiver of Section 240-68.A.(2) is required if not deemed to be overridden by Section 240-220.H.(6)(a).
7. **Section 240-108 – Parking Requirements.** The Zoning Bylaw requires 1.5 parking spaces for each 1 bedroom apartment unit and 1 space for each 200 square feet of retail space. The project proposes 45 – 1 bedroom apartment units and 3 studio apartment units, as well as 2452 square feet of retail space. The proposed parking is 44 spaces. Of the 44 parking spaces provided, 13 will be designated for the commercial space, which meets this requirement of the Zoning Bylaw. Of the 44 parking spaces, 31 will be designated for the residential apartment units for a ratio of 0.65 spaces per residential unit. A

waiver of this provision of the Zoning Bylaw as to residential apartment unit parking will be required. For projects that are not M.G.L. Chapter 40B projects, Section 240-240 J (2) of the Zoning Bylaw does permit parking to be reduced up to 50% of the otherwise required parking in the BR zoning district for mixed use developments based on complimentary uses and days and hours of operation and the presence of pedestrian amenities. Notwithstanding, a waiver of Section 240-108 of the Zoning Bylaw will be required for the proposed residential apartment parking.

8. **Section 240-51(5) and Section 240-240 G(b) – Multi-family Units and Density.** The Zoning Bylaw requires a special permit from the Zoning Board of Appeals for multifamily dwellings in the B2 zoning district at a density of 6 units per acre and up to 8 units per acre in the BR zoning district. The proposed density for the project site is 26.61 units per acre over the 1.80 acre (78581 square feet) site. A waiver of this provision of the Zoning Bylaw will be required.
9. **Section 240-240 I – Curb Cuts.** The Zoning Bylaw requires one curb per lot with Main Street frontage in the BR zoning district. However, this provision of the Zoning Bylaw does permit exceptions for a project that is not a M.G.L. Chapter 40B project if two curb cuts are necessary to access parking facilities or to reduce traffic impacts on a site. The project site currently contains two curb cuts, one on Main Street and one on Scranton Avenue. The project proposes to maintain two curb cuts, one on Main Street and one on Scranton Avenue. Notwithstanding, a waiver of this provision of the Zoning Bylaw will be required.
10. **Section 240-240 B (1)(b) – Mixed Use Construction in Excess of 10,000 square feet.** The Zoning Bylaw requires a special permit from the Planning Board for any new mixed used construction with a proposed gross floor area of 10,000 square feet or more. A waiver of this provision of the Zoning Bylaw will be required.
11. **Section 240-192 – Site Plan Review.** The Zoning Bylaw requires site plan review from the Planning Board for any new development on a lot that would add 1000 square feet or more of gross floor area or which would under Section 240-108 (Table of Minimum Parking Requirements) require a total of five or more parking spaces based on both existing and new development. A waiver of this provision of the Zoning Bylaw will be required.

Attachment E- Bank Letter of Reference

CAPE COD 5

January 22, 2021

Julian Suso
Town Manager
Town of Falmouth
Town Hall Square
Falmouth, MA 02540

RE: Falmouth Housing Corp.
704 Main St
Falmouth, MA 02540

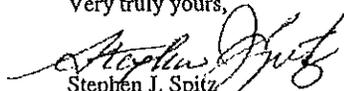
Dear Mr. Suso:

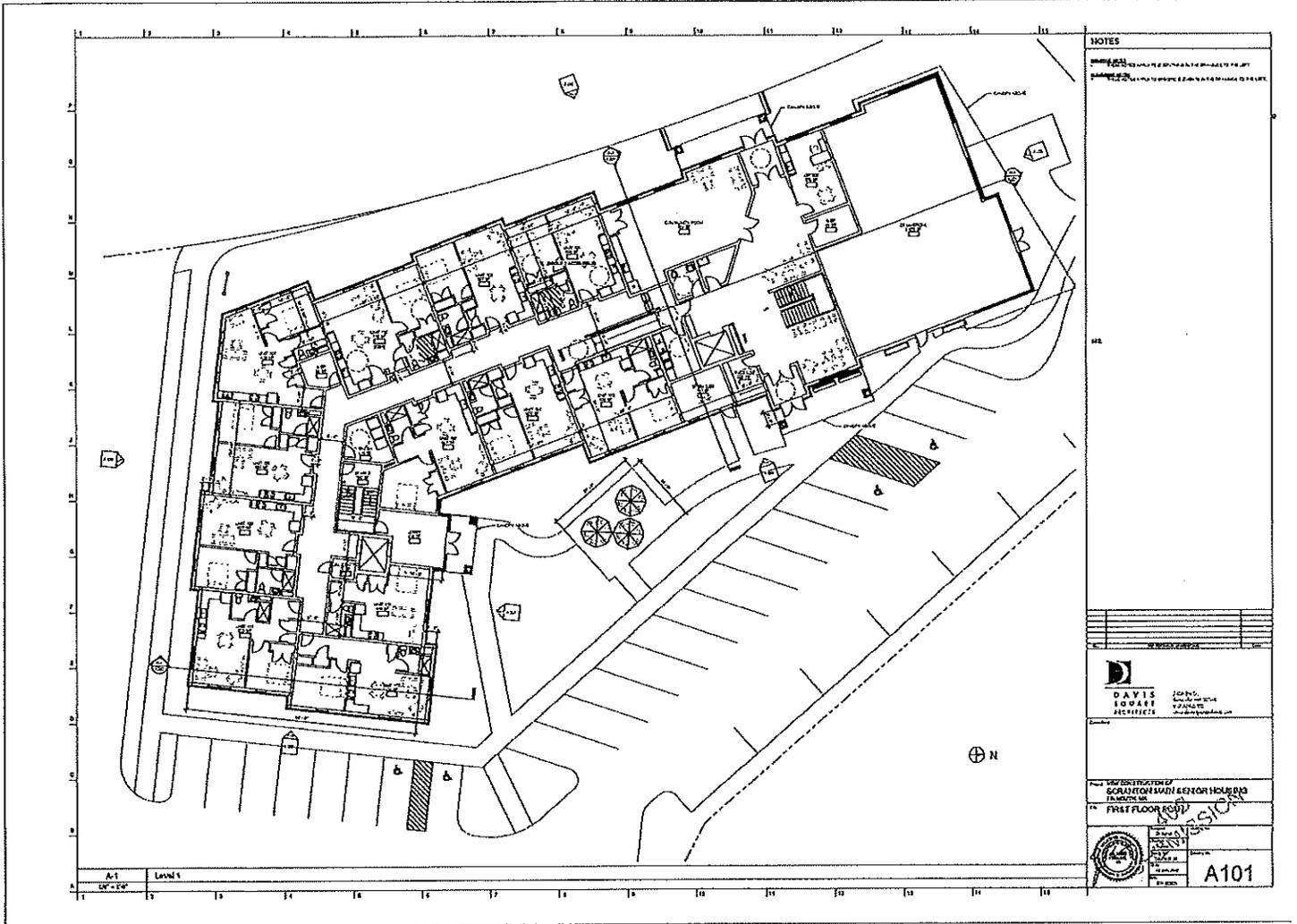
Falmouth Housing Corp. (FHC) has been a customer of the Bank for over 15 years with 20 deposit accounts and several loans that have mostly been paid in full. Deposits accounts with Falmouth Housing Corp. and affiliated realty entities have deposit balances that average low to moderate seven figures. The Bank has provided commercial mortgage loans up to low seven figure amounts that have been paid down to low six figures. All accounts have been handled in excellent fashion.

We maintain a high regard for the management of this non-profit organization and feel that FHC has been an asset to the community as the leading affordable housing entity.

We value their relationship with Cape Cod Five as they have proven to be a distinguished and valued customer.

Very truly yours,


Stephen J. Spitz
Vice President and Regional Manager



NOTES

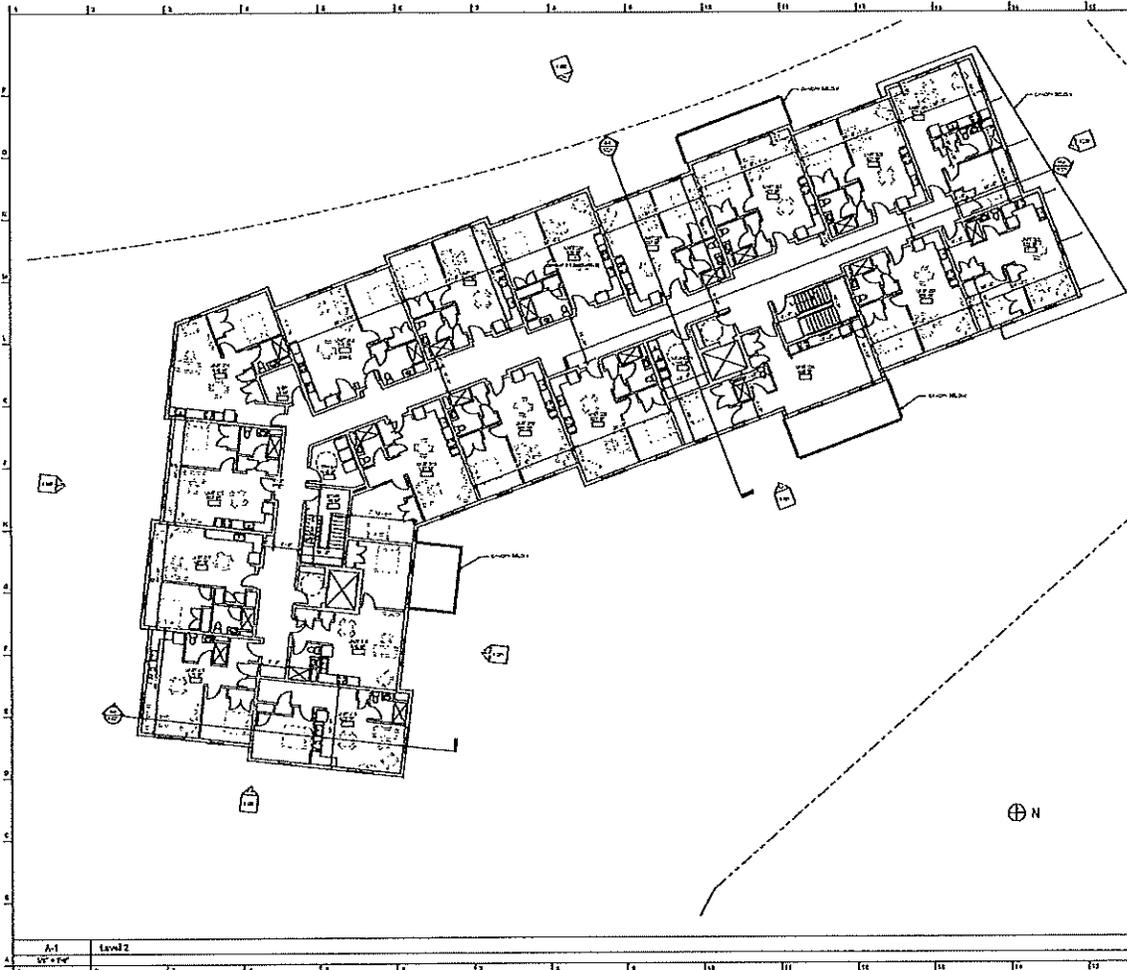
1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE NATIONAL BUILDING REGULATIONS AND THE NATIONAL ELECTRICAL REGULATIONS.

DAVIS
 10 PAKE STREET
 SYDNEY NSW 2000
 PH: (02) 9550 1234
 FAX: (02) 9550 1235
 WWW.DAVISARCHITECTS.COM

PROJECT: SOUTH COAST HOSPITAL
 DRAWING NO: A101
 DATE: 15/08/2008

A101

A1
 1/4" = 1'-0"



NOTES

PROJECT NO. 1000000000

DAVIS
 SQUARE
 ARCHITECTS

DATE: 10/10/00

SCANTON LAM & BORNHORN
 ARCHITECTS

SECOND FLOOR PLAN
 A102

A-1 Level 2





VIEW FROM MAIN STREET DOWN SCRANTON AVENUE



VIEW FROM MAIN STREET



VIEW FROM SCRANTON AVENUE TOWARDS MAIN STREET

NOTES

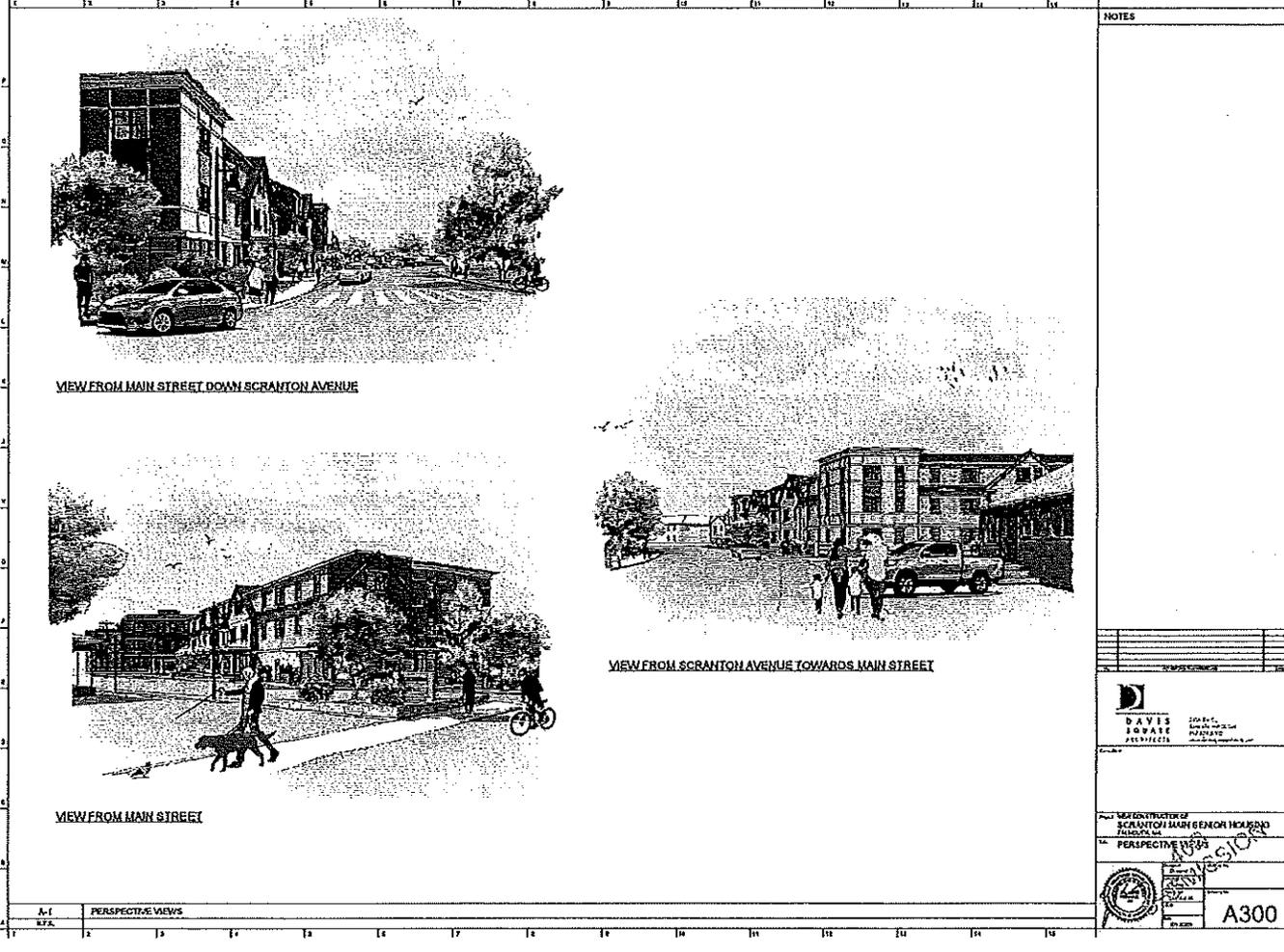
DAVIS
 SQUARE
 ARCHITECTS

PROJECT: MAIN STREET PROJECT OF SCRANTON SQUARE SENIOR HOUSING

DATE: 10/15/10
 DRAWING NO.: A300



PROJECT: MAIN STREET PROJECT OF SCRANTON SQUARE SENIOR HOUSING
 DATE: 10/15/10
 DRAWING NO.: A300



A-F PERSPECTIVE VIEWS

A300

BUSINESS

3. Presentation and Vote on Applications for Funding from Falmouth Affordable Housing Fund (FAHF) (10 minutes)

b. Acting as Trustees of the Falmouth Affordable Housing Fund, Vote on amended application from Megansett Crossing, LLC for \$855,500 for 10 units of affordable rental housing at 676, 688 and 702 North Falmouth Highway:

- Extend date of expiration for funding award to December 26, 2021;**
- Increase original Falmouth Affordable Housing Fund funding award of \$650,000 by an additional \$205,500 for a total of \$855,500.**

MEMORANDUM

TO: Select Board

FROM: Julian M. Suso, Town Manager 

CC: Community Preservation Committee
Carla Feroni, Housing Coordinator
Frank Duffy, Town Counsel

DATE: September 21, 2021

RE: Megansett Crossing LLC – Application to Falmouth Affordable Housing Fund for Extension of Time and Additional Funds

Megansett Crossing, LLC (Managing Member Michael Galasso) has applied to the Falmouth Affordable Housing Fund (FAHF) for an increase to the funding award previously voted by the Select Board, acting as Trustees of the FAHF. Mr. Galasso is also seeking a second extension of the date to meet the terms of the grant award. The FAHF Working Group met with the applicant to review these requests and submitted their recommendation to me. My recommendation to the Select Board, consistent with the Working Group recommendations, is to grant the request for additional time and to deny the request for additional funds. We have drafted motions for the Board's consideration should you decide to vote this recommendation.

Background & Explanation:

Extension of Time: The Select Board, acting as Trustees of the Falmouth Affordable Housing Fund, awarded \$650,000 to Megansett Crossing LLC., on November 19, 2018 to construct 10- units of deed restricted affordable rental housing located at 676, 688 and 702 North Falmouth Highway. Per standard terms of the commitment letter issued to the applicant, the developer was given two years to obtain a comprehensive permit, close on financing and meet various other requirements -- see attached commitment letter. The Select Board subsequently received and approved a request from Megansett Crossing, LLC to extend the two-year expiration date from November 19, 2020 to August 28, 2021. The Select Board is now asked to approve an extension of the FAHF funding award for an additional 120 days.

As noted in the attached letters from Mr. Galasso, the additional time was needed to secure additional funding from MassHousing required due to the escalation of construction costs over the past year. Megansett Crossing LLC has now succeeded in securing an additional \$423,000 from MassHousing. Housing Coordinator Carla Feroni reports that the consortium of lenders has been meeting via "MassDocs" and it appears the project is on track to close on all financing within a few weeks. There is an acute need for affordable rental units and this proposal has been well vetted with respect to the site plan and other particulars. With the understanding that the developer now appears to be ready to close ^{on} financing and begin construction imminently, I recommend approval of an extension of the timeline as requested.

Additional Funding: Megansett Crossing LLC is seeking an additional \$205,500 for the sole purpose of installing solar panels on each of the 5 buildings to reduce the cost of electricity for the individuals who will be renting these units. It is our understanding that the development can proceed without solar panels and without additional funds from the FAHF. This is a laudable purpose from both the perspective of environmental sustainability and reducing the cost of electricity for future renters. However, allocating FAHF funds to pay for the acquisition of solar panels means there will be fewer dollars available in the FAHF to subsidize future units of affordable housing. The developer does have the option to have solar panels installed through a lease-purchase arrangement which would not increase the developer's construction costs, though the net savings passed on to the renters would be less under this approach. It is my recommendation this request for additional FAHF funds be denied so that FAHF funds can continue to be targeted to address the core purpose of this fund – generating more units of quality affordable housing.

Proposed Motions:

- I move that the Select Board, acting as Trustees of the Falmouth Affordable Housing Fund, vote to extend the date of expiration of the commitment letter to Megansett Crossing, LLC awarding \$650,000 for the construction of 10 units of affordable rental housing to December 26, 2021, and to authorize the Town Manager to sign a letter to execute this vote.
- I move that the Select Board, acting as Trustees of the Falmouth Affordable Housing Fund, vote to deny the application of Megansett Crossing, LLC for additional funding in the amount of \$205,500 for the installation of solar panels, and to authorize the Town Manager to sign a letter to execute this vote.

ATTACHMENTS:

- Galasso Letter 08/13/21
- Galasso Letter 08/09/21
- FAHF – Megansett Crossing Award Letter 08/07/20

Megansett Crossing, LLC

August 9, 2021

Carla Feroni
Peter Johnson - Staub
Town of Falmouth
59 Town Hall Square
Falmouth, Ma 02540

via email

RE: Extension of Affordable Housing Fund Grant Closing and Request for Additional Funding
Megansett Crossing Apartments
North Falmouth

Dear Carla and Peter,

We would like to request an additional 120-day extension to complete the closing of all the financing for the construction of our Megansett Crossing Workforce Apartments in North Falmouth.

As you're aware the cost of construction has drastically increased during the Covid-19 pandemic.

We were successful in requesting an increasing in our commitment from Mass Housing / DHCD by \$423,000 to cover the increased construction costs bringing our total award to \$1,360,513.

Our first closing meeting with all the lenders is scheduled for tomorrow, August 10 at 11 a.m. and it typically requires from 60 to 90 days to complete the closing process with everyone involved.

Also, Megansett Crossing is designed to meet Energy Star for Homes requirements and as such, the apartments are 100% electrical (heating, hot water, air conditioning, appliances, car charging stations) and we would like to install solar panels to the roof of each of the five buildings which would reduce the annual cost of electricity for each household by approximal \$1,500 . The gross cost from Cotuit Solar for installing the solar panels is \$175,431.

We would like to request an increase in the town's funding from the AHF by \$205,500 to cover the cost of the solar panels and an increase in building permit costs bring the town's commitment to Megansett Crossing to \$855,500 or \$85,550 per restricted unit.

We have also increased our investment to the project by an additional \$50,000 bring the total cash investment by Megansett Crossing LLC to \$300,000 plus \$50,000 in deferred developer's fee.

I've attached copies of the updated term sheet from Eastern Bank our constriction and permanent lender, the updated award letter from DHCD, the proposal from Cotuit Solar and the updated project budget and sources and uses.

Thank you for your consideration and please feel free to contact me if you have any questions or need any additional information.

Sincerely,
Megansett Crossing, LLC

Michael Galasso

Michael Galasso
Member

Megansett Crossing, LLC

August 13, 2021

Carla Feroni
Peter Johnson - Staub
Town of Falmouth
59 Town Hall Square
Falmouth, Ma 02540

via email

RE: Request for Additional Funding
Megansett Crossing Apartments
North Falmouth

Dear Carla and Peter,

We would like to request a \$205,500 increase in our current funding for the construction of our Megansett Crossing Workforce Apartments in North Falmouth.

As you're aware the cost of construction has drastically increased during the Covid-19 pandemic.

We were successful in requesting an increasing in our commitment from Mass Housing / DHCD by \$423,000 to cover the increased construction costs bringing our total award to \$1,360,513 and would like to request a 205,500 increase in funding from the FAHF to pay for installing solar panels on the roofs of all five buildings and to cover an underestimation of building permit fees payable to the town. This increase would bring our total funding from the FAHF to \$855,500 or \$85,550 per unit. All 10 apartments at Megansett Crossing are income and rent restricted in perpetuity.

Megansett Crossing is designed to meet Energy Star for Homes requirements and as such, the apartments are 100% electrical (heating, hot water, air conditioning, appliances, car charging stations). We would like to install solar panels to reduce the annual cost of electricity for each resident household by approximal \$1,500 . The gross cost from Cotuit Solar for installing the solar panels is \$175,431.

Besides the additional funding we have been awarded by MassHousing / DHCD we have also increased our investment to the project by an additional \$50,000 bring the total cash investment by Megansett Crossing LLC to \$300,000 plus we are \$50,000 of the developer's fee.

I've attached copies of the updated funding application, the proposal from Cotuit Solar a, the updatd development budget and sources and uses .

Thank you for your consideration and please feel free to contact me if you have any questions or need any additional information.

Sincerely,
Megansett Crossing, LLC

Michael Galasso

Michael Galasso
Member

FALMOUTH AFFORDABLE HOUSING FUND

Established by Ch. 29 of the Acts of 2011
Board of Selectmen, Trustees

59 Town Hall Square
Falmouth, Massachusetts 02540
(508) 495-7344

December 10, 2020

Via U.S. Mail and E Mail

Michael Galasso
Megansett Crossing, L.L.C.
107 Lakeview Avenue
Falmouth, MA 02540

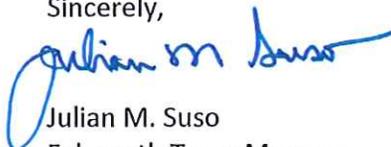
Re: Falmouth Affordable Housing Fund Award Extension

Dear Mr. Galasso:

On December 7, 2020, the Select Board, acting as Trustees of the Falmouth Affordable Housing Fund, extended the award of \$650,000 from the Falmouth Affordable Housing Fund to Megansett Crossing LLC., for 270 days until August 28, 2021, to develop ten 80% – 100% affordable rental apartments located at 676, 688, and 702 North Falmouth Highway as described in an application submitted November 2, 2018, and subject to the terms of the commitment letter issued on July 21, 2020, by the Town Manager.

Should you have any questions or concerns about this extension please contact Carla L. Feroni, Housing Coordinator at Carla.feroni@falmouthma.gov.

Sincerely,



Julian M. Suso
Falmouth Town Manager

Cc: Megan English-Braga
Peter Johnson-Staub
Carla L. Feroni

FALMOUTH AFFORDABLE HOUSING FUND

Established by Ch. 29 of the Acts of 2011
Board of Selectmen, Trustees

59 Town Hall Square
Falmouth, Massachusetts 02540
(508) 495-7344

July 21, 2020

Via U.S. Mail and E Mail

Michael Galasso
Megansett Crossing, LLC.
107 Lakeview Avenue
Falmouth, MA 02540

Re: Falmouth Affordable Housing Fund Award in the amount of \$650,000

Dear Mr. Galasso:

The Falmouth Affordable Housing Fund (FAHF) voted to award to the sum of \$650,000 to Megansett Crossing, LLC. for the development of ten (10) units of affordable housing at 676, 688, and 702 North Falmouth Highway, Falmouth, Barnstable County, Massachusetts (the "Project"). The FAHF understands that a single purpose entity, Megansett Crossing, LLC. ("Borrower") has been created to develop the Project. The award is subject to the following terms and provisions for the receipt of this award:

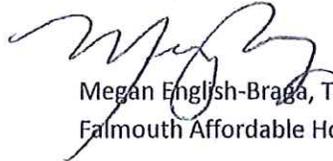
1. Execution of a mutually satisfactory Grant Agreement to be provided prior to the disbursement of funds.
2. Execution of a Promissory Note in the amount of \$650,000 without interest and becoming due and payable upon the termination of the affordable housing restrictions on the units in the Project.
3. Due authorization opinion from Megansett Crossing LLC.'s counsel.
4. Copy of title insurance policy issued to Megansett Crossing LLC.'s lender with property description and list of permitted encumbrances to be reviewed by FAHF's Counsel.
5. Upon acquisition of the Premises or closing of the construction financing, whichever is later, Megansett Crossing LLC. shall cause to be recorded a DHCD Regulatory Agreement and Declaration of Restrictive Covenants to ensure that 3 of the rental units remain affordable to households at or below 80% AMI and 7 units affordable at 100% AMI in perpetuity or for the longest period allowed by law.
6. Delivery of recorded Comprehensive Permit issued by the Town of Falmouth Board of Appeals and any amendments thereto together with the approval letter issued by MassHousing.
7. Delivery of an executed construction financing commitment letter in an amount and with terms acceptable to the FAHF.

8. Final budget for the Project approved by Megansett Crossing LLC.'s lender.
9. Final approved Project operating budget including proposed rent levels and utility allowances.
10. All requests for release of funds to the Borrower shall be submitted to the Town Manager as designated agent for the FAHF and shall be in the Form attached hereto and made a part hereof and shall be accompanied by lien waivers from the contractor and subcontractors.
11. Disbursements shall be made in accordance with a schedule to be determined by the Town based on a project schedule to be provided by the Borrower.
12. Certificate of Authority to be provided by Borrower and approved by the counsel to the FAHF.
13. Tax Identification Number and evidence of legal existence of Borrower to be provided.
14. Such other terms and conditions as may be deemed by the FAHF to be consistent with the terms hereof.

This Commitment Letter expires upon the execution of a Grant Agreement with terms satisfactory to the FAHF or two years from the November 19, 2018, Trustees award, whichever is earlier.

Acceptance of this grant is valid only if signed and returned to Carla L. Feroni, Town of Falmouth Housing Coordinator, within fifteen (15) days of the date hereof. Upon acceptance, this award will remain in effect until August 10, 2020.

Very truly yours,



Megan English-Braga, Trustee
Falmouth Affordable Housing Fund

Approved as to Form:



Kathleen M. O'Donnell
Special Counsel for the FAHF

Accepted and agreed to:



Megansett Crossing LLC
Michael Galasso, Managing Member

REQUISITION CERTIFICATE

TO: Falmouth Affordable Housing Fund (FAHF)

FROM: Megansett Crossing LLC (the "Borrower")

RE: 678, 688, 702 North Falmouth Highway, Falmouth, MA ("Project")

DATE: As of _____, 20__

- 1.
2. The undersigned has requested Advance No. ___ in the amount of \$ _____, and does hereby certify to the FAHF as set forth below. All terms used herein, but not defined herein, shall have the meanings set forth in the Loan Agreement executed by the Borrower, as hereinafter defined.
3. The Borrower has satisfied in full all conditions precedent and other requirements applicable to this advance as set forth in the Loan Agreement dated as of _____, 2020 by and between the Borrower and Massachusetts Housing Partnership Fund Board, a Massachusetts public instrumentality and body politic and corporate (the "Loan Agreement") on behalf of the Participating Lenders.
4. No changes have been made in any respect to the construction contract for the Project (the "Construction Contract") or the plans and specifications for the Project, except such as have had the Participating Lenders' prior approval, as may be required under the Loan Agreement, and the prior approval of the holder(s) of the Other Loans, as may be required under the documents relating to the Other Loans.
5. Construction of the Project has been and/or will be in every respect performed in accordance with the Construction Contract and the plans and specifications and any such approved changes and in compliance with all applicable building and zoning codes.
6. The proceeds of the Loan to be advanced hereunder, together with the aggregate outstanding balance, if any, of the Loan, the Other Loans and/or any other funds available for the Project, as set forth in the Project Sources and Uses, remaining to be advanced, will provide sufficient funds for the completion of the Project in accordance with the Construction Contract and the plans and specifications;
7. All monies requisitioned by the Borrower and disbursed by the Participating Lenders and the FAHF under previously approved requisitions (if any) have been expended for the purposes for which they were requisitioned.
8. The representations and warranties made in the Loan Agreement are true, correct and complete as of the date hereof with the same effect as if made on this date.
9. The undersigned represents and warrants that it is not in default of any of its obligations under any of the Loan Documents, the Construction Contract, any of the documents relating to the Other Loan, or any of the Borrower's other organizational documents or any other agreement or instrument in connection with the Project, and no event has occurred, which, with the giving of notice and/or the passing of time, or otherwise, would constitute a default under any one or more of the foregoing documents or other instruments.

BORROWER:

Megansett Crossing LLC

By: Michael Galasso, managing member

By: _____

Its: _____

Date: _____

BUSINESS

4. Report – Council on Aging (15 minutes)

BUSINESS

5. Petition Article Presentations for November 2021 Town Meeting:
(5 minutes each)
 - a. Present Petition Article # 22 – Courtney Bird

ARTICLE 22: To see if the Town will vote to authorize the Select Board to take all necessary and appropriate action to establish and maintain, in accordance with the provisions of Chapter 164 of the General Laws and in accordance with the rules, regulations and orders of Department of Public Utilities and the Department of Telecommunications and Cable, a municipal lighting plant for all purposes allowable under the Commonwealth, including without limitation the operation of a telecommunications system and related services, or take any action relative hereto. On petition of FalmouthNet.Inc.



Introduction to Municipal Light Plants (MLP)s - September 6, 2021

FalmouthNet proposes that Town Meeting pass an article approving the formation of an MLP as a way to be able to deliver fiber optic Internet service to every home and business in Falmouth.

So, what is an MLP and why do we propose its formation? An MLP is a legal and financial structure under Massachusetts law that allows municipalities to operate utilities (like the fiber optic network FalmouthNet envisions) with the right balance of town oversight and business flexibility.¹

MLPs date back to the 1880s and were initially established to help towns provide electric lighting. Today there are about 50 communities in Massachusetts offering utility services such as electricity, cable TV, and fiber optic Internet connectivity using an MLP.

What is an MLP?

- MLPs are non-profit, publicly owned entities for operating town utilities such as fiber optic networks.
- MLPs are established by a 2/3-majority ballot vote at two Town Meetings, no more than 13 months apart, and then by a simple majority of voters in a referendum.
- The initial vote does not obligate the town to any expenditures or course of action.
- MLPs are governed by a Municipal Light Board (MLB), which may be the Select Board acting as the MLB or an independently elected MLB of 3 or 5 people who serve defined terms.
- The MLP shall appoint a Manager to run operations and provide detailed operational and financial statements on a yearly basis.

How does an MLP operate?

- An MLP may construct, purchase or lease facilities to provide services such as broadband internet over a fiber optic network.
- MLPs have broad flexibility to operate a network or partner with a private service provider.
- MLPs are empowered and obligated to act in the interests of their customers.
- An MLP may build, operate and maintain the utility service it provides, or it may hire and oversee an independent entity for this purpose.
- MLPs must still seek 2/3 majority Town Meeting approval to build or purchase facilities (such as the fiber optic network) or to incur debt to do so.

What other advantages do MLPs provide?

- MLPs may contract with other towns to provide billing, administrative, operational or other support services and take advantage of economies of scale (e.g. help desk, maintenance crews).
- MLPs of several towns may form a cooperative that embodies a larger regional effort.
- The MLP may use surplus funds to pay off debt and/or cover maintenance and depreciation.
- As a non-profit, an MLP does not pay taxes to the town, but may contribute profits from operating the network to the town general fund.²

¹The full text of the law on MLPs is in Chapter 164: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter164>

²There is a useful and detailed summary of MLP practices at <https://wiredwest.net/advice-for-towns/mlp-startup-operational-considerations/municipal-light-plant-mlp-authority/>

FERRITER & FERRITER
LLC
ATTORNEYS AT LAW

1669 NORTHAMPTON STREET • HOLYOKE, MA 01040
TEL 413.535.4200 FAX 413.535.4201

jferriter@ferriter.com

September 20, 2021

Mr. Arthur Gaylord, Chair
Community Fiber Working Group
59 Town Hall Square
Falmouth, MA 02540

Dear Art:

As you requested, we researched whether a Massachusetts municipal light plant (MLP) can be formed solely for the purposes of operating a telecommunication business. Subject to the details and limitations below, we believe a Massachusetts MLP may be formed for the sole purpose of operating a telecommunication business, including broadband and fiber to the home (FTTH) businesses.

MLPs in Massachusetts are governed by Massachusetts General Laws (MGL) ch. 164. Section 34 provides a town may establish an MLP for electric or gas or cable TV services. Section 47E provides an MLP may establish a telecommunications system. There is nothing in the MGL that provides an MLP must be in the electric business, or in the gas business or in the CATV business, or in the telecommunication business. We have worked with most of the MLPs over the years, and recently we have worked with over a dozen MLPs that were formed solely to establish a telecommunication business.

Section 56 provided the full charge of the MLP shall be in the hands of a manager, subject to policy direction and control by the MLP board. Peabody v Peabody, 348 Mass. 266 (1964); see also Middleborough v. Middleborough, 422 Mass. 583 (1996). Also, MLP are to be operated like private businesses and have wide control over their finances, contracts and insurance, subject to oversight by the Department of Public Utilities (DPU). Peabody and Middleborough, supra. We have dealt with the DPU and other agencies which have recognized the existence of MLPs established solely to provide telecommunication services.

MLPs in the telecommunication business are regulated by the Federal Communications Commission (FCC) in significant detail that is beyond the scope of this letter.

For the reasons discussed above, although we know of no court that has ruled on this precise question, it is our reasoned opinion that the Town of Falmouth can establish an MLP solely to operate a telecommunication business that could include broadband and FTTH services.

Very truly yours,


Ferriter & Ferriter LLC

P:\JFF\Falmouth MLP\Opinion 9-20-21.docx

FERRITER.COM

BUSINESS

5. Petition Article Presentations for November 2021 Town Meeting:
(5 minutes each)

- b. Present Petition Article # 23 – Nathaniel Trumbull

ARTICLE 23: To see if the Town will request the Board of Selectmen in the interest of public safety as allowed by the provision of General Laws Chapter 90, Section 18, and in the interest of public health, as allowed by the provision of General Laws Chapter 111 Section 31 and 122, to develop a bylaw on the use of town-owned roads bordering on residential zones by commercial vehicles from the hours of 11:00PM to 6:00AM. Such bylaw is intended to provide relief to residential neighborhoods that are plagued with early morning truck traffic and to establish quiet hours in those neighborhoods. The Town will develop a quiet hours bylaw based on sound impact data with a completion date of July 1, 2022. On petition of the Southeast Massachusetts Regional Transportation (SMART) Citizens Task Force.

BUSINESS

5. Petition Article Presentations for November 2021 Town Meeting:
(5 minutes each)

- c. Present Petition Article # 24 – Christopher McGuire

ARTICLE 24: To see if the Town will vote to appropriate \$150,000 of free cash to be used for the design of Compete Streets projects to create a backlog of shovel ready projects eligible for state or federal construction grants. Said sum to be expended under the jurisdiction of the Select Board. On petition of Chris McGuire.

BUSINESS

5. Petition Article Presentations for November 2021 Town Meeting:
(5 minutes each)
 - d. Present Petition Article # 25 – Nathaniel Trumbull (Becky
Conners presenter)

ARTICLE 25: To see if the Town will vote to appropriate or transfer from the Ferry Embarkation Fee Fund* the amount of \$30,000 for the purchase and installation of up to six permanent LED speed signs (cost estimate provided by DPW Director) on Woods Hole Road and Palmer Avenue in order to encourage compliance with posted speed limits, particularly for heavily laden ferry bound truck traffic. On petition of the Southeast Massachusetts Regional Transportation (SMART) Citizens Task Force.

BUSINESS

6. Initial Discussion of Right of First Refusal on 31.7-acre property on Rt. 151 (10 minutes)

Diane Davidson

From: Julian Suso
Sent: Friday, September 17, 2021 2:36 PM
To: Falmouth Selectboard
Cc: Frank Duffy; Peter Johnson-Staub
Subject: FW: CLSV 31 acres Route 151
Attachments: Letter to Town of Falmouth Re ROFR 9.13.21.pdf; Right of First Refusal Property - 31 Acres - Location Map 9-17-2021.pdf

Dear Board Members,

I forward this email from Attorney Laura Moynihan notifying the Town that we have "120 days" from the receipt of this notice (September 13) to exercise the Right of First for this 31.2 acres of property as further depicted in the second attachment. I understand that this was an agreement entered into back in 2003. The represented purchase price is \$2,995,000. I also note that Attorney Moynihan is ALSO requesting that, should the Town decline to exercise this Right of First Refusal, the Town also allow the prospective purchaser to DELAY closing on this purchase considerably beyond the "360 day" requirement in the original agreement. It appears that the prospective purchaser is not wanting to close on this deal before November 9, 2024. Should the Town decline to exercise the Right of First Refusal, we will be guided by Frank on the second request.

I will be forwarding this notification to appropriate staff members for their awareness, review and comment. Following this further input, we may wish to further review and discuss (likely in executive session as this involves a potential land purchase). Frank – kindly supplement if I have overlooked anything on this. Thank you.
Julian

From: Laura Moynihan <laura@lmoynihanlaw.com>
Sent: Thursday, September 16, 2021 8:52 AM
To: Julian Suso <julian.suso@falmouthma.gov>
Cc: Frank Duffy <frank.duffy@falmouthma.gov>
Subject: CLSV 31 acres Route 151

Dear Mr. Suso,

I discussed with Attorney Duffy a week or so ago that the attached notice of disposition of this property would be forwarded to you shortly. It was sent certified mail as required, and I am copying it here via email as well.

Regards,
Laura Moynihan

Laura M. Moynihan, Esq.
Law Office of Laura M. Moynihan
17 Academy Lane, Suite 1
Falmouth, MA 02540
Tel: 508-548-5558
Fax: 508-548-5553

DUE TO THE INCREASE IN WIRE FRAUD, THIS OFFICE NO LONGER PROCESSES WIRE TRANSACTIONS. IRS
Circular 230 Required Disclosure: Any tax advice in this e-mail or any attachment (a) is not intended or written to be used, and cannot be used, for the purpose of avoiding tax penalties that may be imposed upon any taxpayer and (b) may not be used in promoting, marketing, or recommending any entity, investment plan, or arrangement. Confidentiality Statement. This e-mail and any attachments are legally privileged and confidential information intended solely for the use of the intended recipient. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this message and any attachments are strictly prohibited. If you have received this e-mail in error, please notify me immediately by reply e-mail to laura@lmoynihanlaw.com and delete the message. Thank you.

LAURA M. MOYNIHAN
Attorney at Law

*17 Academy Lane, Suite 1
Falmouth, Massachusetts 02540
Telephone: 508-548-5558
Fax: 508-548-5553
Email: laura@lmoynihanlaw.com*

Via Certified Mail, Return Receipt Requested

September 13, 2021

Town of Falmouth
Falmouth Town Hall
59 Town Hall Square
Falmouth, MA 02540

Attn: Mr. Julian Suso, Town Manager (formerly known as Town Administrator)

Re: 31.2 Acres on Route 151, Falmouth, MA – Falmouth Tax Assessor’s Map 06 - Section 01, Parcel 0003B, Lot 000; Parcel 008, Lot 14; Parcel 008C, Lot 015; Parcel 013B, Lot 000 shown as Parcel A, Parcel B and Parcel C on a plan of land recorded at the Barnstable County Registry of Deeds Plan Book 495 Page 50 (collectively the “Premises”).

Dear Mr. Suso:

I represent CLSV Associates Limited Partnership, owner of the Premises as referenced above (the “Owner”).

The Premises is subject to a Right of First Refusal dated January 14, 2003, recorded at the Barnstable County Registry of Deeds in Book 16253 Page 136, a copy of which is enclosed for reference (the “Right of First Refusal”).

This letter is a Disposition Notice of the Owner of its intention to sell the Premises, as reference in and required by the Right of First Refusal.

The Owner has executed a purchase and sales agreement for sale of the Premises, subject to the waiver of the Right of First Refusal by the Town of Falmouth. The terms of the purchase and sales agreement are:

Purchase Price:	\$2,995,000.00
Closing Date:	October 10, 2023
Closing Date Extension to: (In exchange for \$250,000 Cash Payment to Seller)	October 9, 2024
Deposit:	\$100,000.00
\$25,000 of Deposit Non- Refundable	After December 14, 2022

\$75,000 of Deposit Non-
Refundable

After July 12, 2023

Buyer Contingencies:

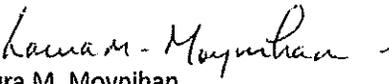
Due Diligence, Permits and Approvals Secured for Housing and
Commercial Development

In accordance with the Right of First Refusal, if the Town desires to exercise its Right of First Refusal; the Town shall within 120 days from receipt of this Disposition Notice deliver a written notice to the Owner stating that it intends to exercise its Right of First Refusal (the "Purchase Notice"). Further, the Purchase Notice from the Town is to set forth a closing date which is not less than 15 days after delivery of the Purchase Notice by the Town to the Owner, and which is within such 120 day period, and the Town is to complete the closing of the acquisition within such 120 day period.

The Right of First Refusal provides for a 360 day period by which the Owner may complete the purchase with the Owner's buyer if the Town does not intend to purchase the Premises. The closing date proposed in the Owner's purchase and sales agreement exceeds such 360 day period. If the Town declines to purchase the Premises, the Owner is requesting that its notice to the Owner or waiver of Right of First Refusal provide that it is valid and in effect until up to the potential closing date of November 9, 2024.

Thank you for your assistance.

Sincerely,


Laura M. Moynihan

Encls.

Cc CLSV Associates Limited Partnership
PO Box 1683
North Falmouth, MA 02536
(By First Class Mail and Email)

Mr. Julian Suso, Town Manager
(By Email)

Right of First Refusal

This Right of First Refusal is granted by CLSV ASSOCIATES LIMITED PARTNERSHIP, with an address of P.O. Box 367, 125 Falmouth Woods Road, North Falmouth, Massachusetts 02556 ("Grantor") to the TOWN OF FALMOUTH, MASSACHUSETTS, with an address of Falmouth Town Hall, Falmouth, MA 02540 Attn: Town Administrator (with its successors and assigns, the "Town") with respect to that certain parcel of land of approximately 31.2 acres on Route 151 in Falmouth, Massachusetts, which is shown on the Falmouth Tax Assessor's Map 06, Section 01 as Parcel 003B, Lot 000, Parcel 008, Lot 014, Parcel 008C, Lot 015, and Parcel 013B, Lot 000 (collectively, the "Property") and is shown as Parcel A, Parcel B, and Parcel C on a plan of land entitled "Plan of Land prepared for Ballymeade Development Corp. of Parcels 3, A, B & C in Hatchville Falmouth, Mass." dated May 13, 1993, prepared by Holmes & McGrath, Inc., which plan is recorded at Barnstable County Registry of Deeds at Plan Book 495, Page 50.

FOR VALUE RECEIVED, Grantor hereby grants a right of first refusal on the Property in favor of the Town on the following terms and conditions:

1. Grant of Right.

(a) If Grantor proposes to sell, transfer, assign, or long-term ground lease all or any part of the Property (the portion of the Property proposed for transfer being the "Offered Property") to any person or entity (except as specified in Section 3 below), Grantor grants to the Town a right of refusal (the "Right of Refusal") to purchase the Offered Property. Notwithstanding anything to the contrary contained herein, the granting by Grantor of a mortgage, security interest, short-term license or lease or other lien or encumbrance shall not constitute the disposition of the Property for purposes of this Agreement. Grantor shall deliver to the Town written notice of its intent to sell (a "Disposition Notice"), which notice shall state the offer price and all other material terms of the offer. If the Town desires to exercise its Right of Refusal, the Town shall have 120 days from its receipt of the Disposition Notice to deliver a written notice (the "Purchase Notice") to Grantor stating that it intends to exercise its Right of Refusal hereunder, which Purchase Notice shall set forth a closing date which is not less than 15 days after delivery of the Purchase Notice and which is within such 120 day period, and consummate the Closing of the acquisition within such 120 day period.

(b) After timely delivering a Purchase Notice, the Offered Property shall thereafter be conveyed to the Town (or any nominee designated in the Purchase Notice) on the terms contained in the Disposition Notice, and the closing of such transaction shall occur on the date established by the Town in the Approval Notice. Such closing shall be on an all cash basis.

(c) If the Town does not deliver a Purchase Notice to Grantor within the allotted 120 day period, or if the Town fails to perform its obligations and conclude the

Return to:
Carol A. Kenney, Esq.
157 Lopust St.
Falmouth, MA 02540

transaction on or before the designated closing date, Grantor may thereupon proceed to sell the Offered Property at any time within 360 days from the date of the Disposition Notice for a price not less than that set forth in the Disposition Notice (with any financing arrangement deemed appropriate by Grantor) and may record a certificate executed under pains and penalties of perjury in the Barnstable County Registry of Deeds evidencing its compliance with its obligations hereunder, which certificate shall be deemed conclusive in favor of bona fide third party purchasers for value. Upon such recording, this Right of Refusal shall thereafter be of no force and effect and any subsequent owner of the Offered Property (other than an entity described in Paragraph 4 below) shall no longer be obligated by the terms hereof. If Grantor does not complete the sale of the Offered Property within this 360-day period, the Town's Right of Refusal shall once again apply. If the Offered Property is disposed of for a price which is less than the price stated in the Disposition Notice given by the Grantor, then any such disposition by the Grantor shall be null and void and the Property shall continue subject to the Right of Refusal.

(d) In the event that the Grantor fails to offer the Offered Property to the Town as set forth above, whoever may then hold title shall convey the Offered Property forthwith to the Town, upon demand, for the same consideration that the Town would have had to pay had the offer been properly made. Such demand of the Town upon the then title holder shall be made within ninety (90) days after receipt by the Town of actual notice that a transfer of the Offered Property has been completed, which 90 day period the Town acknowledges shall be adequate time for obtaining all approvals necessary for making such demand. Constructive notice by recording or otherwise shall not constitute such actual notice.

2. Notice

(a) Any notices, consents, approvals, submissions or demands given under this Agreement (herein called "Notice" or "Notices") shall be in writing. Unless otherwise required by law or governmental regulation, notices shall be deemed given if sent by registered or certified mail, return receipt requested, postage prepaid (1) to the Town at the address of the Town set forth above or such other address as the Town may designate in writing from time to time or (2) to Grantor at the address set forth above or such other address as the Town may designate in writing from time to time. Addresses for the receipt of notice may not be changed except by Notice given as set forth above.

(b) If this Agreement provides for a designated period after a Notice within which to perform an act, such period shall commence on the date of receipt of the Notice.

(c) If this Agreement requires the exercise of a right by Notice on or before a certain date or within a designated period, such right shall be deemed exercised on the date of mailing of the Notice pursuant to which such right is exercised.

3. Inapplicable to Transfers to Listed Entities. The Right of First Refusal shall not apply to a proposed conveyance of the Property or any portion thereof to any of the following entities: Ballymeade Associates Limited Partnership I, Ballymeade

Development Corp., Saint Bernard Associates Limited Partnership, Saint Bernard Development Corporation, Saint Bernard Associates Limited Partnership, Bayview Ridge Associates Limited Partnership, or Falmouth Golf LLC. The Right of First Refusal shall apply, however, to any subsequent conveyance of the Property or any portion thereof by such listed entities to any person or persons not so listed. If the Property or any portion thereof is conveyed in a transaction not subject to this Right of First Refusal, Grantor shall give written notice of the same to the Town, which notice shall contain the name and address of the grantee.

4. Duration. If not earlier terminated in accordance with the terms hereof, this Right of First Refusal shall remain in effect until the day before the thirtieth (30th) anniversary of the date of execution of this instrument.

Executed as a sealed Massachusetts instrument this 14th day of January, 2003

CLSV ASSOCIATES LIMITED PARTNERSHIP,
By BALLYMEADE DEVELOPMENT CORP.,
It's general partner:

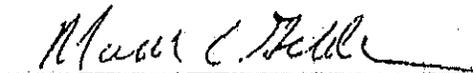

Name: John T. Callahan, III
Title: President

THE COMMONWEALTH OF MASSACHUSETTS

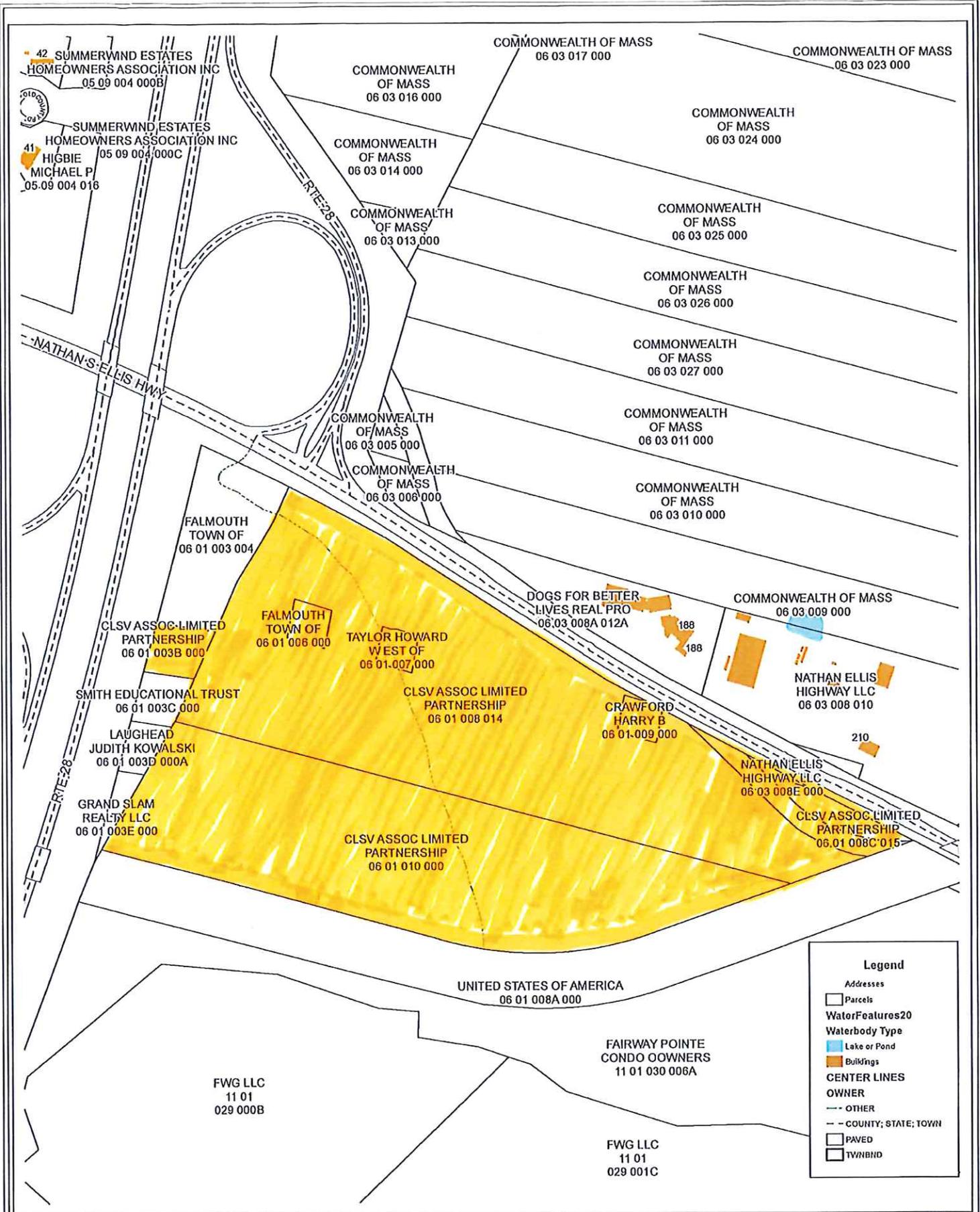
Plymouth, ss.

January 14, 2003

Then personally appeared the above-named JOHN T. CALLAHAN, III, President of BALLYMEADE DEVELOPMENT CORP. as General Partner of CLSV ASSOCIATES LIMITED PARTNERSHIP, and acknowledged the foregoing to be his free act and deed and the free act and deed of said entity, before me,


Mark C. Gildea, Notary Public
My Commission Expires: 02/21/08

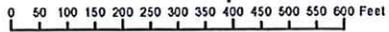
BARNSTABLE REGISTRY OF DEEDS



Legend

- Addresses
- Parcels
- WaterFeatures20
- Waterbody Type
 - Lake or Pond
- Buildings
- CENTER LINES
- OWNER
 - OTHER
 - COUNTY; STATE; TOWN
 - PAVED
 - TWRBND

CLSV Properties



BUSINESS

7. Review and Vote to Approve Minutes of Meetings (5 minutes)
Public Session – July 12, 2021; August 26, 2021; August 30, 2021

The minutes of August 30 are being finalized.

TOWN OF FALMOUTH
SELECT BOARD
Meeting Minutes
Open Session
MONDAY, JULY 12, 2021
SELECT BOARD MEETING ROOM
TOWN HALL
59 TOWN HALL SQUARE, FALMOUTH, MA 02540

Present: Doug Brown, Chair; Nancy Taylor, Vice Chair; Megan English Braga; Sam Patterson; Onjalé Scott Price.

Staff Present: Julian Suso, Town Manager; Peter Johnson-Staub, Assistant Town Manager.

1. Chair Brown called the open session to order at 6:30 p.m. and motioned to convene the executive session under 1. M.G.L. c.30A s.21(a)(3) – To consider settlement of police officer personal injury claim because to not go into executive session could prejudice ongoing negotiations. Mr. Patterson seconded the motion. It was followed by a unanimous roll call vote in Open Session to go into Executive Session for the purpose of discussing the above-listed items, and to return to Open Session after discussion. Yes-5. No-0.
2. Chair Brown reconvened the open meeting.
3. Pledge of Allegiance
4. Proclamation – Falmouth Historical Society – Heritage Awards

Mr. Patterson announced the names and read the proclamation in the packet. 21st Annual Heritage award 9/22/21 at 5pm. The five recipients were Penelope DUBY, Margaret Gifford, Barbara Kannellopoulos, Sharon Nunes, and Pamela Rothstein. It is recognition of the awarding of this by the Falmouth Historical Society.

Mr. Patterson read the recognition certificate in the packet as a motion. Second Ms. English Braga. Yes-5. No-0.

5. Recognition
Chair Brown noted a couple weeks ago a resident of Black Beach called him and said that someone put a trash barrel out on Black Beach and it is already full. The Department of Public Works (DPW) sent a truck out there and they took the barrel and other trash. The next day he sent another email to the DPW regarding safety issues, the DPW workers took care of those safety issues. Ms. English Braga noted that the DPW is consistently responsive to the community needs and services at the highest level.
6. Announcements

Ms. Scott Price announced that at noon on 7/15/21 there will be an annual Dr. Ambrose Jearld, Jr. lecture, it is about the community being more diverse and welcoming. Woodsholediversity.org to register for the Zoom meeting, and streamed live on FCTV.

Ms. English Braga said the Portuguese American Association is having a clam boil open to the public this Saturday, if interested go to the website, call, or contact Ms. English Braga.
7. Public Comment
Barb Schneider, Precinct 4, wants to make sure the Town is doing something proactive for the bylaw on single use plastic bottles sales ban on Town property. On Town land we are not supposed to be selling

plastic bottles of water beginning September 1, 2021. Three warnings are included. The Town does not have a compliance person, she hopes that there can be a discussion on what will happen on this issue.

Mr. Suso confirmed the Health Department staff has notified all licensed stores of the bylaw as of 9/1/21.

SUMMARY OF ACTIONS

1. Licenses

- a. Approve application for Sunday Entertainment License – Barnstable County Agricultural Society, Inc. – Cape Cod Fairgrounds – Sunday, 7/25/21
Mr. Patterson motion approval. Second Dr. Taylor. Yes-5. No-0.
- b. Application for Special One-Day Wine and Malt Beverages License – Gray Matter Marketing, - Cape Cod Brewfest – Cape Cod Fairgrounds – Saturday, 9/25/21
Ms. English Braga motion approval. Second Dr. Taylor. Yes-5. No-0.

2. Administrative Orders

a. Bond Refinancing

Jennifer Mullen, Finance Director, referred to the memo in the Select Board's packet. Ms. Mullen explained that she went to the Select Board in May 2021 for permission to look at a refinancing. As of that date, it appeared that the Town may be able to save of \$1.6 million of interest over 10 years. Went out to bid in July, received a number of bids, lowest was .72811 interest, will save the Town \$1.9 million. She asked the Select Board to vote to accept the refinance and bid.

Mr. Patterson motion approval. Second Dr. Taylor. Yes-5. No-0.

b. Vote to sign Preservation Restriction for 533 Woods Hole Road (the Dome)

Atty. Bob Ament representing Woods Hole Partners. This is a straight forward request, a lawsuit was resolved in favor of the Town and with the lower court's decision the developer will proceed at his risk with the project. List of obligations/tasks is long, one is to complete a preservation restriction; the document provided to the Select Board has been approved by MA and Falmouth Historical Commissions. The Select Board would accept, then it would go back to the State for signature before being recorded. The Commission voted to approve it a few weeks ago. The MA Historical Commission asked for each of the Select Board signatures be notarized, Atty. Ament feels it is unnecessary but better to do as requested. He is willing to notarize their signatures. The former motel buildings are in complete disrepair and a danger, the first step is to take them down.

Ms. English Braga motion to accept. Second Dr. Taylor. Yes-5. No-0.

c. Vote to accept donation from David's Old Silver Swim, Inc. (Robert & Susan Catalano) in the amount of \$500.00 to the Beach Department Donation Account **Ms. English Braga motion to accept. Second Dr. Taylor. Yes-5. No-0.**

d. Vote to accept donation from Teaticket Civic Association in the amount of \$600.00 to the Veterans Department Donation Account **Ms. English Braga motion to accept. Second Dr. Taylor. Yes-5. No-0.**

e. Approve request to refinance affordable home mortgage, 3 St. Marks Rd. Information in the packet.

Mr. Patterson asked if there is a capital gains required as a result of getting cash out of this. Mr. Johnson-Staub noted they are taking equity out of their house, rolling the \$10,000 into the refinance of the house. Mr. Johnson-Staub asked the Select Board to vote to refinance up to \$199,228.00.

Ms. English Braga motion to approve the refinance up to \$199,228.00. Second Dr. Taylor. Yes-5. No-0.

- f. Vote to appoint member of the Select Board to the Steamship Authority's Woods Hole-Falmouth Noise & Traffic Mitigation Working Group

Mr. Suso suggested if the Select Board would like to assign it to a qualified staff member, he can do that on the Select Board's behalf.

Ms. English Braga suggested a couple of staff that can share that responsibility.

Mr. Suso will explore this.

Mr. Patterson motion to defer matter to Mr. Suso to recommend an appropriate individual. Second Dr. Taylor. Yes-5. No-0.

Chair Brown requested Mr. Suso inform the Select Board of the staff member(s) via email.

3. Special Events

Recurring - Recommended:

- a. Buzzards Bay Watershed Ride – Bike path to Swope Center, MBL, Woods Hole – Sunday, 10/3/21 – 1:00 p.m. – 6:00 p.m.

Ms. English Braga motion approval. Second Mr. Patterson. Yes-5. No-0.

- b. Annual Summer Bazaar - Waquoit Congregational Church – Parsons Lane One-Way – Friday and Saturday, 7/16 and 7/17/2021 – 8:00 a.m. – 4:00 p.m.

Chair Brown said the FPD recommended to prohibit parking along Route 28 for safety.

Ms. English Braga motion approval. Second Mr. Patterson. Yes-5. No-0.

New – Recommended:

- a. Blues & Views Concert – William Maurer – Bandshell – Wednesday, 8/18/21 – 6:30 p.m. – 9:00 p.m.

Ms. Scott Price motion approval. Second Dr. Taylor. Yes-5. No-0.

- b. Beach Wedding Ceremony – Falmouth Heights Beach – Jaquith – Friday, 9/10/21

Dr. Taylor motion approval. Second Ms. Scott Price. Yes-5. No-0.

- c. Beach Parking – Mill Road parking lot – Moore – Thursday, 7/29/21

The Select Board cannot guarantee spots, it is nice to have a heads up. The fee for a permit says they are guaranteed the spots, Dr. Taylor does not feel the Select Board should entertain these permits.

Mr. Mogardo said that when there is an applicant wishing to use beach property, they reach out via phone for information to make a more successful event. He explained to Mr. Moore spaces are not guaranteed and are subject to availability, but vehicles need to be out before the lot closes. Mr. Moore will contact Mr. Mogardo the day before the event with any changes.

Mr. Johnson-Staub explained the distinction is that we need to have a prearranged understanding of when the lot closes. The fee ensures there is this individualized dialogue so both sides know what is expected. He encourages a process that ensures the one on one dialogue continues.

Ms. English Braga suggested reviewing the policy in the future on that issue, maybe a lessor fee or call it a communication.

Ms. English Braga motion approval as outlined in the packet. Second Mr. Patterson. Yes-4.
No-1 (Dr. Taylor).

7:30 p.m. PUBLIC HEARINGS

1. Application for an Alteration of the Licensed Premises of an All Alcoholic Common Victualler License – Chapoquoit Grill, Inc., located at 410 West Falmouth Highway, West Falmouth. Continued from April 26, 2021; May 24, 2021; June 7, 2021; June 21, 2021.

Ms. English Braga read the hearing notice.

Atty. Kevin Klauer was present representing the Manager, John Reed. Atty. Klauer explained that the continuances were based on a revised site plan that has been submitted. The Town Planner made a referral that no change to parking could occur without approval by the Planning Board, and Atty. Klauer disagrees. The revised plan submitted today corrected the proposed parking on front of the street and does not require Planning Board review, there is no existing site plan review; they do not meet the requirements for site plan review given they are reducing number of parking spaces and keeping the same number of seats.

Chair Brown noted that Town Manager recommended tabling the hearing at this time. Technically they may not need site plan review, when taking front parking to back to accommodate dining, that is concern. Atty. Klauer said that seven spaces are in the back lot, by restriping there is a chance to restripe parking in the front and back lots. Chair Brown said the Planning Board has guidelines, the Select Board would need to send it to them. Atty. Klauer said that at this time Planning Board review is not required, however they are willing to do what they need to do to make this happen.

Chair Brown explained that Planning Board review is best government practice.

Ms. English Braga said the Select Board did not have weigh in from Town Counsel from this yet, she would like to have Atty. Duffy give a read on this so the Select Board can hear directly from him to have a sense of how he sees this type of circumstances before she is comfortable referring to the Planning Board.

Mr. Suso noted that Town Planner Tom Bott had a conversation with Town Counsel and recommended reduction of 16 seats in restaurant to accommodate what is being proposed. Mr. Suso is convinced that Mr. Bott needs to complete his review and determine whether it needs to go to the Planning Board, given this is located in a sensitive area and existing litigation with tenants there. The premises has a permit for the next several months, no time emergency at this point, and the Select Board can take the time to do this properly.

Atty. Klauer said that he spoke with Mr. Bott, who suggested reduction of 16 seats if the applicant wanted to proceed with just eliminating the parking there today without replacing it. The loss of the 16 seats would counter any benefits to the outdoor seating.

Chair Brown is in support of this, appreciates the benefits to outside dining.

Atty. Klauer noted there is still a pending case with one tenant in the complex, Atty. Mullin has been in touch with the other party.

Dr. Taylor would like to see the legal issues cleared up, an agreement with Town Planner, and have a weigh in from Atty. Duffy.

Atty. Klauer asked if it would make more sense to table it, he is not familiar with this.

The Select Board supports tabling this hearing, however prefers not to set a date at this time.

Mr. Suso will reach out to Atty. Duffy.

Ms. English Braga suggested the folks sit down with the Chair or member of the Select Board and get it done. Mr. Suso noted what they received arrived 3pm today, which is why the Select Board received it so late.

Ms. Scott Price suggested the Select Board make a clear list for Atty. Klauer of what the Select Board expects from him before coming back the next time. Dr. Taylor would appreciate something written coming out of the meeting with the parties.

Mr. Suso will set meeting with Town Counsel, Mr. Bott, and Atty. Klauer or a representative of Atty. Klauer to start.

Anthony Jeffery, Murphy's Package Store, litigation is alive and well, he is open to sitting in on a meeting with his attorney to talk things out. He has been affected by the patio out front and has some ideas that may provide solutions to the applicant. The patio has impacted his business and can comment in the future. The Select Board suggested that may be a conversation between the lawsuit parties and the Town likely would not be involved in that.

Ms. English Braga noted his presence is appropriate when they have the hearing, he may comment at that time and the Select Board can consider the impact to Mr. Jeffery's business.

Ms. English Braga motion to close the hearing. Second Dr. Taylor. Yes-5. No-0.

Ms. English Braga motion to table this hearing to a future date. Second Dr. Taylor. Yes-5. No-0.

BUSINESS

1. Discussion/update on COVID-19 issues

Scott McGann, Health Agent, reviewed vaccinations to date, the Town is averaging about 100 new and 150 second doses per week. Almost 70% of residents are fully vaccinated. About 6-8% have not gotten their second dose. There have been 192 cases since 4/1/21; 94% of those cases were people either not vaccinated or not fully vaccinated. The cases have dropped off, 7 total since 6/1/21. Delta variant is 20-30% of cases in MA, vaccines appear to be effective. He has no information on boosters. The cases he gets are only residents, he is only allowed to see Falmouth cases. We would see the rise in increase in Falmouth numbers if people were bringing it into Town. Every week he will put the information on the Town website.

Ms. English Braga asked if we are thinking about ways to keep the road race safe now that the Delta variant is an emerging issue. Mr. McGann said the numbers do not bear out that we need to start doing anything. The risk is cramming in 103,000 people on the ancillary events around the race.

Mr. Suso noted the Select Board previously voted transition from mandatory masking mandate to an advisory.

2. Fire Department Status Report

Chief Small reviewed the report in the Select Board packet. Updates on areas including staffing, in recent weeks there has been a better response from personnel to take overtime in the West Falmouth Station, call volume remains unchanged, about one call per day. The engine in West Falmouth Station responds to other areas as well. West Falmouth Station staffing has been challenging because there have been increased time off requests, injury and military leave. New recruits are to the point where they have been added to the shift strength. FFD has been able to bolster their shifts, they gave a 14 man minimum and have leveled off at 15 per shift. Two additional recruits will become shift strength soon. Six additional personnel will attend the academy, upon their graduation in October there will be another six recruits who will attend the academy. By the first of the year or soon thereafter, those twelve personnel will be part of the shift strength. That will bring them to eighteen personnel per shift. He appreciates the support, they had challenges to fill positions and were able to get it done. The Select Board noted that Chief Small set out a timeline and he is making it. Chief Small explained that it goes to the staff, they

continue to follow what their goal was last summer, kept on it, they had many phone calls with civil service regarding when they would receive a new firefighter list. They were looking at people from way beyond the Town's borders. Getting the second list finalized and obtaining it, and then work on it, gave him the opportunity to hire residents off the second list. The recruits going to the academy have been in the station regularly, providing information, getting their gear, and oversight; they are eager and excited to work at FFD.

FFD mechanics are actively maintaining and servicing equipment, they also service police cruisers on Thursdays. They provide maintenance on a regular schedule so they can foresee an issue. The new apparatus that was approved at Town Meeting, is in final phase of design, then will develop the contract; right now goods/services and demand for equipment is rising. There are a lot of issues with computer chips out there. They have been working with their in house committee going over all their equipment and having the new ladder truck in service. Chief Small hopes to order the new apparatus soon. The used truck has been a difficult search, they have been looking and working with vendors/dealers for a suitable apparatus. The inventory for the size apparatus that needs to fit in the W. Falmouth station is difficult to find, vehicles come quickly and go out just as quickly. Vehicles coming in do not match the size needed for that station. They were able to work with the garage door company to get it as high as possible, they only added 2-3 inches more height. The overall height is 9'5" that would fit in that station, however the truck needs to be below that because when backing the truck in is on an angle. A New England dealer has a truck that is currently being leased, it will work height wise, but he needs to get all information and go see it. It is not available for another 30 days or so, apparatus deliveries are delayed and that is why that truck is not available yet. The engine that has been in that station and all other apparatus has been in good mechanical shape as of late. They continue to follow through with their contingency plan for staffing West Falmouth Station, there have only been about 16 times since January 2021 where they have had to relocate apparatus. They managed five stations, working with DPW and Facilities Manager to address other stations as needed and prioritize. In June and July 2021 the FFD answered an average of 26 calls per day, some days up to 46 calls.

The plan is if they get this spare engine, the existing engine in West Falmouth Station would be housed in East Falmouth Station. The vehicle that is currently on lease is not equipped, Chief Small is confident the funds are available to outfit that engine fairly quickly.

Ms. English Braga noted that this is important because a lot of folks come here, get training, and then go back from where they came from; vast majority of employees left to go back to the towns they originated from. So many resources go into training a firefighter, have them here a year or two, and then they return to where their roots/family/can afford to live.

3. Report – Bicycle and Pedestrian Committee

Scott Lindell, Chair, made a PowerPoint presentation. The Town adopted a Complete Streets plan, the Town has a contract with the Cape Cod Commission and their transportation experts to prioritize this. Goodwill crossing is at the final stages of the design, if we have engineered projects ready, then we are shovel ready, and there will likely be infrastructure funds available from the federal government; the shovel ready projects will likely be prioritized. Safe Routes to School, they have engaged the Superintendent, Principals, Wellness Committee, and lots of synergy for the Katharine Lee Bates design for bikes and pedestrians. There is a gap because we do not have the funding, we need to be creative, sources of funding may include Complete Street Grants, Shared Streets and Spaces, Chapter 90 monies for road maintenance, and the Stay Safe Routes to School program. We need to appropriate something in the Town budget, about \$200,000 would be a good start, most of that would likely be directed towards the engineering plans to be ready for infrastructure initiatives. There is an automatic counter on the bikeway; 250,000 trips were seen last year. Renewed the Bicycle Friendly Community Award, received bronze status. Bicycle education in schools and among adults is needed; however, there is no one in the Town whose job is dedicated to those issues. Vision for the future; network of separated paths or lanes along major arteries, connect village centers, and schools.

Complete Streets benefits include improve safety, better health, stronger economies, reduce costs, provide choices, and smarter growth.

There is one light-activated tracker on the bike path located near the Steamship Authority parking lot; they hope to have a second installed.

The \$200,000 could be in the DPW budget.

Mr. Brown said that the Transportation Management Committee was also talking about \$200,000; they will have something more formal at their next meeting.

Mr. Suso noted that it needs to be recommended back to the Select Board, ideally voted by the committee, and then transmitted from the Chair to the Select Board.

Mr. Johnson-Staub said \$200,000 would be for the capital planning budget, submissions were due today. If a committee is seeking to initiate a capital request, the more backup information the better so that the Finance Committee has that information. He could provide the form for submission now or future capital rounds.

Ms. English Braga said the department that the committee thinks the money will live in should support the objective as well. Mr. Lindell talking about engineering for projects coming forward, we have a substantial budget for maintenance, and the DPW is at their maximum regarding projects. When you look at being shovel ready, money may flow to us if the project is shovel ready.

Mr. Suso explained there are significant monies to operate and maintain bikeways in the existing budget; what is being talked about would be capital funding.

4. Update on Traffic Improvements – Jones/Gifford Intersection and Route 28 Corridor from Falmouth Heights Road to Sandwich Road – Department of Public Works

Peter McConarty, DPW Director, they have many transportation initiative projects in line at this time. Three major projects will be reviewed tonight. Route 28 Segment 2, which has 3 major intersections, it is a large project so it may be broken up into smaller projects. John Diaz was present to speak on the projects. This is a brief presentation to show what they are working on, they will have public meetings later in the summer and the public will have the opportunity to comment.

John Diaz, GPI, talked about the Route 28 Corridor, going through the development and traffic counts. MA DOT is looking at Route 28, they would like it to look consistent throughout the cape. Falmouth Heights Road is the first intersection, they would like to put a roundabout in at this location. Next, Dillingham Ave. intersection, they are looking at several concepts including a traffic signal, aligning the two side streets, adding turn lanes on Route 28, and exploring ways of looking at turn restrictions there. Route 28 at Sandwich Road they are looking at concepts, such as better defining the turn lanes on Route 28 and considering a roundabout.

Ms. Scott Price asked about Route 28 between the Heights Road and Sandwich Road, proposed section is 52 feet wide, the current right of way. Mr. Diaz noted fitting within the right of way in that section, so there would not be any major land takings. Mr. Diaz explained that Sandwich Road plans have no major impact on the right of way. The roundabout by Falmouth Heights Road would not be major right of way taking either.

Mark Gaylord asked about impact on utility poles? Mr. Diaz said that they will look at relocating utility poles as necessary, whether raising them or keeping them in the buffer strip. Utility design will be part of the overall design.

Chair Brown asked about breaking this up into two sections, would Davis Straits be first?

Mr. McConarty explained that once you see the design with 3 intersections, the cost will likely be higher than the original amount for the original project. If we were able to design it as a whole and break it up

individually, there would be a better chance to put this on the Transportation Improvement Program (TIP). This is what Mashpee did. They would like to continue working with the Planning Board; the streetscape and this design will work together. There will be additional vehicles and pedestrians if there are more residents in the area, so it would affect the design and likely help out.

Mr. Diaz said there would be public informational meetings.

Mr. McConarty explained they work off of a five-year plan, every year some projects drop out. Falmouth would have a better shot if they design it as a whole and individual segments. If they are on the TIP for next year, looking at 2026/2027 for the work.

Mr. Diaz noted Gifford Street at Jones Road is moving forward to final design. Route 151 at Sam Turner Road is moving forward with the signalized intersection to final design. The signal is vehicle responsive.

Mr. McConarty said that Route 28 is going through TIP, what they anticipate for Gifford Street and Route 151 was to go through the Town. After Labor Day they will do the intersection improvements on Route 151 and Sandwich Road.

5. Sign Variance Request – Promotional Signage in excess of days permitted under Section 184-30 of the Sign Code – John Wesley United Methodist Church – Pet Stuff Sale, Rummage and Yard Sale, and Vacation Bible School

Ms. English Braga motion approval. Second Dr. Taylor. Yes-5. No-0.

6. Vote committee reappointments

Non-regulatory boards – incumbents with uncontested seats:

- a. Affirmative Action Committee – Lynne Rhodes

**Ms. English Braga motion reappointment of Ms. Rhodes to a term ending 6/30/24.
Second Dr. Taylor. Yes-5. No-0.**

- b. Veterans Council Committee – Robert Foos (at-large position)

Ms. English Braga motion reappointment of Mr. Foos to a term ending 6/30/22. Second Dr. Taylor. Yes-5. No-0.

- c. Veterans Council Committee – Carissa April (Joe Q Veterans Coffee Break, Inc. representative)

Ms. English Braga motion reappointment of Ms. April to a term ending 6/30/22. Second Dr. Taylor. Yes-5. No-0.

7. Interview, vote and appoint committee members

- a. Cable Advisory Committee – Anne Pride

Ms. Pride is a long time Falmouth resident and maker of bimonthly calls to Comcast. She worked with the Boston Globe and got Comcast customers in New England a credit because there were no regional sports during COVID, however customers were billed for that service. She spent 15 years in database development, 15 years in construction management.

Ms. English Braga motion reappointment of Ms. Pride to a term ending 6/30/24. Second Dr. Taylor. Yes-5. No-0.

- b. Cultural Council – Stacey Wiessbock

Ms. Wiessbock has lived in Falmouth for three years, she is a change consultant, looks for opportunities to evolve, grow, and give. She feels they can use her impact, they are talented but there is a disconnect between the people the council is trying to reach and technology. Tech innovation and people do not need to live separately. She can help facilitate growth and make a difference in Falmouth.

**Ms. English Braga motion reappointment of Ms. Wiessbock to a term ending 6/30/24.
Second Dr. Taylor. Yes-5. No-0.**

8. Discuss potential request for \$200,000 in construction engineering design for proposed FalmouthNet

Art Gaylord, FalmouthNet Board Member, explained they put this request in front of the Select Board in April 2021 for potential use of the COVID relief money that the Town was to receive. They have pursued all possible avenues to get funding, Senator Moran submitted a budget amendment request of \$150,000, as of Friday that was still in the fiscal year 2022 budget, barring a veto by the Governor they may have access to the funding they need. He requests the Town reserve a potential budget article for Town Meeting. They have done the feasibility study, will do an actual street plan for a network throughout Town, this information would be needed if there was a bond project, grants, and private investors. This is a critical next step for the project. He asked the Select Board to give it consideration because it will impact every citizen in Town. Mr. Gaylord believes this project could also address digital equity by addressing the issue of people who are not able to afford cable internet. He would like to move forward as quickly as possible with formation of a working group.

Mr. Suso suggested if the Select Board is agreeable, he will come back with a draft mission statement so they have some demarcation of what the Select Board intends short term and long term.

Ms. Scott Price asked if the Select Board would have to put together the mission statement and then have people apply to the working group. Ms. English Braga explained that usually the mission statement is voted and published in the paper.

Mr. Gaylord said the \$150,000 in the State budget would be sufficient funding, the timeline is unknown except that it is in the current fiscal year.

Chair Brown noted this was discussed as a long-term objective and Town Meeting may be the appropriate route.

Dr. Taylor asked if FalmouthNet can do a placeholder to put in for the \$200,000 request of Town Meeting. Mr. Suso noted better a petitioner article because it can be withdrawn. Ms. English Braga felt a vote of Town Meeting is a strong message to developers, a project of this size will go through Town Meeting and having Town Meeting be in on it at the beginning, it is a venue to get education out to members and the public.

Mr. Gaylord noted FalmouthNet is making an effort to educate the public; he would be comfortable with doing a petitioner's article for the \$200,000. Chair Brown noted if he does that, the Select Board will decide whether to endorse it, then it would go to the Finance Committee.

Mr. Patterson asked about articles on the warrant, are Select Board members able to work on it. According to Mr. Suso, it may place other members of the Select Board in an uncomfortable role. Ms. English Braga noted you could disclose it.

Courtney Bird said the working group is a critical element with the mission of identifying what role the Town should play in this; funding the feasibility study is critical. They are pleased the State delegation was able to secure the funding, by doing so they endorse FalmouthNet. If they get the State money, it will come to FalmouthNet, Inc. directly. They have raised \$25,000, which will go to fund the study. They want to follow a process just as they are a Town body, they will put this out to bid, write an RFP, and want to involve folks from the Town. Things like this can be done well, they can get creative with the funding and will use the expertise of the working group.

Ms. English Braga suggested Mr. Gaylord, Mr. Bird, and the FalmouthNet group to send a draft mission statement to Mr. Suso.

Mr. Suso noted a number of priorities were delegated to staff, and asked the Select Board to be cautious to committing large numbers of staff to initiatives without removing them from existing assignments. He would like to talk about this on another night, the priorities have been set and voted and given directive to proceed. Mr. Patterson does not want to hear no, do not look forward, he would like to look at staffing if needed; what is required for staff to be able to handle these kinds of issues. Mr. Suso noted staff is incredibly busy, they can always hire additional staff subject to budget appropriations, he wants to make sure staff are working on the Select Board's highest priorities. Staff members need to oversee those priority areas to make sure it is done the proper way. The Select Board has asked Mr. Suso to work with the Fire Chief to locate an area for the North West Fire Station.

Mr. Patterson said that the Select Board needs to hear from Mr. Suso about staffing and/or budgeting.

Ms. English Braga said one of the biggest challenges are that there are unfilled positions, Asst. Town Planner, Asst. Deputy of Public Works, so it would be helpful for Mr. Suso to come back and dive deeper into what was discussed at the Select Board's Strategic Retreat; are we on the right pay scale, what else can be done to fill these positions? She would like to have a conversation around the staffing piece so that we can get those positions filled. If the Select Board has a deeper understanding, it allows them to create policy around priorities. Having updates on hiring when Mr. Suso does his report may be helpful, then the Select Board can delve into that issue so that the public understands. When you craft a mission statement specific and oriented towards a tight result, then it will hopefully narrow the time staff have to put into it.

Chair Brown has solicited that input and received it. He suggested an agenda item to review all things the Select Board have been asking staff to do. He feels the FalmouthNet project is important.

Mr. Patterson expressed concern that decisions were being made not to hire for the positions to save the money and increase the Town's AAA bond rating and has heard this from citizens. He believes the Town needs to invest in people and resources.

Dr. Taylor said the idea that people are playing games is offensive to her and out of line.

Mr. Suso noted the newly hired Asst. Town Planner began working today. The advertising for Deputy Director DPW is underway. Personnel does an extraordinary job, they want all these positions filled, had similar issues with wastewater positions.

Ms. Scott Price said it would be helpful to share ideas and questions with the public about what they want an update on, priority for a report. How is the Select Board more effective with Mr. Suso, and specify what subject matter they want updates on. If you want an update, send it to Chair Brown and cc Mr. Suso. Dr. Taylor said being more specific with the agenda and what the Select Board needs to know would be helpful.

Wednesday mornings Chair Brown and Dr. Taylor will review agendas.

Mr. Patterson suggested reporting on positions routinely.

The Select Board talked about wanting quarterly updates from the Personnel Director on positions, contracts, and other issues as requested.

Dr. Taylor feels it is incumbent upon the Select Board to ask for what they need.

Dr. Taylor said they will look to petitioner's article, track money potentially coming from the State budget to FalmouthNet Inc. and working group, and create mission statement.

Mr. Bird suggested Mr. Gaylord draw up points for the charter focus and circulate it to Mr. Suso, Mr. Johnson-Staub, and the Select Board as soon as it is put together and not wait until the next Select Board meeting.

9. Individual Select Board Members' Reports

Ms. Scott Price:

Last Wednesday there was a new display at Woods Hole Library and museum on Jewel Cobb, another event will come up on 7/29/21 in honor of Jewell Cobb.

Dr. Taylor:

The second round of interviews for the Affirmative Action Diversity Officer position will take place on 7/20/21 and they are down to their last three candidates.

Chair Brown:

Attended the Transportation Management Committee meeting.

Spoke with Chair of the Planning Board who reminded him that they are meeting tomorrow night to discuss potential rezoning in business districts for affordable housing.

10. Town Manager's Report

Mr. Suso is awaiting confirmation from Joint Base Cape Cod on a potential public meeting date of 7/29/21 and when confirmed will advertise.

The Select Board's next regular business meeting will be held on 7/26/21.

Ms. English Braga motion to adjourn at approximately 10:03 p.m. Second Ms. Taylor. Yes-5. No-0.

Respectfully Submitted,

Jennifer Chaves
Recording Secretary

**TOWN OF FALMOUTH
SELECT BOARD
AGENDA**

Public Meeting on Joint Base Cape Cod Proposed Machine Gun Range

6:00PM – 8:00PM

Thursday, August 26, 2021

Falmouth High School

Auditorium

874 Gifford St, Falmouth, MA 02540

- 6:00 p.m. Select Board – Welcome/Opening Remarks
- 6:10 p.m. Presentation – Joint Base Cape Cod (Col. Matthew N. Porter) (30 minutes)
- 6:40 p.m. Presentation – (Rosemary Carey) (30 minutes)
- 7:10 p.m. Follow-up Comments from Joint Base Cape Cod (10 minutes)
- 7:20 p.m. Questions and Comments from Audience (30 minutes)
- 7:50 p.m. Select Board – Closing Remarks
- 8:00 p.m. Adjourn

Ground rules: Public comment limited to 3 minutes per person.

Douglas C. Brown
Chair, Select Board

Mask Advisory:

Consistent with the Town's mask advisory, it is requested that masks be worn inside, but may be removed when speaking at the microphone.

MINUTES

DRAFT ONLY

Falmouth Select Board Public Meeting On
Joint Base Cape Cod Proposed Machine Gun Range
6PM Thursday, August 26, 2021
Falmouth High School Auditorium
874 Gifford Street, Falmouth

Present: Doug Brown, Chair; Nancy Taylor, Vice-Chair; Megan English Braga; Sam Patterson; Onjalé Scott Price

Staff Present: Julian M. Suso, Town Manager; Peter Johnson-Staub, Assistant Town Manager

Chair Brown called the meeting to order at 6PM and welcomed all those in attendance. He asked for a moment of silence on behalf of the service men, women and others who were killed tragically in a terror attack in Afghanistan earlier in the day. He briefly summarized the protocol and process for this evening's Public Meeting. It was acknowledged that FCTV was covering this Meeting with a live broadcast and it would be available later via taped format.

Colonel Matthew Porter introduced and led his colleagues in an informational presentation on the proposed Machine Gun Range at Joint Base Cape Cod which included some elements presented via power point format.

Ms. Rosemary Carey recognized her colleagues and joined them in presenting a power point summary of concerns being raised regarding the proposed JBCC Machine Gun Range.

Colonel Porter was afforded a few minutes to further clarify and expand upon any issues raised by Mr. Carey and her group.

There followed a number of questions and comments from those in attendance, who approached the microphones placed for that purpose. Each commenter was limited to three minutes for their comments.

Select Board members raised a few concluding, follow-up questions, seeking further clarification from the representatives of Joint Base Cape Cod.

Chair Doug Brown acknowledged that no persons remained who have asked to speak. He thanked all in attendance once again for participating. Written comments have been received as well. He indicated that the Board will be taking up this proposal on a future Select Board agenda for potential discussion and vote. There being no further business to conduct, the public meeting was adjourned at approximately 8:59PM.

Julian M. Suso
Town Manager and Recording Secretary

BUSINESS

9. Town Manager's Report

REPORT

TO: Falmouth Select Board

FROM: Julian M. Suso

DATE: September 24, 2021

JMSuso

- Under Summary of Actions/Administrative Orders I am asking the Board for your authorization for me to transmit a letter to the Steamship Authority regarding their long-term parking customers and the State excise tax. This is a follow-up to a matter initially raised by the Transportation Committee for exploration and for which we have completed an internal review with Town Counsel and Finance Director Jennifer Mullen.
- To facilitate consistency and stability within the context of the State's authorization related to outdoor dining during the pandemic – I am suggesting that the Board consider extending your temporary outdoor restaurant seating approvals from their current expiration on November 1 to the State's limit of April 1, 2022. This will allow us to administratively address those Town establishments that wish to continue their outdoor dining arrangements through the coming winter.
- The Board will be considering a recommendation to the ZBA on a matter related to a variance from the Town's flow neutral bylaw for the proposed Scranton/Main Senior Housing (40B) Project. As you know, normally all actions on wastewater variance requests are within the authority of the Select Board. Frank Duffy has confirmed that, for 40B projects, this authority shifts to the ZBA under State Statute. For that reason, we are proposing to proceed with a "recommendation" to ZBA to assist them in their determination.
- You will be considering concluding the Hearing and taking final voted action on the proposed Storm Water Management Rules and Regulations, this continued from your initial Public Hearing on August 9. In the interim, we have been reviewing with Town Counsel and staff members the most reasonable process for moving forward, particularly in the area of any appeals to Public Works implementation and enforcement. Frank has now determined that it is most appropriate legally to have any appeals come to the Select Board (rather than the Conservation Commission) following an internal hearing process by a staff member which the Town Manager would designate. This process is included in the final form of these Regulations which you are now considering for adoption. I recommend that the Board

vote to adopt. I have asked Frank Duffy to join us on Monday evening, along with Peter McConarty and Jim McLoughlin.

- The Board will also be considering a Public Hearing on the matter of the Taking of Winthrop Drive. You will recall that we had to delay this process from several months ago, and we are now positioned to move forward.
- Tree Warden Jeremiah Pearson has recommended the removal of the two diseased elm trees on Main Street in front of the Library. You will be convening a Shade Tree Hearing on this, as per your standard procedure. Jeremiah will be joining us for any questions.
- Board members will conduct a Public Hearing on a requested variance from the flow neutral bylaw which does fall within the Board's direct responsibility (not a 40B). This involves the request to establish a second floor dining establishment at 87 Water Street. There is insufficient area in downtown Woods Hole to allow the installation of a septic system.
- I will be joined by Chief Dunne and Jennifer Mullen for a presentation on the proposed Police Department renovation.
- Select Board members will be considering voted action on three requests related to funding from the Falmouth Affordable Housing Fund: (1) \$2.3 Million for the Scranton/Main Project; (2) an extension of the expiration date for the Megansett Crossing Project to December 26, 2021; (3) an increase of \$205,500 in funding for the Megansett Crossing Project to underwrite the cost of solar panels. You have information on the recommendation from the FAHF Working Group with your Board packet. This includes a recommendation to support the requests for 1 and 2 above, but to deny the supplemental funding request for the solar panels.
- As per the Board's schedule preparing for the upcoming November Town Meeting, you will be joined by a representative from each of the four petition articles for a five minute presentation. No action is proposed now, but would be considered at your next regular meeting.
- You will have an initial discussion on the Right of First Refusal just recently received on the 31+ acre property on Route 151. The details of this to date have been transmitted under separate cover.
- This past week, I was pleased to attend the Finance Committee Meeting, the Sandwich Road Fire Station Building Committee Meeting, the Police Department Swearing-In and Recognition Ceremony and the Childs River Project Celebration and Gathering.
- The Board's next regular meeting is Monday, October 4.