

TOWN OF FALMOUTH
SELECT BOARD
AGENDA
MONDAY, OCTOBER 24, 2022 – 6:30 P.M.
SELECT BOARD MEETING ROOM
TOWN HALL
59 TOWN HALL SQUARE, FALMOUTH, MA 02540

The Select Board may discuss and vote appropriate action on any item listed on this Agenda unless a different disposition is noted. At the discretion of the Chair, agenda items may be taken out of order.

6:30 p.m. OPEN SESSION

6:30 p.m. EXECUTIVE SESSION

1. M.G.L. c.30A s.21(a)(3) – To discuss strategy with respect to contract negotiation with non-union personnel (Interim Town Manager, Peter Johnson-Staub)

7:00 p.m. OPEN SESSION

1. Call to Order
2. Pledge of Allegiance
3. Recognition
4. Announcements
5. Public Comment
6. Affirm Appointment of Human Resources Director

7:05 p.m. TOWN MANAGER'S PRELIMINARY REPORT

7:10 p.m. COMMITTEE INTERVIEWS

1. Interview, vote and appoint committee member
 - a. Solid Waste Advisory Committee – Kristine Copley
 - b. Zoning Board of Appeals – Frank Duffy

7:15 p.m. PUBLIC HEARINGS

1. Flow Neutral Bylaw – Evaluation of Request for Variance – New Creek LLC – 13 Davis Straits, Falmouth (parcel 39 15 049D 004), continued from August 22, 2022, September 26, 2022 (15 minutes)
2. Application for an Alteration of Premises of an All Alcoholic Common Victualler License – Buca Corp. d/b/a Bucatino Restaurant & Wine Bar, 7 Nathan Ellis Highway (10 minutes)
3. Wetlands/Dock Hearing – Falmouth Holdings Corp. – Replace failing and outdated piers and bulkhead, improve marina facilities, capture storm runoff, in the waters of Falmouth Inner Harbor, located at 278 Scranton Avenue, Falmouth (15 minutes)

7:55 p.m. BUSINESS

1. Licenses
 - a. Application for a Change of Manager of an All Alcohol Club License – Falmouth Post 70 Inc. Amvets – 336 Palmer Avenue, Falmouth (5 minutes)
2. Report – Veterans Council Committee (15 minutes)
3. Report – Falmouth Road Race (10 minutes)
4. Acting as Trustees of Falmouth Affordable Housing Fund, act on application from Falmouth Housing Authority for \$100,000 to obtain a comprehensive assessment of building conditions for 303 existing affordable units (10 minutes)

5. Adopt Strategic Plan (10 minutes)

8:45 p.m. CONSENT AGENDA

1. Licenses

- a. Approve application for an Amendment to a Package Store License - Change of LLC Manager – OSJL Spirits, LLC d/b/a Ocean State Job Lot, 50 Teaticket Highway, East Falmouth
- b. Approve application for an Entertainment License – Olive Restaurant, Inc. d/b/a/ Shiverick's Café & Bar, 285 Main Street, Falmouth
- c. Approve application for an additional day to a Special One-Day Wine and Malt Liquor License – WM Cycling Events, Inc. – Pan-American Cyclo Cross Championships – Cape Cod Fairgrounds – Friday, November 4, 2022

2. Administrative Orders

- a. Approve Eversource petition to install one (1) new handhole labelled 31/8 at the base of existing pole 31/8 and to install approximately 24' (feet) of conduit and cable under the town road easterly starting at new handhole 31/8. This work is necessary to provide new electric service to 13 Abbies Lane.
- b. Vote to Approve Warrant for the 2022 State Election on November 8, 2022
- c. Vote to re-appoint Peter Johnson-Staub as the Falmouth representative to Cape and Islands Water Protection Fund Management Board
- d. Initiate renaming process to add a plaque to the band shell on the Falmouth Music and Arts Pavilion naming the band shell "The Linda Dow Whitehead Band Shell"
- e. Vote to confirm the Charter Review Committee work is concluded and committee is disbanded
- f. Authorize expenditure from the D.A.R.E. donations account in the amount of \$1,438.35 for the purpose of Halloween bags for the elementary students of Falmouth Public Schools
- g. Authorize expenditure from the D.A.R.E. donations account in the amount of \$127.09 for the purpose of supplies for the RAD Kid's Class

3. Committee Appointments:

- a. Golf Advisory Committee – Richard Boles, Recreation Committee Representative
- b. Community Preservation Committee – Robert Brown, Recreation Committee Representative

8:50 p.m. MINUTES

1. Review and Vote to Approve Minutes of Meetings

- a. Public Session – September 26, 2022; October 1, 2022
- b. Executive Session – March 22, 2022; March 29, 2022; May 17, 2022; May 23, 2022; June 9, 2022; June 21, 2022; and October 3, 2022

8:55 p.m. TOWN MANAGER'S SUPPLEMENTAL REPORT

9:00 p.m. SELECT BOARD REPORTS

9:10 p.m. DISCUSSION OF FUTURE AGENDA ITEMS

9:20 p.m. ADJOURN

Nancy R. Taylor, Chair
Select Board

OPEN SESSION

4. Announcements



CAPE COD
CLIMATE
CHANGE
COLLABORATIVE

NET
ZERO
CAPE & ISLANDS
2022

BRINGING IT HOME

**TACKLING
CLIMATE CHANGE ON
THE CAPE & ISLANDS**

Local Impacts, Opportunities and Action

FOR IMMEDIATE RELEASE

CONTACT: Robin Lord, 774-236-9602, rlord@capecodclimate.org

Cape Cod Climate Change Collaborative Announces Program, Speakers for 5th Annual Net Zero 2022 Conference: *Tackling Climate Change on the Cape & Islands*
Climate leaders from across the globe, country and region to focus on local climate action

South Yarmouth, October 18, 2022 - The Cape Cod Climate Change Collaborative (Climate Collaborative) announces an exciting program agenda and roster of presenters for its NET ZERO 2022 conference (NZ-22): *Tackling Climate Change on the Cape & Islands: Local Impacts, Opportunities & Action*, with the conference theme "Bringing It Home" spotlighting resources and opportunities for local climate action. The conference will be held virtually and free of charge on Friday, October 28, 2022, from 8:30am to 1:30pm. Keynote speakers include global, state, and regional climate leaders; panelists, presenters and moderators represent environmental, economic, policy, nonprofit, residential and business sectors.

- NZ-22, virtual and free of charge, will be held Friday, October 28, 2022, from 8:30am to 1:30pm
- Registration is open at capecodclimate.org/nz-22/
- The Program agenda is viewable [here](#).
- Keynote speakers are Søren Hermansen, Director of Samsøe (Denmark) Energy Academy, US EPA Region 1 Administrator Dr. David Cash and Joe Curtatone, president of the New England Clean Energy Center and former 7-term mayor of climate-forward Somerville.
- Panelists and presenters include climate and clean energy leaders from across the Commonwealth and Cape & Islands region.
- Sponsorship opportunities for businesses small and large are available through Friday, October 21 at capecodclimate.org/nz-22/sponsorship/
- Media Kit, including graphics, may be found [here](#).

The climate crisis is bearing down on our planet and the Cape & Islands region is particularly vulnerable to its devastating impacts. Climate change is a regional challenge of such significance, in fact, that "79% of the region's residents believe it will impact their family's well-being," according to a recent Cape Cod Commission survey. This year's conference theme — *Bringing It Home* — will focus on the climate impacts, opportunities and resources available to towns, organizations and citizens working to address the climate crisis.

Conference keynote speakers Soren Hermansen, Dr. David Cash and Joe Curtatone will address the criticality of local climate action. Panelists and presenters include experts and advocates from economic, energy, environmental, housing, sustainability and nonprofit sectors such as Environmental Research Group, Cape Light Compact,

Metropolitan Area Planning Council, Cape Cod Commission, Town of Nantucket, Housing Assistance Corporation, Community Development Partnership, Habitat for Humanity of Cape Cod and the Cape Cod Climate Change Collaborative. Climate Collaborative president Dorothy Savarese and executive director Rich Delaney will open and close the conference.

According to Savarese, "Federal, state and regional resources are critical to addressing climate change, but it's at the local level where 'the rubber truly meets the road.' This year's theme — *Bringing It Home* — addresses the myriad ways our region and communities can seize emerging opportunities to combat the climate crisis." Delaney adds, "We need an all-society approach to climate change that includes private, public, and nonprofit sectors and concerned citizens. *Everyone* can 'make climate change' and people can start by attending NZ-22 to learn how."

NZ-22 welcomes anyone interested in learning about climate change, its current and potential impacts on our region and opportunities for regional, local and individual action as we transition to a clean energy future. The program content is targeted to diverse audiences including homeowners and renters, environmental justice advocates, business owners, service providers, clean energy professionals, municipal planners, energy and climate committee members, elected officials and citizen advocates.

The conference is free to attendees thanks to the generous financial support of Presenting Sponsor Cape Light Compact and numerous others including Avangrid, Vineyard Wind 1, Cape Cod 5, Cape Air, Cape Cod Chamber of Commerce and Mayflower Wind. Sponsorship supports NZ-22 and the ongoing work of the Climate Collaborative. Businesses and organizations wishing to explore levels and benefits of sponsorship should contact sponsorships@capecodclimate.org or visit the website at capecodclimate.org/nz-22/sponsorship

The Cape Cod Climate Change Collaborative is a non-profit 501(c)(3) organization whose mission is to reduce the Cape & Islands' contributions to climate change and protect our region from its potentially devastating impacts. Largely volunteer-run, the Climate Collaborative convenes and engages regional and cross-sector leaders in building, energy, transportation, environment, planning, policy and faith communities to broaden understanding, deepen partnerships, accelerate programs and inspire individual and collective action to counter the climate crisis. To learn more about the organization, please visit capecodclimate.org.

END

OPEN SESSION

6. Affirm Appointment of Human Resources Director

SUSAN LUMPING

WORK EXPERIENCE

TOWN OF MASHPEE – HUMAN RESOURCES DEPARTMENT. 2014 – Present.

Assistant Human Resources Director/Payroll Administrator. 2018 – Present.

Payroll Administrator. 2014 – 2018.

- Assist the Human Resources Director in managing the Town's human resources program and manage the department in the Director's absence.
- Assist with the supervision of 2 full-time employees and provide regular guidance and direction.
- Participate in collective bargaining for management and provide cost analyses for proposed settlements. Review drafts of and then implement labor agreements and contracts.
- Provide Department Heads and supervisors with guidance regarding collective bargaining agreements, employment law, and personnel policy compliance. Promote consistent application and treatment of employees.
- Assist with grievances and other personnel issues by providing past practice and other relevant information and attend grievance and other personnel meetings as needed.
- Identify personnel and payroll related issues needing clarification. Bring the issues and relevant background information to the HR Director, Town Manager, or Town Counsel for review.
- Administer benefits in conjunction with the Benefits Administrator, including health, dental, and life insurances, health savings accounts, flexible spending accounts, and disability and retirement plans.
- Enforce 457(b), FSA, and HSA contribution limits. Reconcile liability accounts.
- Responsible for approving OBRA, deferred compensation, and Roth 457(b) rollovers and withdrawals, QDROs, and unforeseeable emergency distributions.
- Review the proposed annual salary budgets of all Town departments for accuracy and provide recommendations to the Finance Director for changes and corrections. Provide HR budget figures for salary and expense accounts.
- Review salaries from comparable positions/communities to provide recommendations for the Town's position classification plan and have assisted with writing job descriptions. Provide salary and benefit costs and draft articles for new and reclassified positions to be presented at Town Meeting.
- Create salary tables for the CBAs and in the payroll software. Ensure that all salary changes are made accurately and at the proper time during the fiscal year.
- Create and maintain all job classes, pay types, and deduction categories in the payroll system.
- Ensure proper worker classification.
- Provide assistance to injured employees and assist in coordinating their return to work. Prepare disability retirement paperwork for the retirement board.
- Validate the accuracy of the payrolls prepared by Town departments and ensure compliance with contractual provisions.
- Process the Town and School's payroll warrants and initiate the distribution of funds to appropriate tax agencies, financial institutions, and vendors.
- Provide training and assistance for back-up payroll operations and departmental time entry users.
- Provide financial analysis and reporting on payroll statistics for the Town and School and complete all payroll audit requests and verifications of employment.
- Prepare and file the Town and School's quarterly tax reports and annual Form W-2s. Update tax tables.
- Manage the Town's fiscal year end payroll processing.
- Create and maintain positive employee relations. Maintain confidentiality and use discretion.

TOWN OF MASHPEE – DEPARTMENT OF PUBLIC WORKS. 2012 – 2014.

Administrative Assistant. July 2013 – July 2014

Administrative Secretary. January 2012 – June 2013

- Completed and reconciled the department's payroll and earned leave records.
- Prepared the annual departmental budget and reconciled accounts on a monthly basis.

- Coordinated after-hours use of the school buildings, Senior Center, and Town fields and beaches and set up and maintained the facilities use QuickBooks program.
- Interviewed candidates for the building monitor positions.
- Processed invoices and deposits for all accounts and Chapter 90 reimbursement requests.
- Coordinated and prepared annual bid advertisements and documents.

MARINE IMAGING TECHNOLOGIES. *Part-Time Bookkeeper.* December 2011 - October 2015.

- Set up and maintained the company's QuickBooks file, including the chart of accounts.
- Recorded and reconciled all bank and credit card transactions in QuickBooks.
- Processed invoices. Wrote and printed checks through QuickBooks.
- Requested and maintained W-9 forms for all vendors and issued 1099-MISC forms.
- Calculated the available cash balance and provided owner with cash flow reports.
- Prepared and sent federal and state estimated tax payments on a quarterly basis.
- Made bank deposits, set up wire transfers for payment, and ordered checks.

TOWN OF FALMOUTH – POLICE DEPARTMENT. *Part-Time Dispatcher.* February 2012 - July 2014.

- Answered and referred incoming nonemergency and 911 calls for police assistance using a computer aided dispatch system and recorded detailed call information and response actions.
- Ran inquiries on relevant parties, vehicles, and boats.

EDUCATION

SUFFOLK UNIVERSITY. **Master of Public Administration (MPA).** Anticipated Completion Date – Fall 2024. *Concentration in State & Local Government.* 10 of 14 courses remaining.

SUFFOLK UNIVERSITY, MOAKLEY CENTER FOR PUBLIC MANAGEMENT AND THE MASSACHUSETTS MUNICIPAL ASSOCIATION. 2020 – 2022.

Certificate in Local Government Leadership and Management. 5 graduate-level courses, including Human Resource Administration. Graduated with distinction. 2021 – 2022.

- Selected as one of two class speakers at the graduation.

Municipal Finance Management Seminar. Fall 2020. 30 hours of instruction with graded assignments.

LAFAYETTE COLLEGE. Easton, PA. May 2005.

Bachelor of Science in Neuroscience with Honors Thesis. Minor in Health Care and Society.

- William C. Rappolt '67 and Walter Oechsle '57 Neuroscience Prize, 2005
- The Class of 1997 Community Service Award, 2005
- George Wharton Pepper Prize finalist for senior most nearly representing the Lafayette Ideal, 2005

VOLUNTEER EXPERIENCE

NORTH FALMOUTH ELEMENTARY SCHOOL PTO. *Co-Treasurer.* June 2021 – Present.

- Track all planned and actual expenditures, reconcile accounts, and provide monthly financial reports.
- Assist with planning and executing PTO-sponsored activities throughout the year.

WING POND ESTATES HOMEOWNERS ASSOCIATION (HOA). *Co-Treasurer.* June 2014 – Present.

- Pay invoices, file the taxes, track all expenditures, reconcile accounts, and provide reports.

SAMARITANS ON CAPE COD AND THE ISLANDS. *Volunteer.* May 2010 – August 2012.

- Answered high volume calls for a crisis hotline and provided support to callers.
- Completed 25 hours of training in active listening, interpersonal skills, and handling escalated and sensitive calls.

OPEN SESSION

TOWN MANAGER'S PRELIMINARY REPORT



TOWN OF FALMOUTH
Office of the Town Manager & Select Board
59 Town Hall Square, Falmouth, Massachusetts 02540

TO: Select Board
FROM: Peter Johnson-Staub, Acting Town Manager *PJS*
SUBJECT: Preliminary Report for October 24, 2022
DATE: October 21, 2022

AGENDA TOPICS – PRELIMINARY REPORT:

Affirm Appointment of Human Resources Director:

I am pleased to bring forward for confirmation a qualified candidate with municipal human resources experience, excellent references, and an aptitude and passion that will enable her to be an effective leader for this department. Susan Lumping is also a Falmouth resident and is excited to serve the community in which she lives.

Committee Interviews:

1. There is one candidate for appointment and two vacant seats on the Solid Waste Advisory Committee.
2. There is one candidate for appointment to the Zoning Board of Appeals and one full member vacancy. There is also one associate member vacancy.

Public Hearings:

1. Flow Neutral Variance – 13 Davis Straits (Falmouth Plaza) housing:

This hearing will need to be continued again. The parties have exchanged proposed language for an agreement but have not yet reached agreement. The applicant requests the hearing be continued to November 7th.

2. Alteration of Premises – 7 Nathan Ellis Highway, Bucatino Restaurant and Wine Bar:

The applicant seeks approval for outdoor seating. When the outdoor seating is in use, the indoor seating will be reduced such that the total number of seats remains unchanged at 256. The total number of seats is consistent with the special permit received from the Zoning Board of Appeals. The departments have not identified any concerns. I recommend approval.

3. Wetlands Hearing – 278 Scranton Ave, Falmouth Holding Corp.

Applicant seeks to replace failing piers and bulkhead. Conservation Commission has issued an order of conditions. There are no shellfish or navigation concerns. I recommend approval.

Business:

1. Change of Manager for All Alcohol Club License, 336 Palmer Ave, Falmouth Post 70 Inc. Amvets:

This is on the Business agenda so the Board can meet the new manager. All application requirements have been met. I recommend approval.

2. Report - Veterans Council Committee

This the Board's annual meeting with the Veterans Council. The Council had not submitted a report at the time this memo was written. I am not aware of any action requested of the Board.

3. Report – Falmouth Road Race:

The Falmouth Road Race has requested an opportunity to report on their recent activities.

4. Act on application from Falmouth Housing Authority for \$100,000 for comprehensive assessment of building conditions:

The Falmouth Housing Authority is requesting funds to conduct an assessment of the condition of 303 existing affordable housing units. The report will allow for planning and enable the Authority to apply for funding from various federal and state agencies. Included in your packet are a memo from me recommending approval and the application.

5. Adopt Strategic Plan:

I commend the Select Board for dedicating three Saturday workshop meetings to discuss issues related to the strategic plan and prepare a more action oriented plan. The plan will be a useful document to guide our efforts in the year ahead.

Consent Agenda:

I recommend the Board hold item b. under Licenses to discuss the new Entertainment license requested for 285 Main Street Shiverick's Café and Bar. The applicant seeks approval to have amplified music during its hours of operation which are from 8:00am to 1:00am. There are some apartments in the neighborhood whose occupants may object to music, particularly late at night. The Board does have discretion to limit the hours for the entertainment license. The applicant has been invited to attend the meeting.

Staff have reviewed all items on the consent agenda and raised no concerns other than the above. I recommend approval of these items. As an aside, the Board's naming policy calls for the Select Board to form a subcommittee to solicit community input on the proposal after the one-year waiting period. A subcommittee is required to post meetings and take minutes. The Board may want to consider changing the policy to designate a single Select Board member to conduct this community input rather than creating a subcommittee. This could be placed on a future Select Board agenda if there is interest in considering this change.

Minutes:

There are two public session minutes and seven executive session minutes for your review and approval. I recommend the executive session minutes not be released at this time.

OPEN SESSION

1. Interview, vote and appoint committee member
 - a. Solid Waste Advisory Committee – Kristine Copley

Solid Waste Advisory Committee (7 full members) (3-year terms)

Two vacancies:

- 1 position – term ending 6/30/25
- 1 position – unexpired term ending 6/30/23

One applicant:

- Kristine Copley



TOWN OF FALMOUTH

BOARD, COMMITTEE OR COMMISSION
APPLICATION FORM

If you are interested in serving the Town of Falmouth in any capacity, please fill out this form and mail it to the Select Board, Falmouth Town Hall, 59 Town Hall Square, Falmouth, MA 02540. Information received will be available to all Town Boards and Officials, although the filling out of this form does not assure appointment. If selected for an interview, you may wish to submit a resume or additional information. This form and a listing of all boards and committees can be found on the Falmouth website: www.falmouthma.gov.

Name: Kristine Copley

Address: 254 Edgewater Drive East Village: E. Falmouth ZIP: 02536

Mailing Address: _____ Village: _____ ZIP: _____

Telephone: [REDACTED] Email: [REDACTED]

How long have you been a Resident 3 (date: 6/19) / Taxpayer 26 (date: 6/96)

Amount of time you are available to give: 4 hours/month

Town Committee, Board or Commission you are interested in serving on:

- Solid Waste Advisory Committee
- _____
- _____

Seeking: Permanent Position Alternate Position

Have you attended any meetings of the committee for which you are applying? YES

Relevant affiliation and work and personal experiences: Simply, I care about our natural resources & want to get more involved in my community.

Town offices held in Falmouth or elsewhere and dates of years served: _____

None

Briefly describe the particular skills you feel you will add to the committee or board: _____

I think we have lots of opportunity to improve the volume of recycling we do in Falmouth & can really capitalize on the new bins. I'd like to turn my neighborhood - Seacoast Shores - into a Recycling SuperSite that becomes a template for other neighborhoods in _____

You may attach a resume to this application.

List three (3) references:

	<u>Name</u>	<u>Title</u>	<u>Phone</u>
1.	<u>Lee Viola</u>	<u>Neighbor</u>	<u>██████████</u>
2.	<u>Maeve Dalpe</u>	<u>House Manager</u>	<u>██████████</u>
3.	<u>Karen Starke</u>	<u>Friend</u>	<u>██████████</u>

I hereby certify that I have been provided a summary of Massachusetts General Law 268A, the Conflict of Interest of Law, I have read the material provided, and to the best of my understanding have no potential or actual conflict of interest.

I have received a copy of the Select Board's Appointment Policy and read the material provided.

9/19/22

DATE



APPLICANT'S SIGNATURE

In the event the applicant cannot sign this statement, you should provide an explanation of the reason (s) why if you still wish consideration for appointment.

Town Committee Vacancies

The Falmouth Select Board announces the following vacancies on Town committees:

Committee	Term Until
Affirmative Action Committee (3 positions)	6/30/24, 6/30/25
Affordable Housing Committee (1 position)	6/30/24
Beach Committee (1 position)	6/30/24
Board of Survey (2 positions)	6/30/24
Building Code Board of Appeals (1 position)	6/30/25
Cable Advisory Committee (3 positions)	6/30/23, 6/30/24, 6/30/25
Commission on Disabilities (2 positions)	6/30/25
Commission on Substance Use (1 position)	6/30/24
Conservation Commission (1 full position, 2 alternate positions)	6/30/25
Constable (1 position)	6/30/24
Cultural Council (2 positions)	6/30/24
Edward Marks Building Advisory Committee (1 position)	12/31/24
Energy Committee (1 position)	6/30/23
Human Services Committee (4 positions)	6/30/23, 6/30/24, 6/30/25
Solid Waste Advisory Committee (2 positions)	6/30/23, 6/30/25
South Cape Beach Advisory Committee (1 position)	6/30/25
Taskforce on Sustainable Living for Falmouth's Workforce (7 – 9 members)	5/1/23
Transportation Committee (3 positions)	6/30/24, 6/30/25
Waterways Committee (1 position)	6/30/25
Zoning Board of Appeals (1 full member, 1 associate position)	6/30/23, 6/30/26

Applications are available on the Town website <https://ma-falmouth.civicplus.com/647/Town-Committees>. Please submit applications to the Office of the Town Manager and Select Board, or email to townmanager@falmouthma.gov.

OPEN SESSION

1. Interview, vote and appoint committee member
 - b. Zoning Board of Appeals – Frank Duffy

Zoning Board of Appeals (7 full members (5 full, 2 associate)) (5-year terms)

Two vacancies:

- 1 full member position – unexpired term ending 6/30/23
- 1 associate member position – unexpired term ending 6/30/25

One applicant:

- Frank Duffy



TOWN OF FALMOUTH

BOARD, COMMITTEE OR COMMISSION APPLICATION FORM

If you are interested in serving the Town of Falmouth in any capacity, please fill out this form and mail it to the Select Board, Falmouth Town Hall, 59 Town Hall Square, Falmouth, MA 02540. Information received will be available to all Town Boards and Officials, although the filling out of this form does not assure appointment. If selected for an interview, you may wish to submit a resume or additional information. This form and a listing of all boards and committees can be found on the Falmouth website: www.falmouthma.gov.

Name: FRANK K. DUFFY

Address: 37 RIDDLE HILL RD. Village: FALMOUTH ZIP: 02540

Mailing Address: SAME Village: ZIP:

Telephone: [REDACTED] Email: [REDACTED]

How long have you been a Resident 50 YR (date: 1972) / Taxpayer 45 YR (date: 1977)

Amount of time you are available to give: AVAILABLE MOST TIMES

Town Committee, Board or Commission you are interested in serving on:

- 1. ZONING BOARD OF APPEALS
2.
3.

Seeking: Permanent Position [X] Alternate Position []

Have you attended any meetings of the committee for which you are applying? YES

Relevant affiliation and work and personal experiences: REPRESENTED AND ADVISED THE ZBA ON ZONING AND LEGAL ISSUES MULTIPLE TIMES; DRAFTED ZONING ARTICLES FOR TOWN MEETING; TRIED APPROX. 40 ZONING CASES IN SUPERIOR COURT AND LAND COURT

Town offices held in Falmouth or elsewhere and dates of years served: TOWN COUNSEL 1993-2022; LIBRARY TRUSTEE 1993-2005

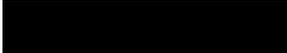
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Briefly describe the particular skills you feel you will add to the committee or board: I AM

FAMILIAR WITH THE PALMOUTH ZONING BY LAW AND THE
DUTIES AND FUNCTIONS OF THE ZBA.

You may attach a resume to this application.

List three (3) references:

	<u>Name</u>	<u>Title</u>	<u>Phone</u>
1.	<u>PATRICIA HARRIS</u>	<u>ASSOC. TOWN COUNSEL</u>	
2.	<u>KIMBERLY FISH</u>	<u>PARALEGAL</u>	
3.	<u>CAROL A. KENNAN</u>	<u>ATTORNEY</u>	

I hereby certify that I have been provided a summary of Massachusetts General Law 268A, the Conflict of Interest of Law, I have read the material provided, and to the best of my understanding have no potential or actual conflict of interest.

I have received a copy of the Select Board's Appointment Policy and read the material provided.

10.12.2022
DATE


APPLICANT'S SIGNATURE

In the event the applicant cannot sign this statement, you should provide an explanation of the reason (s) why if you still wish consideration for appointment.

Town Committee Vacancies

The Falmouth Select Board announces the following vacancies on Town committees:

Committee	Term Until
Conservation Commission (1 full position, 2 alternate positions)	6/30/25
Zoning Board of Appeals (1 full position, 1 associate position)	6/30/23, 6/30/26

Applications are available on the Town website <https://ma-falmouth.civicplus.com/647/Town-Committees-Commissions-and-Boards>. Please submit applications to the Office of the Town Manager and Select Board, or email to townmanager@falmouthma.gov. The deadline for applications is Friday, September 23, 2022.

Friday, September 9, 2022

PUBLIC HEARINGS

1. Flow Neutral Bylaw – Evaluation of Request for Variance – New Creek LLC – 13 Davis Straits, Falmouth (parcel 39 15 049D 004), continued from August 22, 2022, September 26, 2022 **(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

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Select Board of the Town of Falmouth will hold a public hearing on Monday, August 22, 2022 at 7:30 p.m. in the Select Board Meeting Room, Town Hall, Falmouth, MA on the application of New Creek LLC for a wastewater flow variance under Chapter 180, Section 56 of the Code of Falmouth, the so-called Flow Neutral By-law, for mixed residential commercial overlay district development with affordable rental housing at 13 Davis Straits in said Falmouth (parcel 39 15 049D 004).

Per Order of the Select Board

Publication date: Friday, August 5, 2022, Falmouth Enterprise

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

August 31, 2022

Maura O'Keefe, Town Counsel
Brian Tobin, Assistant Town Counsel
Office of the Falmouth Town Counsel
157 Locust Street
Falmouth, MA 02540

Re: Suggested Motion for Select Board variance for New Creek LLC, 13 Davis Straits, under Flow Neutral Bylaw

Dear Maura and Brian:

On August 22 the Select Board continued its hearing on the request of my client New Creek LLC for a variance under Code Sections 180-55 and 180-56 to allow increased redevelopment at Falmouth Plaza. New Creek proposes to build an apartment building under the Mixed Residential Commercial Overlay District, as well as a bank on Davis Straits. A continuance for six months was suggested by Wastewater Superintendent Amy Lowell in her memo to the Select Board on August 17, 2022, to give the Town time to evaluate the capacity of the Robbins Road lift station to receive and forward the increased volume of sewer flow from the redevelopment of Falmouth Plaza and from other properties. However, in order to move the MRCOD project along, I asked the Select Board to consider granting the requested variance, but conditioned on the lift station issue being evaluated and addressed before a Sewer Connection Permit would issue. The Select Board then continued the matter until September 26, 2022, which would allow the Select Board to receive your advice. I believe the intent was that a draft variance decision might be prepared that, if adopted by the Select Board, would allocate increased sewer flow to the New Creek project, but on appropriate protective conditions due to the lift station issue.

I've attached a copy of the variance request letter I sent Peter Johnson-Staub on July 18, 2022, and Ms. Lowell's memo of August 17, 2022.

Attached is a suggested motion for your consideration. I look forward to hearing from you regarding this matter.

Very truly yours,

Robert H. Ament

cc. Donny Lo, Kimco Realty
Amy Lowell, Wastewater Superintendent
Peter Johnson-Staub, Acting Town Manager

**Proposed motion for Select Board grant of variance under Falmouth Town
Code Sections 180-55 and 180-56 (“Flow Neutral Bylaw”)**

1. WHEREAS, New Creek LLC proposes to construct an apartment building at 13 Davis Straits (“the Property”) with up to 156 rental apartments (“the Apartment Building”) and a bank of about 3,432 square feet (collectively “the Project”);
2. WHEREAS, (a) the apartments are proposed to be developed in accord with the Mixed Residential Commercial Overlay District Zoning Bylaw adopted by Falmouth Town Meeting in November 2021, Town Code Section 240-256 et sec., and (b) such housing will include a minimum of 25% affordable rental units; and (c) the Project will be redevelopment of an existing commercial parcel almost fully covered by structure and pavement, and (d) the Project is located in an appropriate location in terms of availability of public transportation, shopping, job opportunities and recreational facilities that tenants may utilize;
3. WHEREAS, the Property is served by the Town of Falmouth Municipal Sewer System (“the Sewer System”) and effluent from the Property passes through a lift station in Robbins Road (“the lift station”) on its way to the Sewer System’s treatment and discharge facility in West Falmouth (“the treatment facility”);
4. WHEREAS, while the capacity of the treatment facility has been reported by the Wastewater Superintendent to be sufficient to accept the Project’s wastewater; the lift station may not have the capacity to receive and send onto the treatment facility the proposed increase in wastewater from the Property that will result from occupancy of the apartment building; and
5. WHEREAS, New Creek agrees with the Town that the Project can be constructed and occupied only if the capacity of the lift station is determined by the Town to be adequate to receive and forward the Project’s wastewater flow, or if the lift station’s capacity is expanded to be sufficient to receive such flow in the opinion of the Wastewater Superintendent, or if such flow can be directed into and through the Sewer System other than through the lift station, by a method satisfactory to the Wastewater Superintendent.

NOW, THEREFORE the Select Board grants to New Creek LLC a variance pursuant to Town Code Sections 180-55 and 180-56 to allow an increase in sewer flow for premises located at 13 Davis Straits, Falmouth, MA, to serve the following redevelopment at 13 Davis Straits, Falmouth, MA:

- Up to 156 apartments of which 25% will be affordable as defined in the Zoning Bylaw, with up to 250 bedrooms, for which Title 5 design flow is 27,500 gallons per day
- A bank of about 3,432 square feet, for which Title 5 design flow would be about 258 gallons per day

As construction of the apartments will replace restaurant, retail and salon uses which have design flow of 7,936 gallons per day, the net increase in flow hereby allowed by this variance, is 19,822 gallons per day.

APPROVED with the following conditions:

1. A Sewer Connection Permit will be issued by the Wastewater Superintendent only when she has determined that the capacity of the lift station is adequate to receive and forward the Project's wastewater flow, or if the lift station's capacity is expanded to be sufficient to receive such flow, or if such flow can be directed into and through the Sewer System other than through the lift station, by a method satisfactory to the Wastewater Superintendent.
2. The Town shall not be obligated to design, allocate funds for nor construct expansion of the lift station or any other improvements deemed by the Town to be required and sufficient for the connection of the Project to the Sewer System, on a schedule that would coincide with New Creek's preferred time frame for the Project.
3. The Property Owner will need to apply to the Wastewater Division for a sewer connection modification permit, and the application will need to include engineered plans for revision to the existing sewer connection and/or revisions to the Sewer System for the Project, such plans to be satisfactory in all respects to the Wastewater Superintendent.
4. Nothing set forth herein shall preclude connection of the proposed bank to the Sewer System, if such development precedes construction of the proposed apartments, without complying with the foregoing conditions, as the increase in flow associated only with the bank would be allowed under Section 180-55C.(1)(a) without requiring a variance.

PUBLIC HEARINGS

2. Flow Neutral Bylaw – Evaluation of Request for Variance – New Creek LLC – 13 Davis Straits, Falmouth (parcel 39 15 049D 004) (15 minutes)

Documents from
August 22, 2022
packet

§ 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.

FLOW NEUTRAL BYLAW
GUIDELINES TO SELECT BOARD FOR WAIVER/VARIANCE CONSIDERATION
Presented to Select Board for Discussion Purposes 6-4-18

Suggested Process:

1. Select Board 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. Select Board 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 Select Board 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 Select Board on 6-4-18.

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 18, 2022

Peter Johnson-Staub, Acting Town Manager
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540

Re: Application under Flow Neutral Bylaw for Mixed Residential Commercial
Overlay District development with affordable rental housing at 13 Davis Straits
Assessors Parcel 39 15 049D 004

Dear Peter:

Our client, New Creek LLC, an ownership entity of Kimco Realty, a publicly traded real estate investment trust, owns the 9.267± acre property on Davis Straits known as Falmouth Plaza. The street addresses of New Creek's property extend from 5 Davis Straits to 35 Davis Straits, with the exclusion of 11 Davis Straits. Attached is a copy of the Town GIS map showing the New Creek property.

Falmouth Plaza is in the Business 2 Zoning District and the Mixed Residential Commercial Overlay District adopted by Town Meeting in November 2021. New Creek proposes to redevelop a portion of the property pursuant to the MRCOD bylaw. The former Friendly's restaurant building (5 Davis Straits), Staples (7 Davis Straits), and three additional storefronts will be removed, making room for a new multi-family dwelling, designed in compliance with the MRCOD bylaw, with up to 156 rental apartments having a total of up to 250 bedrooms. One-fourth of the apartments (39 of 156 apartments) will be affordable units, and all of the apartments will be added to the Town's Subsidized Housing Inventory.

In addition to the proposed housing, New Creek is considering constructing a small commercial building along Davis Straits, for a bank or financial services. That building, with a footprint of about 3,000 square feet, would be on some of the current excess parking along Davis Straits. It would also be designed in accordance with the MRCOD bylaw, as applicable.

Falmouth Plaza is connected to the municipal sewer. The Title 5 design flow for an apartment building with 250 bedrooms is 27,500 GPD. The design flow for the proposed bank building would be about 250 GPD. Together the design flow from the two proposed buildings is up to 27,750 GPD.

The Title 5 design flow from the structures to be removed is calculated as follows:

• Restaurant, 139 seats:	4,865 GPD
• Retail (Staples and Olympia Sports), 31,425 s.f.:	1,571 GPD
• Barber shop and nail salon (15 chairs):	<u>1,500 GPD</u>
Total Existing Flow from Structures to be Removed	7,936 GPD

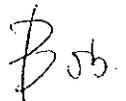
Falmouth Plaza is connected to the municipal sewer, of course, and the proposed uses must also utilize the sewer. The increased design flow associated with the proposed redevelopment will be up to 19,814 GPD.¹ That increase will require a variance from the Select Board under the Flow Neutral Bylaw, Falmouth Code Section 180-51 et sec.² However, under Code Section 180-55.B., in a Business district, a new multifamily dwelling with six units per acre is allowable, and three bedrooms per permitted unit are allowed by right. Thus, on a 9.27-acre parcel, 55 units could be allowed, with 165 bedrooms and design flow of 18,150 GPD. While New Creek requests a variance to allow increased flow of up to 19,789 GPD, the additional flow beyond what would be allowed by right plus the credit for flow from existing structures to be removed will be only 1,639 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. Being able to connect to the sewer is a prerequisite for MRCOD projects such as we are proposing, which Town Meeting contemplated in adopting the overlay district.

The number of proposed apartments is such that the design flow exceeds 10,000 GPD and therefore the redevelopment could not be served by a Title 5 septic system.

Please make the appropriate referrals so that this request for a variance under the Flow Neutral Bylaw can be scheduled 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

cc: Donny H.F. Lo, LEED AP,
Director of Development/Regional Construction, Kimco Realty
Jed Cornock, Town Planner
Scott McGann, Health Agent
Amy Lowell, Wastewater Superintendent

¹ Flows from the existing commercial uses (restaurant, fitness and retail) shown as 25-35 Davis Straits on the attached GIS map are not included in these calculations and will continue.

² The small increase in flow from the proposed bank, by itself, would not require a variance, under Code Section 180-55.C.



TOWN of FALMOUTH

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

AMY LOWELL
WASTEWATER SUPERINTENDENT

Date: August 17, 2022

To: Select Board, Acting Town Manager

cc: Health Agent, Town Planner, Attorney Bob Ament

Re: Flow Neutral Bylaw Variance Request – 13 Davis Straits

I received a referral under the Flow Neutral Bylaw regarding proposed redevelopment of the above property. The property is within an existing sewer service area and the existing buildings are connected to the municipal sewer system. Based on the previous and proposed uses for this property described in a letter from Attorney Robert Ament to the Town Manager dated July 18, 2022, the previous and proposed Title 5 design flows for the property are as follows, in gallons per day (gpd):

Previous		Proposed	
Use	Flow (gpd)	Use	Flow (gpd)
Friendly's restaurant (139 seats)	4,865	Residential (250 bedrooms)	27,500
Retail 31,425 sq ft (Staples + Olympia)	1,571	Office 3,000 sq ft (bank)	225
Barber shop + nail salon (total 15 chairs)	1,500		
Total 7,936		Total 27,725	

This would be a Title 5 design (i.e. peak) wastewater flow increase of 19,789 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 precondition for the Select Board to grant a variance to the flow constraints of the Flow Neutral Bylaw is that "Sufficient capacity exists...as determined by the Wastewater Superintendent."

Previous flow neutral bylaw variance referral letters from the Wastewater Division have referred to the limitation imposed by the groundwater discharge permit for the Main WWTF because in most areas of the sewer system that is the most limiting factor. However, wastewater from 13 Davis Straits flows to the Inner Harbor sewer lift station on Robbins Road, and peak flow to the Inner Harbor lift station is near lift station capacity. Addition of the peak flow from the proposed redevelopment at 13 Davis Straits could cause total peak flow to the Inner Harbor lift station to exceed the station's capacity, which could cause sewer back-ups/overflows.

To address this issue, the Wastewater Division has developed a scope for an engineering evaluation of the current capacity of the Inner Harbor lift station, of future projected flow under current zoning (including the new MRCOD overlay), and of alternative options to address this capacity limitation. This evaluation will take six months to complete. **It is recommended that the Select Board postpone a decision on this variance request until this evaluation is completed.**

Diane Davidson

From: Scott McGann
Sent: Friday, August 12, 2022 11:28 AM
To: Diane Davidson; Bob Ament
Cc: Peter Johnson-Staub; Amy Lowell; Maura O'Keefe; Brian Tobin
Subject: 13 Davis Straits Flow Neutral Bylaw

Per the Flow Neutral Bylaw, the Board of Health does a referral to the Selectboard on whether a Title 5 system would or would not fit on the lot. However, this proposal is over 10,000 gallons per day and a septic system would not be allowed as that capacity triggers a groundwater discharge permit through MADEP. I don't see a need to have a referral as that disposal system, if proposed, would not fall under Title 5.

Let me know if anything else is needed on this.

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

Diane Davidson

From: Joe Netto <joenetto@comcast.net>
Sent: Monday, August 22, 2022 11:51 AM
To: Falmouth Selectboard
Cc: Peter Johnson-Staub; Peter McConarty
Subject: flow neutral bylaw

To the Honorable Board of Selectmen;

I see that your Board is being asked for a variance to the flow neutral bylaw for 13 Davis Straits. I would ask your board to delay making any decision on another variance for our sewer system. As someone who has a home on this system-"Little pond sewer project" I am familiar with how the addition of the Heights sewer was planned. All of the properties to be tied into the "new" system where given an ESU equivalent sewer unit to plan for further expansion of our present sewer system.

Since the completion of this project LARGE developments have been created or are in the plans, as seen by tonights agenda item. Also we have tragically learned that our sewer system plant was not up to code,not removing enough nitrogen from from the treated water 40% of its operational time. Hence we see the tragic degradation of West Falmouth Harbor receiving this extra nitrogen from our sewer plant. As a Town Meeting member I have voted for millions of dollars to be spent upgrading our sewer plant-so I ask is it fixed?? If not 100% operational we should not be contemplating adding any MORE hook ups that where not planned. It takes 8 years for the groundwater that leaves the plant to reach West Falmouth Harbor.

My question to your Board is "How many more units have been connected to the plant that where not planned for"? Case in point is Helmis Circle- 7 ESU where the original plan-but guess what-40B came along and 28 house are being built instead of 7. Was Little Pond Landing planned for or did they get in increase variance?? Also the corner of Main St. and Scranton Avenue is now going to be senior Housing-what where the ESU associated with that parcel. Plus the Planning Board Bylaw change at last T.M. is severely over working our sewer plant that cannot discharge ALL the wastewater that this bylaw has created. Why should the FALMOUTH taxpayer foot this bill-let the developers pay their way.

Your Board is being asked to grant a Flow neutral variance tonight-but where is the plan? I ask you to not vote this tonight-we need many of these questions answered and a full projection of future growth of our sewer system that the Planning Board DID NOT PLAN FOR!

From the land of the retired
Joe Netto

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Select Board of the Town of Falmouth will hold a public hearing on Monday, August 22, 2022 at 7:30 p.m. in the Select Board Meeting Room, Town Hall, Falmouth, MA on the application of New Creek LLC for a wastewater flow variance under Chapter 180, Section 56 of the Code of Falmouth, the so-called Flow Neutral By-law, for mixed residential commercial overlay district development with affordable rental housing at 13 Davis Straits in said Falmouth (parcel 39 15 049D 004).

Per Order of the Select Board

Publication date: Friday, August 5, 2022, Falmouth Enterprise

August 5, 2022

PUBLIC HEARINGS

3. Wetlands/Dock Hearing – Falmouth Holdings Corp. – Replace failing and outdated piers and bulkhead, improve marina facilities, capture storm runoff, in the waters of Falmouth Inner Harbor, located at 278 Scranton Avenue, 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 240-14.8 (Wetlands Regulations) of the Zoning Bylaws of the Town of Falmouth on Monday, October 24, 2022 at 7:15 p.m. in the Select Board Meeting Room, Falmouth Town Hall, 59 Town Hall Square on the application of Falmouth Holdings Corp. for permission to reconstruct the existing bulkhead (seawall), commercial piers and ticket office building, remove and reset utilities, construct boat wash pad with subsurface holding tank, and construct stormwater management leaching trenches, all within previously, legally altered area at 278 Scranton Ave. (Falmouth Marine and Yachting), Falmouth, MA. Area affected is Falmouth Inner 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, October 7, 2022 and Friday, October 14, 2022; Falmouth Enterprise.

Diane Davidson

From: Alissa Bergeron
Sent: Wednesday, October 19, 2022 2:46 PM
To: Diane Davidson
Cc: Jennifer Lincoln; Falmouth Conservation Commission
Subject: RE: Special Permit Application - Wetlands/Docks - 278 Scranton Avenue
Attachments: Scranton Ave 278 (Falmouth Holdings Corp) 25-4779 OOC.pdf

Hi Diane,

Please see the attached Order of Conditions for the project. I reviewed the application, and everything appears consistent with what was approved by the Conservation Commission.

Alissa Bergeron
Conservation Agent
Town of Falmouth, MA
alissa.bergeron@falmouthma.gov
Office: (508) 495-7492

From: Laurie Brown <laurie.brown@falmouthma.gov>
Sent: Thursday, October 13, 2022 10:57 AM
To: Alissa Bergeron <alissa.bergeron@falmouthma.gov>
Subject: FW: Special Permit Application - Wetlands/Docks - 278 Scranton Avenue

From: Diane Davidson <diane.davidson@falmouthma.gov>
Sent: Friday, October 7, 2022 12:38 PM
To: Jennifer Lincoln <jennifer.lincoln@falmouthma.gov>; Gregg Fraser <gregg.fraser@falmouthma.gov>; Charles Martinsen <chuck.martinsen@falmouthma.gov>
Cc: Laurie Brown <laurie.brown@falmouthma.gov>
Subject: Special Permit Application - Wetlands/Docks - 278 Scranton Avenue

To All,

For your information: The Select Board has received the attached application for a special permit to replace failing and outdated piers and bulkhead, improve marina facilities, and capture storm runoff:

Applicant: Falmouth Holdings Corp.
Location: 278 Scranton Avenue, Falmouth
Proposed Work: Replace failing and outdated piers and bulkhead, improve marina facilities, and capture storm runoff.
Body of Water: Falmouth Inner Harbor

The applicant has provided a copy of the Order of Conditions and the Harbor Master Inspection Report. If you have any comments, please send by Wednesday, October 19.

The hearing is scheduled at the Select Board meeting on Monday, October 24, 2022 at 7:15 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*

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

September 30, 2022

Select Board
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540
Attn: Peter Johnson-Staub, Town Manager

Re: Application for Select Board Wetlands Regulations Special Permit
Town Code Section 240-77
278 Scranton Avenue

Dear Peter:

Falmouth Holdings Corp. (Falmouth Marine and Yachting) proposes to invest in a major upgrade to the waterfront at its marina at 278 Scranton Avenue. The existing bulkhead, some 480 feet in length, and all the piers are to be replaced. Stormwater management will be improved. The Conservation Commission has just issued an Order of Conditions approving the proposed work.

Filed herewith are:

1. Application for Special Permit (two copies) under Code of Falmouth Sec. 240-77 et sec.;
2. Check to the Town for the filing fees of \$75.00;
3. Certified Abutters List;
4. Two full size copies of plans prepared by Cape & Islands Engineering for Vincent J. Geoffroy, President, 278 Scranton Avenue, Falmouth, Massachusetts:
 - "Site Plan Overall Site Layout" Sheet 1 of 3,
 - "Site Plan Bulkhead + Float Layout" (Sheet 2 of 3), both dated June 21, 2022, last revised 9-6-22; and
 - "Site Plan Construction Details" (Sheet 3 of 3), dated June 21, 2022, last revised 8-3-22.
5. Copy of Notice of Intent (without plans) filed with the Conservation Commission on June 22, 2022, and copy of the Conservation Commission Order of Conditions

Select Board
September 30, 2022
Page 2

issued on September 30, 2022. Note that the NOI included the Harbormaster's Inspection Report and the Shellfish Constable's comments on the proposed plan.

A copy of this letter and all enclosures is also being filed electronically by email to townmanger@falmouthma.gov.

When the hearing has been scheduled, please notify Ament Klauer so we can send out notices to abutters.

Please let me know if there are any questions about this application.

Very truly yours,



Robert H. Ament, Esquire

RHA/gmb
Enclosure

cc: Brian Davin, General Manager, Falmouth Marine and Yachting

RECEIVED

SEP 30 2022

FALMOUTH TOWN CLERK

TOWN OF FALMOUTH
BOARD OF SELECTMEN



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

To the Board of Selectmen
Falmouth, MA

Date: September 30, 2022

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:	<u>Falmouth Holdings Corp.</u> (full name)	<u>278 Scranton Ave.</u> Falmouth, MA 02540 (address)
AGENT:	<u>Robert H. Ament</u> <u>Ament Klauer LLP</u> (full name)	<u>39 Town Hall Sq.</u> Falmouth, MA 02540 (address)
APPLICANT:	<u>Falmouth Holdings Corp.</u> (full name)	<u>278 Scranton Ave.</u> Falmouth, MA 02540 (address)

1. Location of Property: Map 47C Section 06 Parcel 012 Lot 002

Street Name and House Number 278 Scranton Ave, Falmouth, MA 02540

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

3. Description of property and project site: Existing developed marina known as Falmouth Marine and Yachting

a. Dimensions, Acreage of total parcel: 1.947 acres

b. Length of water marsh frontage: 480'±

c. Dimensions of area to be dredged: N/A Depth

d. Dimensions of area to be filled: N/A

e. Volume of dredging spoil to be moved: N/A

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

Disposition of Spoil: N/A

- f. Describe proposed riprap or bulkheading, if any: see attached "Proposed Activities and Construction Methodology"
- g. Other (docks, piers and etc.): see attached "Proposed Activities and Construction Methodology"
- h. Method (equipment to be used) for proposed work: see attached "Proposed Activities and Construction Methodology"

4. Purpose of proposed work: Replace failing and outdated piers and bulkhead, improve marina facilities, capture storm runoff

5. Zoning which governs area: Marine

6. Date of application for permit to dredge or fill from the Commonwealth of Mass. N/A Army Engineers N/A

7. Has a permit ever been approved or refused for this location by State, Federal or Local Authority? Approved: see attached list of existing Wetlands Permits

8. Remarks _____

9. Project Summary for legal notice: reconstruct the existing bulkhead (seawall), commercial piers and ticket office building, remove and reset utilities, construct boat wash pad with subsurface holding tank, and construct stormwater management leaching trenches, all within previously, legally altered area at 278 Scranton Ave (Falmouth Marine and Yachting)

owner: Falmouth Holdings Corp.

Agent: Robert H. Ament, Esq. Ament Klauer LLP *Robert H. Ament*

278 Scranton Ave, Falmouth, MA 02540
(Name & Address)

39 Town Hall Sq, Falmouth, MA 02540
(Name & Address)

Attn: Brian Davin, General Manager,
TEL #: Falmouth Marine and Yachting
(508) 548-4600

TEL #: (508) 540-6555

Applicant: Brian Davin, General Manager,

Falmouth Marine and Yachting

278 Scranton Ave, Falmouth, MA 02540
(Name & Address)

TEL #: (508) 548-4600

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

ATTACHMENT TO APPLICATION TO FALMOUTH SELECT BOARD FOR SPECIAL PERMIT TO ALTER WETLANDS

APPLICANT: FALMOUTH HOLDINGS CORP.

PROPERTY: 278 SCRANTON AVENUE

3.f., g. and h.

Existing Wetlands Permits		
1.	Chapter 91 Licenses No. 403, 623, 2123, 2490, 2886, 2996, 3110, 3848, 3967, 3968, 4030 and 6057	Bulkheads, floats, piers, piles, ramps, boat landing ramp and dredge
2.	Chapter 91 License No 12293	Pier, ramp & pile replacements
3.	Order of Conditions, DEP 25-1836	Bulkhead reconstruction (Permit expired, no work performed)
4.	Order of Conditions, DEP 25-1972	Restroom addition and boat sewer pump-out facility Certificate of Compliance issued 5-13-2014
5.	Order of Conditions, DEP 25-3443	Piers, floats and piles reconfiguration (Permit expired, no work performed)
6.	Board of Selectmen Approval	Issued April 29, 2008

7. Proposed Activities and Construction Methodology

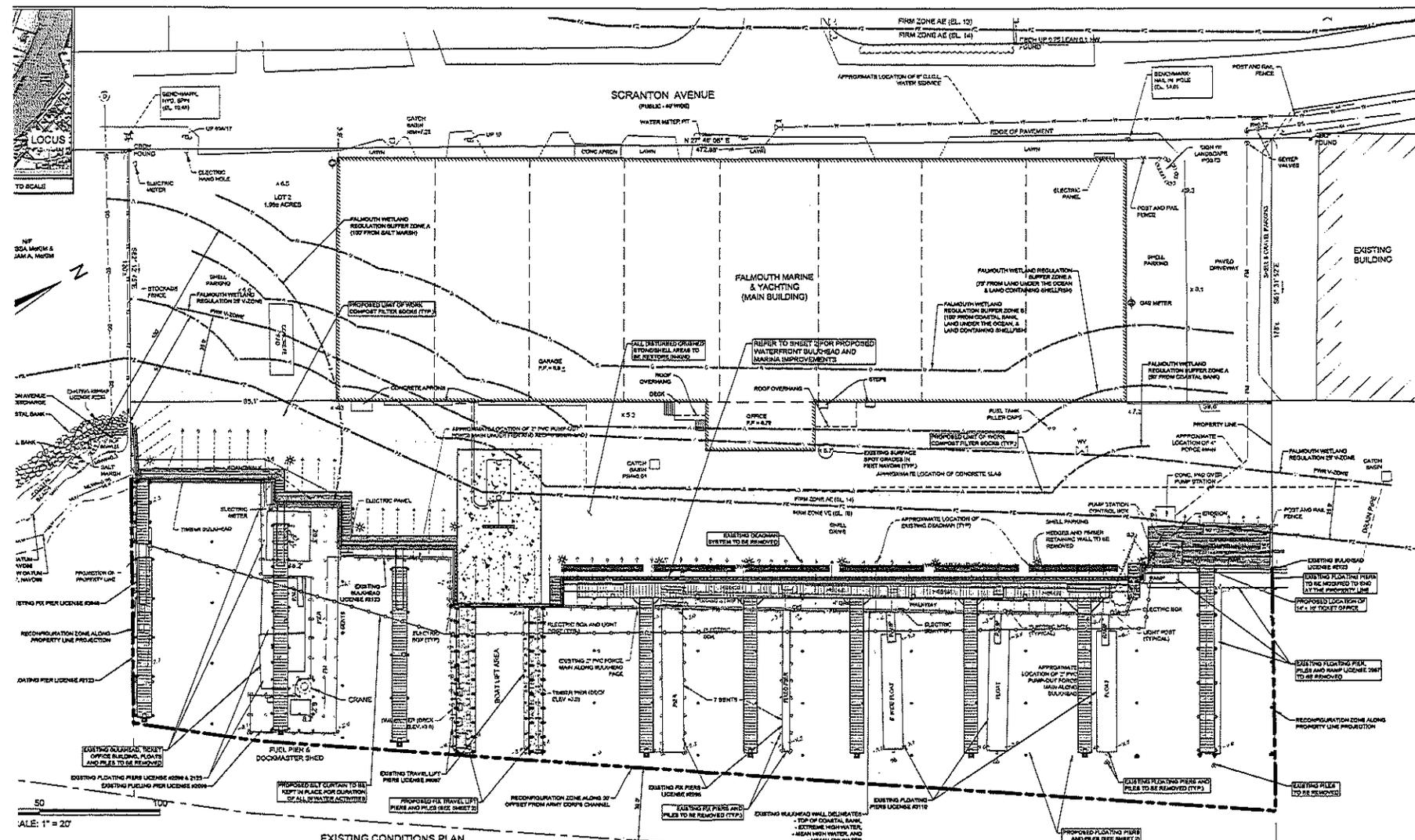
The project will begin with the initial demolition phase. In this phase the site will be fitted with all necessary erosion and sedimentation controls as noted in the application drawings. All existing utilities affected within this work will be temporarily terminated or turned off for the work to proceed. The existing ticket office will be razed along with all existing piers and all debris will be removed and properly disposed. The existing bulkhead will remain in-place until further in construction when the new bulkhead is located within the alignment of the existing bulkhead.

The next phase is the installation of the new composite sheet pile bulkhead. A silt boom shall be placed along the waterside of the existing bulkhead. The new bulkhead work will begin along the north end of the existing bulkhead. The initial 240 feet of bulkhead will be installed by opening a trench behind the existing bulkhead, maintaining the existing bulkhead in-place to act as a barrier and protect against sedimentation. Once installation reaches the point of the first 90-degree turn to meet the bulkhead at the travel lift area, the contractor shall excavate the area between the existing bulkhead and the newly installed 240-foot sheet pile bulkhead to a depth of elevation -5.0' NAVD88. From this point on the entirety of the existing bulkhead can be removed as new bulkhead is installed following the new alignment.

The new bulkhead will be installed in a systematic process starting at the north side of the property and working along the shoreline. A crane will be used to drive the sheet piles in-place. The crane may be on a barge on land for this installation. In its most basic terms, the new bulkhead location will be established by erecting a false frame for driving sheet piling in the proposed location. The bulkhead installation is typical for this marine construction activity.

Once the new bulkhead is in place, the contractor can install the proposed fix and floating piers as well as the proposed travel lift with all the associated pile installation. Pile installation will be performed by driving the piles in place with a barge mounted crane. The fix pier and travel lift superstructure construction are built once the piles are set. The floating piers will be manufactured offsite and transported to the site. The floating piers are positioned in the harbor once the float piles are set.

The last phase is for the contractor to transition to all the upland improvements such as the new ticket office building, boardwalks, stormwater leaching trenches, concrete wash pad and subsurface holding tank installation. Ultimately the contractor shall re-establish all the necessary utilities and restore the crushed shell/stone area to complete the work.



EXISTING CONDITIONS PLAN

THE EXISTING CONDITIONS PLAN FURNISHED HEREIN BY CAPE & ISLANDS ENGINEERING, INC. HAS BEEN AUTHORIZED THROUGH THE PROPERTY OWNER AND BY HOLLER AND MODENA, INC.

THE EXACT LOCATION, NUMBER AND TYPE OF SITE UTILITIES IS UNKNOWN. THIS PLAN SHOWS THE LOCATION OF UTILITIES AS MARKED ON THE PROPERTY AND FOR RECORD DOCUMENTS. IT IS NOT WARRANTED THAT ALL UTILITIES ARE SHOWN ON THIS PLAN. THE CONTRACTOR SHALL CONTACT BUREAU OF A PUBLIC UTILITIES TO LOCATE AND MARK UTILITIES.

EROSION CONTROL PLAN

THE WORK AREA AND SITE CONDITIONS UNDER WHICH THIS WORK IS TO BE PERFORMED PRIOR TO CONSTRUCTION, ARE WITHIN THE PARKING LOT FOR STAGING OF MATERIALS AND EQUIPMENT THROUGHOUT THE DURATION OF THE WORK. BEST PRACTICES SHALL BE USED TO CONTROL AND PREVENT EROSION OF THE PREMISES.

CONSERVATION NOTES

PRIOR TO ANY WORK COMMENCING, ADVANCE WRITTEN NOTIFICATION WILL BE PROVIDED TO THE LOCAL CONSERVATION COMMISSION. NO DIRT, ROCK, SAND OR MATERIALS WILL BE STORED, EVEN TEMPORARILY, OUTSIDE THE DESIGNATED LIMIT OF WORK AREAS WITHIN THE EROSION CONTROL PLAN.

FALMOUTH INNER HARBOR
LAND UNDER THE OCEAN
LAND CONTAINING SHELLFISH

ARMY CORPS OF ENGINEERS CHANNEL LINE

PROJECT STATISTICS

1. TOTAL NUMBER OF EXISTING PILES TO BE REMOVED	248 PILES
2. TOTAL LENGTH OF EXISTING BULKHEAD WALL TO BE REMOVED	480 FEET
3. TOTAL AREA OF EXISTING FLOATING PIER/PIERS TO BE REMOVED	3,055 S.F.
4. TOTAL AREA OF EXISTING PILED PIERS TO BE REMOVED	3,801 S.F.
5. TOTAL NUMBER OF NEW 12" VINYL COATED HT PILES	274 PILES (17 S.F.)
6. TOTAL LENGTH OF PROPOSED COMPOSITE BULKHEAD WALL	435 FEET
7. TOTAL AREA OF PROPOSED FLOATING PIERS WITH PILING	822 S.F.
8. TOTAL AREA OF PROPOSED PILED PIERS	1,468 S.F.
9. PERMANENT DISTURBANCE OF COASTAL BANK (BULKHEAD)	403 L.F.
10. PERMANENT DISTURBANCE IN LAND UNDER OCEAN PILES	171 S.F.
11. PERMANENT DISTURBANCE IN LAND CONTAINING SHELLFISH (PIERS)	171 S.F.
12. DISTURBANCE IN LAND SUBJECT TO COASTAL STORM FLOODING	3,800 S.F.
13. NEW AREA OF LAND UNDER OCEAN ELEVATION FROM 1/4 LAND	3,800 S.F.

GENERAL NOTES

LOCATIONS ARE BASED ON THE GROUND INSTRUMENT SURVEY AND ELEVATIONS BASED ON THE NAVD 1988 DATUM. COORDINATE SYSTEM USED IS THE MASSACHUSETTS COORDINATE SYSTEM, DATUM 1988, U.S. SURVEY FEET.

ZONING DISTRICT: M

PROPERTY IS LOCATED WITHIN AN AREA HAVING A ZONE DESIGNATION OF AS 200-16, VE ELEV 15 BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) ON FLOOD INSURANCE RATE MAP #13, ZONING DISTRICT WITH A MAP EFFECTIVE DATE OF JULY 18, 2014.

THIS LOT IS NOT LOCATED WITHIN A DEP APPROVED ZONE 3 WETLAND PROTECTION AREA. THIS LOT IS NOT BARRIRED WITHIN A NEPA NATURAL, HERITAGE AND ENHANCED SPECIES AREA.

CEED REFERENCE BOOK 8877 PAGE 64 PLAN REFERENCE BOOK 338 PAGE 14

OWNER: FALMOUTH HOLDINGS CORP.
VINCENT J. GEOFFROY, PRESIDENT
278 SCRANTON AVENUE, FALMOUTH, MA 02540

CAPE & ISLANDS ENGINEERING
300 WASHINGTON STREET, SUITE 201C, FALMOUTH, MA 02540
PHONE: 508.773.2700 FAX: 508.773.2701
WWW.CAPEANDISLANDSENGINEERING.COM

PROFESSIONAL SEAL
VINCENT J. GEOFFROY, P.E.
REGISTERED PROFESSIONAL ENGINEER
MASSACHUSETTS
LICENSE NO. 10000

PROFESSIONAL SEAL
VINCENT J. GEOFFROY, P.E.
REGISTERED PROFESSIONAL ENGINEER
MASSACHUSETTS
LICENSE NO. 10000

Drawn By: RLK
Checked By: MC

DATE	DESCRIPTION	BY	CHK
11/11/2023	FINAL REVISIONS	RLK	MC
11/08/2023	ISSUE SET FOR PERMITS	RLK	MC
11/08/2023	ISSUE SET FOR PERMITS	RLK	MC

PREPARED FOR: VINCENT J. GEOFFROY, PRESIDENT
278 SCRANTON AVENUE
FALMOUTH, MASSACHUSETTS 02540
ISSUES FOR INFORMATION: MPT 2023-00002
(DATE AND TIME)

SITE PLAN OVERALL SITE LAYOUT

DATE: JUN 21, 2023
SHEET 1 OF 3
DATE: 11/11/2023



NOTICE OF INTENT

Filing under the Massachusetts Wetlands Protection Act,
M.G.L. Chapter 131, Section 40 and
the Town of Falmouth Wetlands Regulations and Bylaw

Project:

Proposed Marina Improvements to
Reconstruct Commercial Pier and Bulkhead Structures
And Relocate Ticket Office Building

Location:

278 Scranton Avenue
Falmouth, MA 02640

Applicant & Owner:

Falmouth Holdings Corporation
c/o Vincent Geoffroy
278 Scranton Avenue
Falmouth, MA 02540

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1.0 OVERVIEW

1.1 Introduction

Cape & Islands Engineering, Inc. has submitted this Notice of Intent (NOI) Application, on behalf of the applicant, Vincent J. Geoffroy, President, Falmouth Holding Corporation, who proposes to reconstruct the existing bulkhead (seawall), commercial piers and relocate the ticket office building at Falmouth Marine, Inc., 278 Scranton Ave., Falmouth, MA. Also proposed is the removal and resetting of existing utilities, construction of a boat wash pad with subsurface holding tank and the construction of stormwater management in the form of leaching trenches. All the work is within previously, legally altered area, and within Conservation Commission jurisdiction. The proposed project provides a benefit to the wetland resources by capturing roof storm runoff and by replacing a failing and outdated piers and bulkhead structure.

1.2 Applicable Regulations

This application has been filed in accordance with the Massachusetts Wetlands Protection Act, (MWWPA, M.G.L. Chapter 131, Section 40) and its implementing regulations (310 CMR 10.00) and the Falmouth Wetlands Protection Bylaw, (Chapter 235 of the Code of Falmouth) and the Falmouth Wetland Regulations (FWR 10.00).

2.0 BACKGROUND

2.1 Existing Conditions & Site Characteristics

The project site is located at 278 Scranton Ave., Falmouth, MA, along the western side of Falmouth Inner Harbor. The property is a private marine district zoned parcel, occupied by a commercial building, bulkhead along the entire waterfront side, commercial fixed and floating piers, a boat travel lift, a ticket office building and other associated improvements with utilities. The property contains approximately 1.95 acres of land area and is 100% legally altered. Several local and state permits allow for the current development on the property (refer to permit table below).

The property is completely developed with buildings, crushed shell and crushed stone driveways, paved driveways, timber bulkheads, and fixed and floating piers. The entire property is within the coastal floodplain and specifically within coastal storm flood zones VE E1. 15 and AE E1. 14. All elevations shown and referenced are based on the 1988 North American Vertical Datum (NAVD 1988). The topographic information is based on an on-the-ground survey with topography for the site being fairly level at elevation 6 by Scranton Ave and elevations of 4 feet and 5 feet by the bulkhead.

Bordering the property to the north is a similar marine use property and to the south is a residential property. Across the harbor there is another marina development and more residential properties.

2.2 Property History

The property operates as Falmouth Marine Inc. and has been used as a commercial marina since at least the 1940s (according to town assessors records) providing boat service, storage, docking, pump-out service and fueling service. The current waterfront improvements include a timber bulkhead, floating and fixed piers, a travel lift, all built between the early 1940s (Lic.2686), late 1950s (Lic.4030 & Lic.3967), early 1970s (Lic.6057) and the early 1980s (Lic.623), and later consolidated into one license in 1990 (Lic.2123).

The following environmental permits have been issued for the property:

Existing Wetlands Permits		
1.	Chapter 91 Licenses No. 403, 623, 2123, 2490, 2686, 2996, 3110, 3848, 3967, 3968, 4030 and 6057	Bulkheads, floats, piers, piles, ramps, boat landing ramp and dredge
2.	Chapter 91 License No 12293	Pier, ramp & pile replacements
3.	Order of Conditions, DEP 25-1836	Bulkhead reconstruction (Permit expired, no work performed)
4.	Order of Conditions, DEP 25-1972	Restroom addition and boat sewer pump-out facility Certificate of Compliance issued 5-13-2014
5.	Order of Conditions, DEP 25-3443	Piers, floats and piles reconfiguration (Permit expired, no work performed)
6.	Board of Selectmen Approval	Issued April 29, 2008

3.0 PROPOSED PROJECT

3.1 Scope of Work

The project for this application is to reconstruct the exiting waterfront, improvements to replace existing failing timber bulkheads and timber commercial piers. The entire bulkhead is proposed to be replaced with a new bulkhead consisting of composite sheet piles with timber waler beams, timber cap, tieback rods, and a new timber dead-man system. The northern most 240 feet of the bulkhead is being re-aligned by constructing the bulkhead approximately 11-feet landward from the current location. Another 75-foot section of the bulkhead south of the travel lift is also being re-aligned and constructed landward from its current location. The re-aligned bulkhead creates approximately 3,600 sf. of new Land Under the Ocean and Land Containing Shellfish which more than offsets the proposed area occupied by the proposed piles of 171 sf.

The entire marina consisting of fixed and floating piers will also be removed and reconstructed. The timber travel lift pier is proposed to be replaced with a new reinforced concrete deck travel lift. One existing fix timber pier will be reconstructed in-kind. All other piers are being replaced with floating piers. None of the proposed piers are located further seaward than the existing piers and all structures are located more than 30-feet away from the Army Corps of Engineers Channel.

Also proposed for this project is the installation of a concrete boat wash pad with a subsurface non-hazardous dual containment holding tank. Another improvement is the installation of a drainage system in the form of leaching trenches to intercept surface runoff and eliminate the current condition where surface runoff sheds over the bulkhead and into Falmouth Inner Harbor. The existing ticket office building will be removed and replaced with an 18' x 20' building in the upland area of the property. All existing utilities will be removed and reset as necessary for this work.

3.2 Resource Areas

The resource areas on or within 100 feet of the site include Land under the Ocean, Land Containing Shellfish, Land Subject to Coastal Storm Flowage, Salt Marsh, Coastal Beach, and Coastal Banks. The resource areas were delineated, marked, and located by an on the ground instrument survey. The resource area boundaries are shown on the application drawings.

See Section 5.0 for a performance standard analysis of each resource area.

3.3 Proposed Activities and Construction Methodology

The Order of Conditions and signage will be posted at the site, and area staged for construction. Efforts will be coordinated to minimize construction time and disturbance within and around the subject resource areas. The limit of work, consisting of compost roll with a silt fence backing, will be installed as shown on the drawings.

The project will begin with the initial demolition phase. In this phase the site will be fitted with all necessary erosion and sedimentation controls as noted in the application drawings. All existing utilities affected within this work will be temporarily terminated or turned off for the work to proceed. The existing ticket office will be razed along with all existing piers and all debris will be removed and properly disposed. The existing bulkhead will remain in-place until further in construction when the new bulkhead is located within the alignment of the existing bulkhead.

The next phase is the installation of the new composite sheet pile bulkhead. A silt boom shall be placed along the waterside of the existing bulkhead. The new bulkhead work will begin along the north end of the existing bulkhead. The initial 240 feet of bulkhead will be installed by opening a trench behind the existing bulkhead, maintaining the existing bulkhead in-place to act as a barrier and protect against sedimentation. Once installation reaches the point of the first 90-degree turn to meet the bulkhead at the travel lift area, the contractor shall excavate the area between the existing bulkhead and the newly installed 240-foot sheet pile bulkhead to a depth of elevation -5.0' NAVD88. From this point on the entirety of the existing bulkhead can be removed as new bulkhead is installed following the new alignment.

The new bulkhead will be installed in a systematic process starting at the north side of the property and working along the shoreline. A crane will be used to drive the sheet piles in-place. The crane may be on a barge on land for this installation. In its most basic terms, the new bulkhead location will be established by erecting a false frame for driving sheet piling in the proposed location. The bulkhead installation is typical for this marine construction activity.

Once the new bulkhead is in place, the contractor can install the proposed fix and floating piers as well as the proposed travel lift with all the associated pile installation. Pile installation will be performed by driving the piles in place with a barge mounted crane. The fix pier and travel lift superstructure construction are built once the piles are set. The floating piers will be manufactured offsite and transported to the site. The floating piers are positioned in the harbor once the float piles are set.

The last phase is for the contractor to transition to all the upland improvements such as the new ticket office building, boardwalks, stormwater leaching trenches, concrete wash pad and subsurface holding tank installation. Ultimately the contractor shall re-establish all the necessary utilities and restore the crushed shell/stone area to complete the work. Finally, a Certificate of Compliance will be requested upon satisfactory completion of all work.

3.4 Anticipated Impacts

All disturbances will be kept to the minimum necessary to complete the construction and installation(s) of the various activities. There will be no disturbance of naturally vegetated areas. All proposed work areas are within previous legally altered areas. The proposed activities are not moving closer to the nearby wetland resource areas or further into the harbor than what currently legally exists on-site. Any impacts to the resource areas will only be temporary.

The project has been designed to incorporate construction methodologies and measures that will result in an overall benefit to the resource areas. The removal of a failing bulkhead and travel lift constructed over 30-years ago and replacing with new construction and with some environmentally friendly materials such as vinyl coated piles and composite sheet piles will better protect the values of these wetland resource areas. Elimination of direct discharges from the existing site cascading over the existing bulkhead and providing leaching trenches landward from the edge of the bulkhead provides for surface storm runoff interception and treatment that currently does not exist on the property. There will be temporary alterations to the coastal bank being that this resource area is defined by the actual man-made bulkhead which is being reconstructed. There will also be impacts to Land Under the Ocean with the installation of new piles. The area occupied by new piles is more than compensated with the creation of new Land Under the Ocean by shifting portion of the bulkhead landward. No adverse impacts associated with this project are anticipated.

4.0 MINIMIZATION & MITIGATION MEASURES

4.1 Mitigation Requirements

This marina redevelopment project is located within the buffer zones of Coastal Banks, Salt Marsh, Coastal Beach, Land Under the Ocean and Land Containing Shellfish. As well as being within Land Subject to Coastal Storm Flowage. However, there is no increase in development areas since the property is already completely developed. An area of approximately 650 sf of grass and hedges is proposed to be replicated behind the new bulkhead with a privet hedge. Therefore, no mitigation in the form of required native plant installation is required for this project.

Overall, the project converts approximately 3,600 sf of upland areas from Land Subject to Coastal Storm Flooding into Land Under the Ocean and Land Containing Shellfish. As a redevelopment project there are a couple of improvements proposed, as mentioned above, that benefit the wetland resource areas. These improvements are replacing failed structures with environmentally friendly materials and installation of a drainage system resulting in a long-term environmental benefit.

4.2 Proposed Mitigating Measures

Prior to the commencement of any construction activities, erosion and sedimentation controls, (e.g. compost roll with a silt fence backing) will be installed as shown on the attached plan. The erosion and sedimentation controls will function to keep sediment within the limits of work and will also serve to define the limit of construction to site workers. Erosion and sedimentation controls will be maintained in good condition at the site until disturbed areas have been restored. All ground disturbances will be kept to the minimum necessary to complete the construction and installation(s) and the site will be restored upon completion. A temporary staging area that will be designated for material storage located within the existing driveway areas.

The proposed project activities will not induce cumulative impairment of the resource area's functional characteristics. The proposed work will, in fact, greatly improve protection of the resource areas by intercepting surface storm runoff with leaching trenches which eliminates the existing direct discharges cascading into the harbor.

5.0 APPLICABLE PERFORMANCE STANDARDS

5.1 Buffer Zone

The area referred to as "Buffer Zone" runs from the landward edges of the wetlands westerly 100-feet into the property. All of the work lies within the Buffer Zone and some of the work is within the wetland resource areas.

FWR 10:18 (2) - Definitions:

(a) The resource area buffer is an area adjacent to a resource area specified in FWR 10.02(1)(a) through (h) (see FWR 10.02 (1)(i)), and is "lands within 100 feet of any of the aforesaid resource areas" as specified in Section 2: Activities subject to regulation under the Bylaw [FWR 10.02(2)].

(c) For resource areas listed in FWR 10.02 (1) (a) through (e), the resource area buffer is divided into two zones: Zone A and Zone B...

(d) Zone A is a no disturbance area that is the portion of a resource area buffer adjacent to resource areas...

(e) Zone B is the outer portion of the resource area buffer (further from the resource area than Zone A)...

(f) Redevelopment means:

1. Replacement, rehabilitation or expansion of legally existing structures, and also;
2. Addition, rehabilitation, or replacement of accessory structures and appurtenances such as, but not limited to, swimming pools, sheds, freestanding garages, decks, patios, and landscape features, and improvement of existing roads, on a previously developed site.

FWR 10:18 (5) – Buffer Zone Widths

(a) 1. The width of the no disturbance (Zone A) area shall be 100 feet for the following resources:
a. Salt marsh.

(a) 2. The width of the no disturbance (Zone A) area shall be 75 feet for the following resources:
d. Land Under the ocean

(a) 3. The width of the no disturbance (Zone A) area shall be 50 feet for the following resources:
e. All other coastal banks adjacent to other resources as defined in FWR 10.02(1)(a) through (e), other than those listed above in FWR 10.18(5)(a)(2).
g. Coastal beaches;
h. Rocky intertidal shore; and

(b) The width of Zone B, the outer buffer area, extends from the landward boundary of Zone A to a distance 100 feet from the landward resource area boundary.

Proposed work within Zone A:

All of the proposed work described previously in this narrative lies within the Falmouth Wetland Regulation Buffer Zone A to a combination of the resources as listed above. There is however no proposed increase in development areas. In fact, there is the proposed creation of approximately 3,600 sf of Land Under the Ocean. Some of the proposed work is proposed within the actual resource areas: such is the case of the bulkhead reconstruction which is work in the Coastal Bank; and installation of piles which is work in Land Under the Ocean and Land Containing Shellfish.

The proposed project activities will not induce cumulative impairment of the resource area's functional characteristics. As previously described the project will result in a net benefit to the environment by eliminating direct runoff discharges onto the harbor and using environmentally friendly components.

5.2 Land Subject to Coastal Storm Flowage (LSCSF)

All of the property, and therefore all of the work, lies within Land Subject to Coastal Storm Flowage (LSCSF). The Federal Emergency Management Agency (FEMA) has established the 100-year base flood elevations located on the property and shown as Flood Zones as VE (EL.15) and AE (EL. 14) on FEMA Maps effective July 16, 2014. The application drawings illustrate the flood zone delineation along with the Falmouth Wetland Regulation 25-foot V-Zone landward offset.

As defined in the Commonwealth of Massachusetts, Wetland Protection Act (WPA): 310 CMR 10.27; and the Town of Falmouth Wetland Protection Bylaw FWR 10.38; Land Subject to Coastal Storm Flowage:

FWR 10.38 (2)(a) – Definitions:

1. Land Subject to Coastal Storm Flowage. Land subject to coastal storm flowage means land subject to any inundation caused by coastal storms up to and including that resulting in a one-hundred-year flood, surge of record, or flood of record, whichever is greater. One-hundred-year flood (or base flood as it is also referred to) means the flood having a one-percent chance of being equaled or exceeded in any given year.)

FWR 10.38 (4) - General Performance Standards:

(a) When the Commission determines that Land Subject to Coastal Storm Flowage (A, AO, AH and/or V zones) overlays other resource areas listed in FWR 10.00, the applicable performance standards for each resource area shall be independently and collectively applied and the project shall be appropriately conditioned to protect all stated Resource area values.

(b) When Land Subject to Coastal Storm Flowage (A, AO, AH and/or V-zones) is significant to the resource area values of flood control and storm damage prevention, the following performance standards shall apply:

1. Any activity shall not have an adverse effect by increasing the elevation or velocity of floodwaters or by increasing flows due to a change in drainage or flowage characteristics (e.g. change in direction) on the subject site, adjacent properties, or any public or private way.

2. a. Relative sea level rise and the landward migration of Resource areas in response to relative sea level rise shall be incorporated into the design and construction of structures and other activities proposed in Land subject to coastal storm flowage.

The proposed project is located within the reach of the coastal floodwaters and within the velocity flood zone. However, the project proposes to reduce the overall development footprint on LSCSF by approximately 3,600 sf. No significant change is proposed in the topography, vegetative community or any significant elevation or horizontal movement of existing landforms in any way that would result in increased height; velocity and/or horizontal extent of storm flowage.

The proposed project meets or exceeds these performance standards because the proposed work will not otherwise impair the function of the resource areas or result in interruptions to the flow characteristics of flood waters.

5.3 Coastal Bank

The resource area known as "Coastal Bank" (CB) is found along the entire harbor side of the property and continues to the north and to the south of the property. The entire coastal bank system on the property and within 100-feet of the project has been altered with man-made structures in the form of vertical bulkheads or riprap retained revetments. The Coastal Bank is not eroding and therefore not a sediment source to the shoreline system. The Coastal Banks are identified on the project plans and has been flagged in the field. The Coastal Bank serves as a vertical buffer to protect against flood waters.

As defined in FWR 10.30 (2)(a) Coastal Banks:

FWR 10.30 (2) - Definition:

(a) Coastal Bank means the seaward face or side of any elevated landform, other than a Coastal Dune, which lies at the landward edge of a Coastal Beach, Land Subject to Tidal Action, Land Subject to Coastal Storm Flowage (LSCSF), or other wetland/coastal resources. Coastal Bank also means coastal engineering structures serving the purpose of storm damage prevention or flood control.

FWR 10.30 (4) – General Performance Standards:

When a Coastal Bank is determined to be Significant to storm damage prevention, flood control, Wildlife habitat, or Erosion and sedimentation control, FWR 10.30.(5) through FWR 10.30(11) shall apply.

(6) Any project on a coastal bank or within one hundred (100) feet landward of the top of a Coastal Bank, other than a structure permitted by FWR 10.30(5), shall not have an adverse effect due to wave action on the movement of sediment from the Coastal Bank to Coastal Beaches or Land subject to tidal action.

(9) Any project on such a Coastal Bank or within one hundred (100) feet landward of the top of such Coastal Bank shall have no adverse effects on the stability of the Coastal Bank.

(10) Notwithstanding the provisions of FWR 10.30(5) through (8), protective planting designed to reduce erosion may be permitted.

(11) Notwithstanding the provisions of FWR 10.30(5) through (10), no project may be permitted which will have any Adverse effect on habitat of rare species.

The work proposed within the buffer to Coastal Bank and on the Coastal Bank resource area will not result in significant changes that alter the current value of the Coastal Bank as a vertical feature significant to storm damage prevention and flood control. Approximately 483 feet of bulkhead, that is also a Coastal Bank, is proposed to be reconstructed but ultimately serve the same functions as the current bulkhead structure.

The proposed project meets or exceeds these performance standards. The proposed project activities will not induce any impairment of the Coastal Bank's functional characteristics.

5.4 Coastal Beach

The area referred to as "Coastal Beach" is located on the south abutting property between Mean Low Water and the toe of the Armored Coastal Bank on that property.

As defined in FWR 10.27(2)(a) Coastal Beach:

FWR 10.27 (2) - Definition:

(a) Coastal Beach means unconsolidated sediment subject to wave, tidal and coastal storm action which forms the gently sloping shore of a body of salt water and includes tidal flats. Coastal Beaches extend from the mean low water line landward to the Dune line, coastal bank line or the seaward edge of existing man-made structures, when these structures replace one of the above lines, whichever is closest to the ocean.

FWR 10.32 (4) - General Performance Standards:

*(a) When tidal flats are significant to shellfish, FWR 10.34(4) through (7) shall apply.
(b) When a Coastal Beach is determined to be Significant to storm damage prevention, flood control, or wildlife habitat, FWR 10.27(5) through (8) shall apply.
(c) When a tidal flat is determined to be significant to fisheries or wildlife habitat, FWR 10.27(7) shall apply.*

(5) Any project on a Coastal Beach shall not have an adverse effect by increasing Erosion, decreasing the volume or changing the form of any such Coastal Beach or an adjacent or downdrift Coastal Beach.

(6) Notwithstanding FWR 10.27(5), beach nourishment with clean sediment of a grain size compatible with that on the existing beach may be permitted.

(7) In addition to complying with the requirements of FWR 10.27(5), a project on a tidal flat shall have no adverse effects, on fisheries and/or wildlife habitat caused by:

*(a) Alterations in water circulation,
(b) Alterations in the distribution of sediment grain size, and
(c) Changes in water quality, including, but not limited to, other than natural fluctuations in the levels of dissolved oxygen, temperature or turbidity, or the addition of pollutants. FWR 10.28 WETLANDS REGULATIONS FWR 10.28 FWR:79 06 - 01 - 2014*

(8) Notwithstanding the provisions of FWR 10.27(5) through (7), no project may be permitted which will have any adverse effect on habitat sites of rare species.

No work is proposed on or within the Coastal Beach.

The proposed project meets or exceeds these performance standards. The proposed project activities will not induce any impairment of the Coastal Beach's functional characteristics

5.5 Land Under the Ocean

The resource area referred to as Land Under the Ocean is the land below Mean Low Water (MLW) mark and under the body of water known as Falmouth Inner Harbor as shown on attached site plan.

As defined in FWR 10.25(2)(a) Land Under Ocean:

FWR 10.25 (2) – Definition:

(a) Land Under the Ocean means land extending from the mean low water line seaward to the Boundary of Falmouth's jurisdiction, but does not include Land under estuaries.

FWR 10.25 (4) - General Performance Standards:

(a) When land under the Ocean underlies an anadromous/catadromous fish run, FWR 10.35 shall apply..... (N/A)

(b) When land under the Ocean is Land containing shellfish, FWR 10.34 shall apply.

(c) When land under the Ocean or near shore areas of land under the Ocean are found to be Significant to fisheries, Wildlife habitat, storm damage prevention, flood control, Recreation or Aesthetics FWR 10.25(5) through (7) shall apply.

(5) Improvement dredging for navigational purposes affecting land under the Ocean..... (N/A)

(6) Maintenance dredging for navigational purposes..... (N/A)

(7) Projects not included in FWR 10.25(5) or 10.25(6) which affect nearshore areas of land under the Ocean shall not cause Adverse effects by Altering the bottom topography so as to increase storm damage or Erosion of Coastal Beaches, Coastal Banks, coastal Dunes, or salt Marshes.

(8) Projects not included in FWR 10.25(5) or 10.25(6) which affect nearshore areas of land under the Ocean shall not cause Adverse effects by Altering the bottom topography so as to impede Navigation for Recreational vessels, or by impeding an open line of sight.

(9) Projects not included in FWR 10.25(5) which affect land under the Ocean shall if water dependent be designed and constructed, using Best available measures, so as to Minimize Adverse effects, and if non-water-dependent, have no Adverse effects, on fisheries habitat or Wildlife habitat caused by:

(a) Alterations in water circulation;

(b) Alterations in the distribution of sediment grain size;

(c) Changes in water quality, including, but not limited to, other than natural fluctuations in the level of dissolved oxygen, temperature or turbidity, or the addition of pollutants; or

(d) Alterations of shallow submerged lands with high densities of polychaetes, mollusks or macrophytic algae.

The proposed work that will occur within Land Under the Ocean include removal of the existing bulkhead, pilings, and dock structures. A total of 349 12"-diameter pilings will be removed and replaced with the installation of 218 12"-diameter vinyl coated PT piles. The reduction in 131 piles results in less overall disturbance of Land Under the Ocean by 103 sf for a total disturbance area of 171 sf. The reconstruction of the bulkhead and installation of the bulkhead sheet piles will also be done in portions of Land Under the Ocean but will not be an increase over existing conditions, in fact the new bulkhead creates 3,600 sf of new Land Under the Ocean. The pile installation will be done with a crane stationed either on the upland or on a barge. There is plenty of water depth at this location to prevent grounding of the barge.

There is no presence of Eel Grass beds within 100 feet of the proposed project.

The proposed project meets or exceeds these performance standards because the proposed work will not alter bottom topography, impede navigation or otherwise impair the function of the resource areas.

5.6 Land Containing Shellfish

The resource area referred to as Land Containing Shellfish is the area of land below the Mean Low Water (MLW) mark and under the body of water known as Falmouth Inner Harbor, as shown on attached site plan.

As defined in FWR 10.34(2)(a) Land containing shellfish:

FWR 10.34 (2) – Definition:

(a) Land containing shellfish means land under the Ocean, Land under estuaries, Land under Salt ponds, tidal Flats, Rocky intertidal shores, Salt Marshes, Banks of Salt ponds, Banks of estuaries and beaches when any such land contains shellfish.

FWR 10.34 (5) - Performance Standards:

When a Resource area, including Rocky intertidal shores, salt Marshes, land under the Ocean, Coastal Beaches, Land under Salt ponds is determined to be Significant to the protection of shellfish and therefore to the protection of Recreation and the protection of fisheries, FWR 10.34(6) through (8) shall apply.

(6) Any project on Land containing shellfish shall not adversely affect any portion of such land or marine fisheries by a change in the productivity of such land caused by:

- (a) Alterations of water circulation,*
- (b) Alterations in relief elevation,*
- (c) The compacting of sediment by vehicular traffic,*
- (d) Alterations in the distribution of sediment grain size,*
- (e) Alterations in natural drainage from adjacent land, or*
- (f) Changes in water quality, including, but not limited to, other than natural fluctuations in the levels of salinity, dissolved oxygen, nutrients, temperature or turbidity, or the addition of pollutants.*

(7) Notwithstanding FWR 10.34(6) and 10.34(7), projects approved by DMF that are specifically intended to increase the productivity of Land containing shellfish may be permitted.

(8) Notwithstanding the provisions of FWR 10.34(6) and (7), no project may be permitted which will have any Adverse effect on habitat sites of rare species.

The proposed work that will occur within Land Containing Shellfish include removal of the existing bulkhead, pilings, and dock structures. A total of 349 12"-diameter pilings will be removed and replaced with the installation of 218 12"-diameter vinyl coated PT piles. The reduction in 131 piles results in less overall disturbance of Land Containing Shellfish by 103 sf for a total disturbance area of 171 sf. The reconstruction of the bulkhead and installation of the bulkhead sheet piles will also be done in portions of Land Containing Shellfish but will not be an increase over existing conditions. The pile installation will be done with a crane stationed either on the upland or on a barge. There is plenty of water depth at this location to prevent grounding of the barge.

The proposed project meets or exceeds these performance standards; therefore, the proposed project activities will not induce any impairment of the Land Containing Shellfish functional characteristics

5.7 Coastal Docks and Piers

The proposed placement of the dock has been evaluated against FWR 10.16 Specific Activities Regulated under the Falmouth Wetlands Regulations

FWR 10.16 (1) Coastal Docks and Piers

(d) Design Specifications and Performance Standards Recreational Harbors.

1. Docks shall not exceed over 100 feet in length beyond mean high tide, or 100 feet in length beyond the landward edge of salt marsh, or otherwise prohibit or unreasonably impede legitimate passage along a beach or through navigation over the waters for recreational or aquaculture purposes;
2. To keep disturbance of the bottom minimal at all times during both construction and use, the water depth at the end of the dock shall be a minimum of three feet at the time of mean low water;
3. The area of the terminal "L" or "T" shape in a fixed dock, or the float, or combination thereof, shall not exceed 100 square feet;
4. The design and construction shall not interfere with recreational intertidal lateral access;
5. No portion of the dock or pier may be closer than 10 feet from the property boundary or extended property boundary line into the intertidal and tidal zone;
6. Floating docks shall be fixed by piers utilizing a hoop roller or other approved designed fastening system;
7. The landward approach to a dock shall not harm vegetation on a coastal wetland, freshwater wetland or coastal bank (a marsh shall be crossed by a raised walkway, and coastal banks must be preserved by use of suitable stairs.);
8. An area where the float(s), if any, will be stored shall be designated on the plan;
9. Except for floating portions of a dock, the decking surface shall not reduce normal ambient lighting, i.e., sunlight, by more than 50 percent over salt marsh and bordering freshwater wetland;
10. The maximum horizontal footcandle level as measured directly below each complete lighting unit shall not exceed 0.2 footcandle (Fc).

(h) General Requirements and Prohibitions all Docks and Piers.

1. No new docks or piers or extension of an existing dock or pier may be constructed in any portion of FEMA designated velocity zone (V-Zone) unless the applicant demonstrates that there will be public benefit from the project. The Commission shall weigh the potential likelihood of damage and harm that any such dock or pier would cause during a storm event with the public benefit demonstrated by the applicant in determining whether the project should be allowed.
2. No new dock or pier shall be allowed if, within 35 feet of the area designated by the applicant as the mooring field, designated as Area A in FWR 10.34(4)(d), there are significant quantities of shellfish as defined by FWR 10.34 (3) and the area has been historically used for shellfishing or has potential for shellfishing, and the sediment provides a viable shellfish habitat. [Amended 5-31-2006]
3. If, within the area designated as Area B, as in FWR 10.34(4)(d) sampled for shellfish under FWR 10.34(4) there are significant quantities of shellfish as defined by FWR 10.34 (3) or the area has been historically used for shellfishing or has potential for shellfishing, or the sediment provides a viable shellfish habitat, the applicant shall provide a shellfish mitigation plan. [Amended 5-31-2006]
4. The Commission shall presume that there are significant quantities of shellfish in any area actively shellfished within the previous six months of the shellfish survey.
5. No new, replacement, or substantial alteration of an existing dock or pier shall be permitted within 50 feet of an area of eel grass (*Zostera marina*).
6. No CCA-treated materials may be used to construct a dock or pier.

7. For singular purpose ownership docks, any floating section of a dock or pier shall have a minimum water depth of three feet under all portions of that floating section of the dock or pier including times of extreme low water. This depth shall be measured as the shortest distance from any portion of the bottom of the floating section to the seabed.

The proposed pier system has been designed to replace the existing permitted and licensed marine pier structures without limiting and reducing the current uses of the site. The overall footprint area of all proposed piers is a net reduction of 130 sf. (from existing 6,080 sf to proposed 5,950 sf) and there is also a net reduction of 131 piles. This results in less structures within the velocity flood zone area. None of the proposed piers extend more than 100-feet from the proposed bulkhead. The southernmost pier is located less than 5-feet from the projected property line over the water of Falmouth Inner Harbor. However, the proposed pier follows the alignment of the existing permitted and license pier and not moving closer to that same property line projection.

There are several aspects of this project that provide a public benefit. One is the proposed removal of the failing bulkhead that could have the potential of a complete collapse from the rotting timber components. Another benefit is the removal of creosote and CCA treated timber elements of the existing bulkhead and piers and replacing with non-leaching environmentally friendly materials in the form of composite sheet piles and vinyl coated timber piles.

The proposed pier alterations to the exiting licensed piers and floats have been designed in accordance with FWR 10.16 (1) (b) (1-12), (c)(1-4), (d)(1-4 & 6-10) and (h)(1-7). The proposed pier **does not conform** to the Falmouth Wetland Regulations FWR 10.16 (1)(d)(5) as stated above because the southernmost pier is located less than 10-feet from the projected property line. However, the location of the proposed pier does not move closer to the projected property line than the existing permitted and licensed pier. The proposed pier reconstruction is also completely located within the FEMA designated velocity zone but results in approximately 130 sf of less structures and 131 less piles within the FEMA designated velocity zone.

5.8 Estimated Habitat and Protected Species

The Massachusetts Natural Heritage Atlas of Estimated Habitats of Rare Wetland Wildlife, Certified Vernal Pools and High Priority Sites of Rare Species dated, August 1, 2021, indicates that there are no mapped areas of habitat for protected species or rare communities at the project location.

This project is not located within a mapped NHESP area.

5.8 Area of Critical Environmental Concern (ACEC)

As per the Department of Environmental Managements ACEC program, the site is not located within an Area of Critical Environmental Concern, Waquoit Bay.

The project is not located within Area of Critical Environmental Concern (ACEC).

6.0 SUMMARY

6.1 Performance Standard Metrics

The existing wetland resources, anticipated project impacts and the proposed mitigation measures associated with this project have been fully documented within this Notice of Intent application. Based on the information provided in this application it is asserted that the following project features would result in a benefit to the associated resource area and will not induce cumulative impairment of the subject resource area(s) values and functional characteristics. The project should be approved for the following reasons:

- The project has been designed so that ***the proposed work will result in a net environmental benefit*** when completed and provide for a long-term benefit to the subject resource areas;
- All re-development is within previously legally altered areas;
- The project proposed surface storm runoff management improvements that will eliminate direct storm runoff discharge onto the harbor.
- The project will not cause unacceptable significant or cumulative effect upon the resource area values and has been designed to reduce the probability of requiring future filings for maintenance.
- The project is properly balanced to both preserve the Applicants rights as a marina and waterfront property owner and provide for an overall improvement to the subject resource area values
- The project conforms to the Massachusetts Wetlands Protection Act, (MWPA, M.G.L. Chapter 131, Section 40) and its implementing regulations (310 CMR 10.00) and the Falmouth Wetlands Protection Bylaw, (Chapter 235 of the Code of Falmouth) and the Falmouth Wetland Regulations (FWR 10.00)) and will not cause unacceptable significant or cumulative effect upon the resource area values.

The Applicant has demonstrated and documented evidence that this project meets or exceeds all the relevant performance standards set forth in the governing regulations and respectfully request this project be approved and that an Order of Conditions be issued to the applicant through its representative.

6.2 Contact Information

In an effort to reduce the amount of paper required for filings, the entire application can be emailed upon request to regulatory staff and commission members. Please contact Cape & Islands Engineering, Inc. by phone or email to obtain any paper or digital copies of project information.

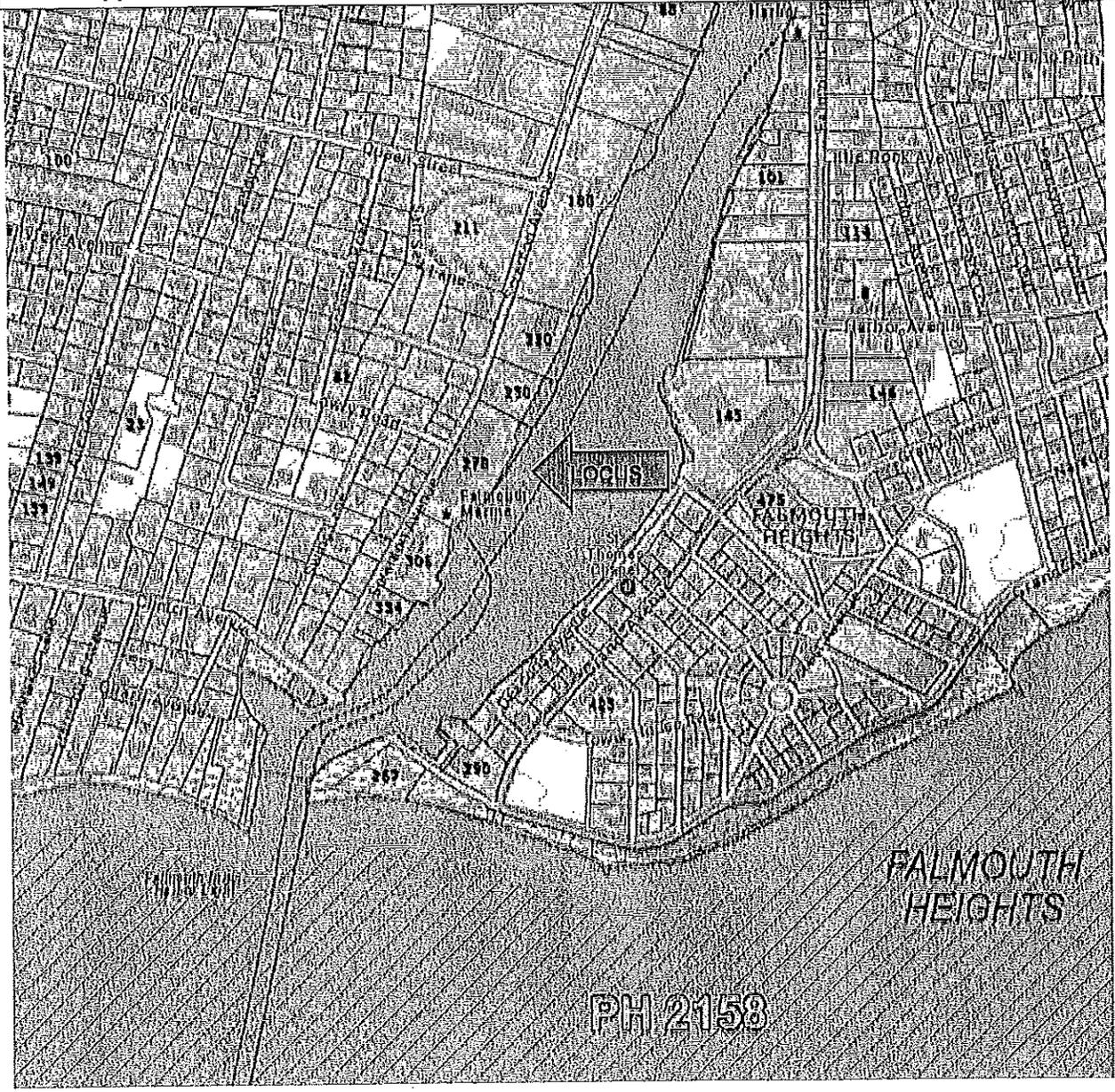
Please contact Jean Duff-Still at 508.477.7272 or jean@capeeng.com for copies of project information.

The Applicants representative:

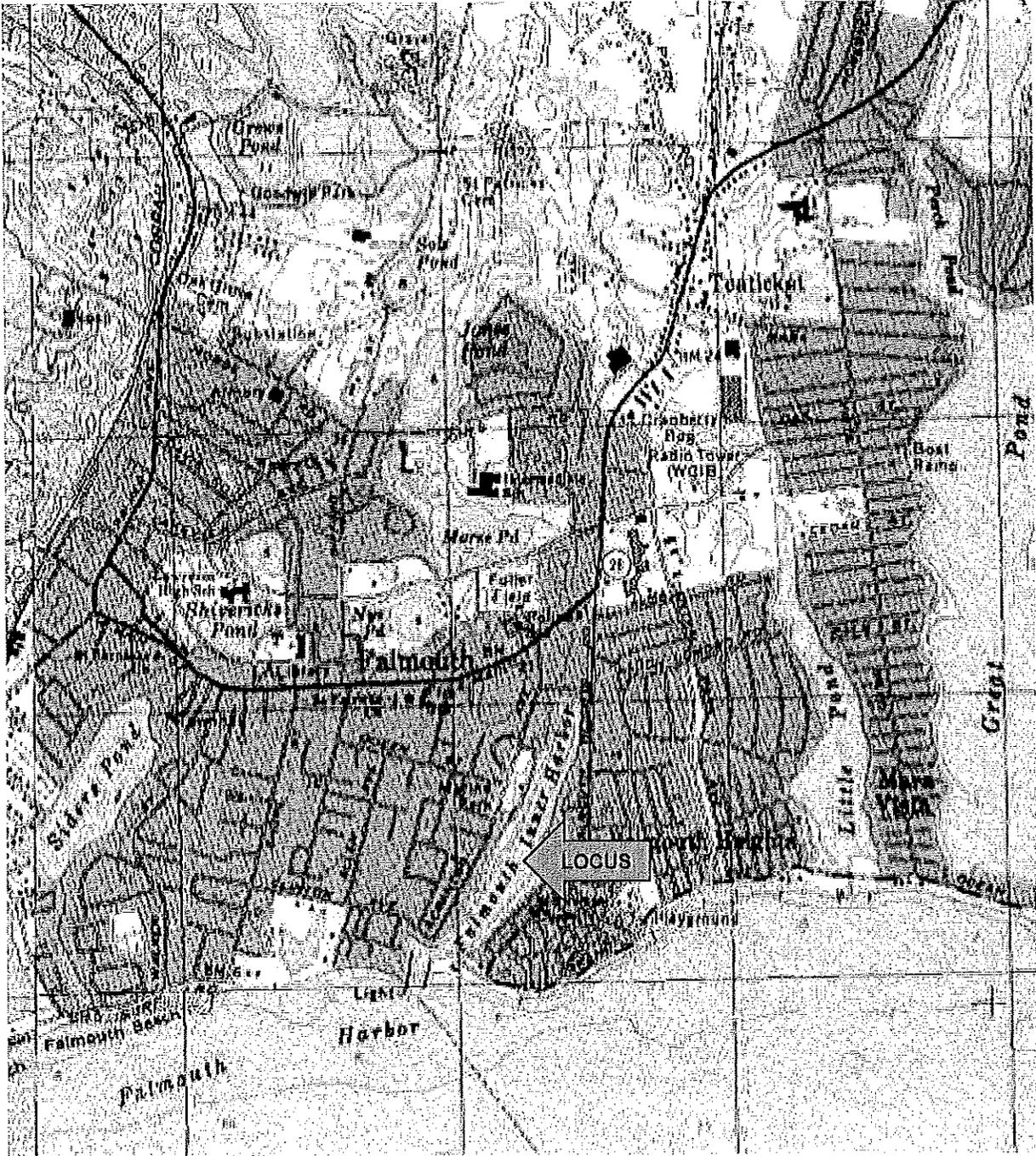
Raul Lizardi-Rivera, P.E.
Director of Engineering
Cape & Islands Engineering, Inc.
800 Falmouth Road, Suite 301C,
Mashpee, MA 02649
508.477.7272 508.477.9072 (fax)
raul@capeeng.com

7. APPENDIXES

7.1 Appendix A – ACEC AND NHESP Map



7.2 Appendix B – Mass USGS Map



7.3 Appendix C – Abutter Affidavit of Service

AFFIDAVIT OF SERVICE

Under the Massachusetts Wetlands Protection Act

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

I, Jean E. Duff-Still, Cape & Islands Engineering, Inc. hereby certify under the pains and penalties of perjury (Name of person making the Affidavit)

that on, July 22, 2022 gave notification to abutters in compliance with the second (Date)

Paragraph of Massachusetts General Laws Chapter 131, Section 40, and the DEP Guide to Abutter Notification,

Dated April 8, 1994, in connection with the following matter:

A Notice of Intent filed under the Massachusetts Wetland Protection Act by

Falmouth Holdings Corporation with the Falmouth (Name of Applicant) (Name of Municipality)

Conservation Commission on July 22, 2022 for the property located at (Date)

278 Scranton Avenue, Falmouth (Address of land where work is proposed)

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

Jean E. Duff-Still, Cape & Islands Engineering, Inc. (Name)

July 22, 2022 (Date)

7.4 Appendix D – Abutter Notification
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**Notification to Abutters Under the Massachusetts Wetlands
Protection Act**

In accordance with the second paragraph of Massachusetts General Laws chapter 131, section 40, you are hereby notified of the following.

The name of the applicant is Falmouth Holdings Corporation

- A. The applicant has filed a Notice of Intent with the Conservation Commission for the municipality of Falmouth seeking permission to remove, fill, dredge or alter an Area subject to Protection under the Wetlands Protection Act (General Laws chapter 131, section 40).
- B. The address of the land where the activity is proposed is at
278 Scranton Avenue, Falmouth, MA
- C. Copies of the Notice of Intent may be examined at: Falmouth Conservation Commission between the hours of 9:00 and 3:00 on the following days of the week: Monday-Friday for more information, call: (508) 495-7445. Check one: This is the applicant representative or other (specify): Falmouth Conservation Commission
- D. Copies of the Notice of Intent may be obtained from either (check one) the applicant [], or the applicant's representative[X], by calling this telephone number (508) 477-7272 between the hours of 8:00 A.M. and 4:00 P.M. on the following days of the week: Monday through Friday.
- E. Information regarding the date, time, and place of the public hearing may be obtained from Falmouth Conservation Commission.
- F. You will be notified by mail and/or by calling this telephone number (508) 495-7445 between the hours of 9:00 AM and 3:00 PM on the following days of the week: Monday-Friday.
- G. Check one: This is the applicant representative or other (specify): Falmouth Conservation Commission

NOTE: Notice of the public hearing, include its date, time, and place, will be published at least five (5) days in advance in the Falmouth Enterprise.

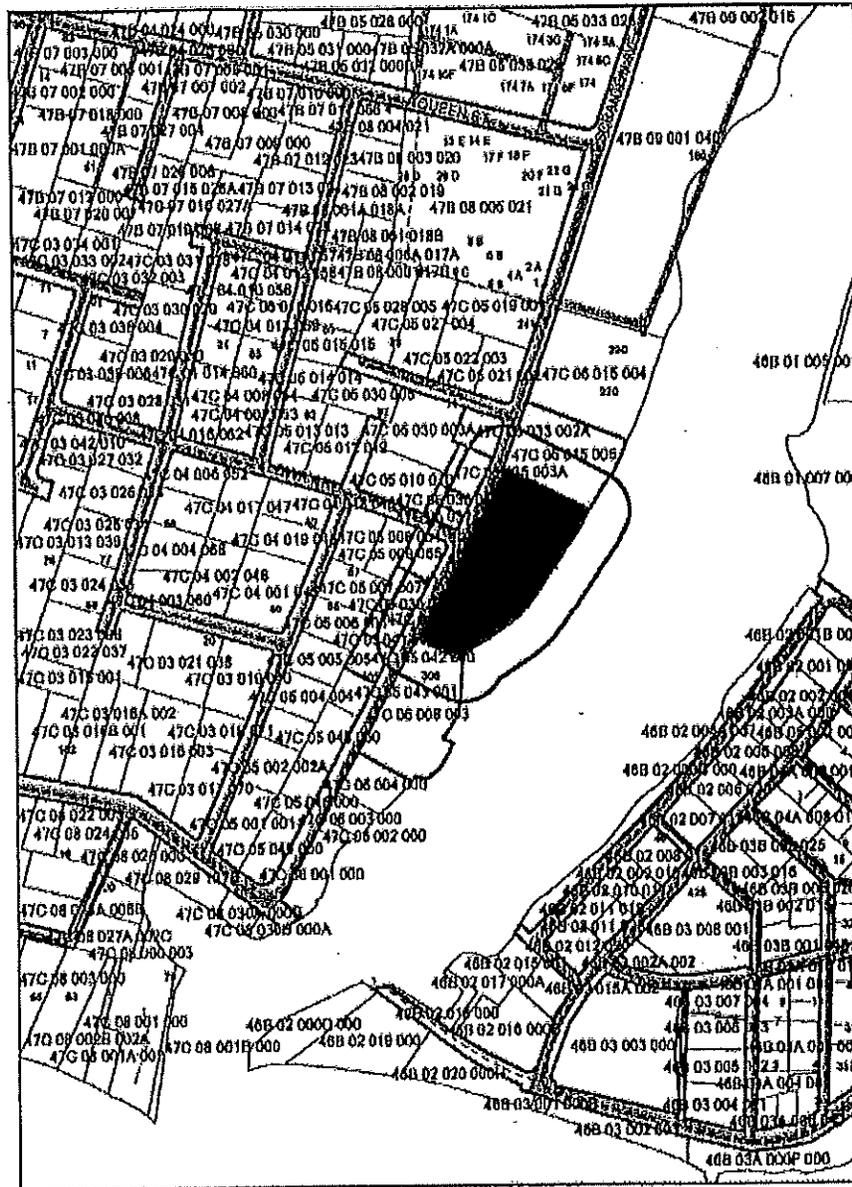
NOTE: Notice of the public hearing, including its date, time, and place, will be posted in the City or Town Hall not less than forty-eight (48) hours in advance.

NOTE: You also may contact your local Conservation Commission or the nearest Department of Environmental Protection Regional Office for more information about this application of the Wetlands Protection Act. To contact DEP, call

Central Region: 508-792 7650 Northeast Region: 617-935-2160
Southeast Region: 508-946-2800 Western Region: 413-784-1100

7.5 Appendix E – Certified Abutters List

278 SCRANTON AVE



253 SCRANTON AVE 47C 05 035 003A
 CONNOLLY MARK LOC: 101
 1701 AVALON WAY
 PLYMOUTH, MA 02360

281 SCRANTON AVE 47C 05 033 002A
 STEEL TRUSTEE JEAN E LOC: 101
 HARKNESS TRUSTEE GAIL A
 251 SCRANTON AVE
 FALMOUTH, MA 02640

0 SCRANTON AVE 47C 05 035 002A
 FALMOUTH HOLDINGS CORP LOC: 132
 278 SCRANTON AVE
 C/O FALMOUTH MARINE
 FALMOUTH, MA 02640-3401

0 SCRANTON AVE 47C 05 037 000
 FALMOUTH HOLDINGS CORP LOC: 132
 278 SCRANTON AVE
 C/O FALMOUTH MARINE
 FALMOUTH, MA 02640-3401

278 SCRANTON AVE 47C 05 012 002
 FALMOUTH HOLDINGS CORP LOC: 384
 278 SCRANTON AVE
 FALMOUTH, MA 02640-3401

278 SCRANTON AVE

CERTIFIED



Bruce Cabral
 Assistant Assessor
 Town of Falmouth, MA
 May 18, 2022

291 SCRANTON AVE 47C 05 040 000
 FERNALD TRUSTEE BEVERLY LOC: 101
 F X MESSINA SR FAMILY IRREV TR
 61 OAK LEDGE DR
 BRAINTREE, MA 02184

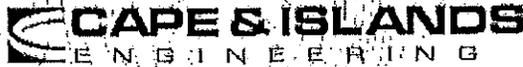
207 SCRANTON AVE 47C 05 030 006A
 KENT TRUSTEE BARRY M LOC: 101
 KENT TRUSTEE VICTORIA J
 207 SCRANTON AVE
 FALMOUTH, MA 02640

306 SCRANTON AVE 47C 05 008 003
 MCKIM TRUSTEE MELISSA LOC: 101
 MCKIM TRUSTEE WILLIAM A
 40 TURNERS WAY
 NORWELL, MA 02061

295 SCRANTON AVE 47C 05 041 000
 PEKENIA JOHN A LOC: 101
 PEKENIA BARBARA F
 295 SCRANTON AVE
 FALMOUTH, MA 02640-3472

280 SCRANTON AVE 47C 05 015 005
 ROBERT TRUSTEE WILLIAM C LOC: 384
 FALCO NOMINEE TRUST
 12 WASHINGTON ST
 WELLESLEY, MA 02481-1772

7.6 Appendix F – Public Hearing Notice



Civil Engineering & Surveying For Greater Cape Cod

The FALMOUTH CONSERVATION COMMISSION will hold a public hearing under Section 40, Chapter 131 of the general laws of the Commonwealth of Massachusetts Wetlands Protection Act and/or the Town of Falmouth Wetlands Protection Bylaw on **Wednesday August 10, 2022 at 7:00 PM.**

In accordance with Chapter 107 of the Acts of 2022, relating to the 2020 novel Coronavirus outbreak, the August 10, 2022, public meeting of the Falmouth Conservation Commission 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 Conservation Commission utilizing the Zoom virtual meeting software for remote access. This application will allow users to view and participate in the meeting. Text comments submitted with the Chat function 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/Conservation>
 - 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 concom@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 Conservation Commission may appear remotely and are not required to be physically present. Applicants, their representatives and individuals with enforcement matters before the Conservation Commission may contact the Conservation Department 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 concom@falmouthma.gov so they may be displayed for remote public access viewing.

Complete applications are available by request and will be sent via email.

REQUESTS FOR A HEARING UNDER A NOTICE OF INTENT

Vincent J. Geoffroy, President, Falmouth Holdings Corporation, 278 Scranton Avenue, Falmouth, MA – For permission to reconstruct the existing waterfront, improvements to replace existing failing timber bulkheads and timber commercial piers. The entire bulkhead is proposed to be replaced with a new bulkhead consisting of composite sheet piles with timber water beams, timber cap, tieback rods, and a new timber dead-man system. The northern most 240 feet of the bulkhead is being re-aligned by constructing the bulkhead approximately 11-feet landward from the current location. Another 75-foot section of the bulkhead south of the travel lift is also being re-aligned and constructed landward from its current location. The re-aligned bulkhead creates approximately 3,600 sf. of new Land Under the Ocean and Land Containing Shellfish which more than offsets the proposed area occupied by the proposed piles of 171 sf. The entire marina consisting of fixed and floating piers will also be removed and reconstructed. The timber travel lift pier is proposed to be replaced with a new reinforced concrete deck travel lift. One existing fix timber pier will be reconstructed in-kind. All other piers are being replaced with floating piers. None of the proposed piers are located further seaward than the existing piers and all structures are located more than 30-feet away from the Army Corps of Engineers Channel. Also proposed for this project is the installation of a concrete boat wash pad with a subsurface non-hazardous dual containment holding tank. Another improvement is the installation of a drainage system in the form of leaching trenches to intercept surface runoff and eliminate the current condition where surface runoff sheds over the bulkhead and into Falmouth Inner Harbor. The existing ticket office building will be removed and replaced with an 18' x 20' building in the upland area of the property. All existing utilities will be removed and reset as necessary for this work.

7.7 Appendix G – Directions to Site

**Falmouth Marine Inc.
279 Scranton Ave, Falmouth, MA**

DIRECTIONS TO THE ABOVE ADDRESS FROM FALMOUTH TOWN HALL:

59 Town Hall Square, Falmouth, MA 02540

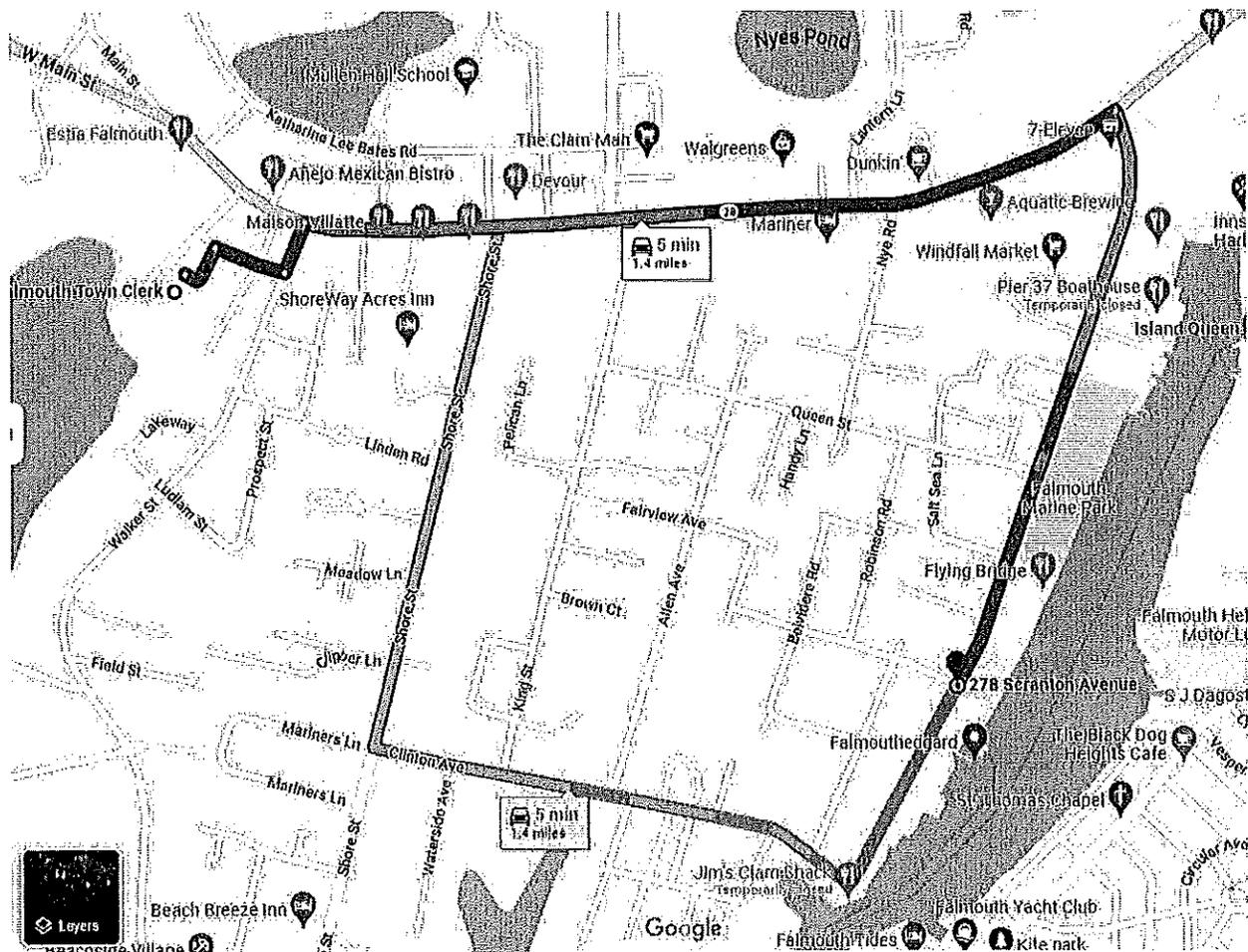
Head northeast on Town Hall Square toward Main St

Turn right onto Main St 0.7 mi

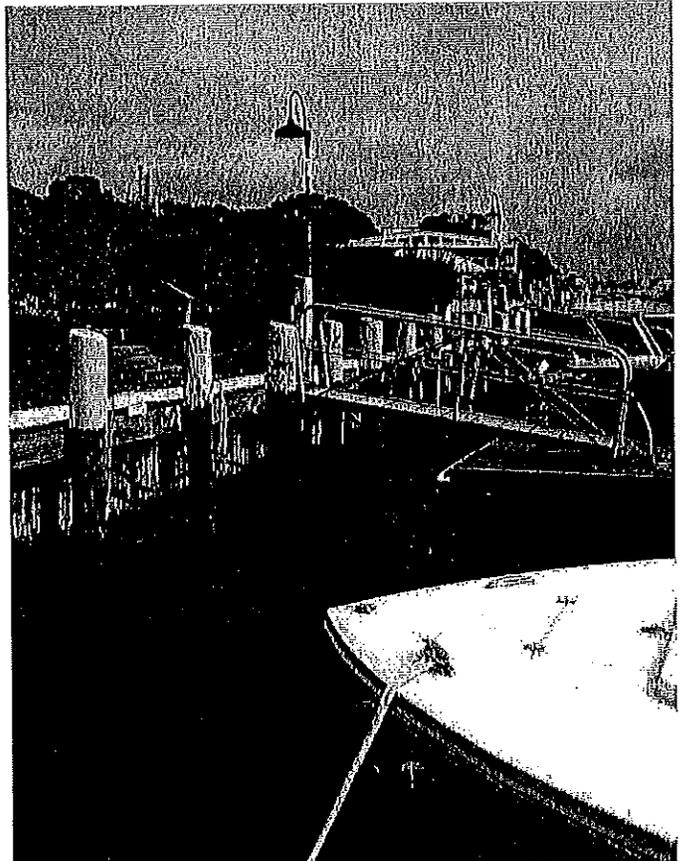
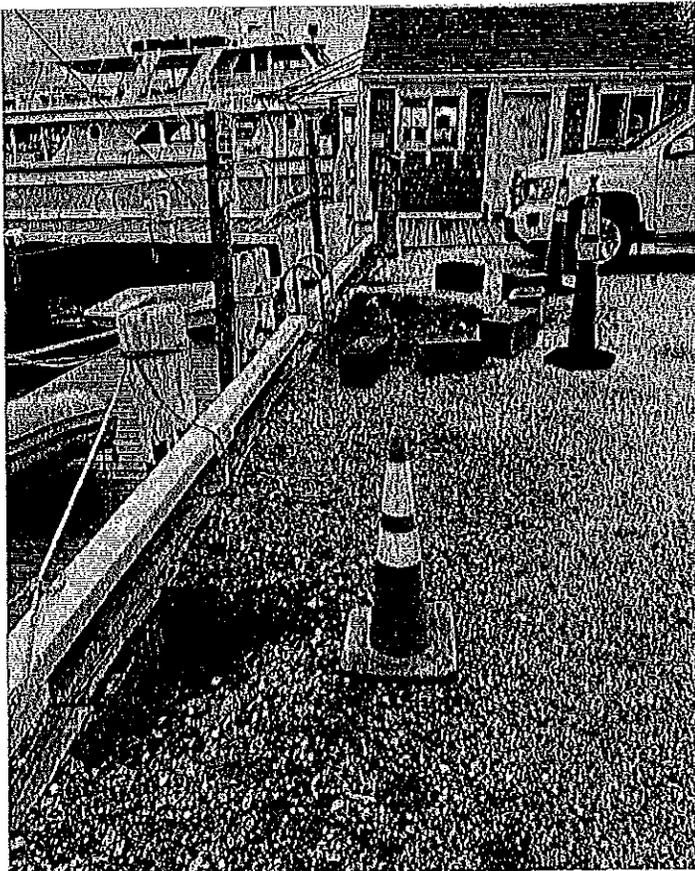
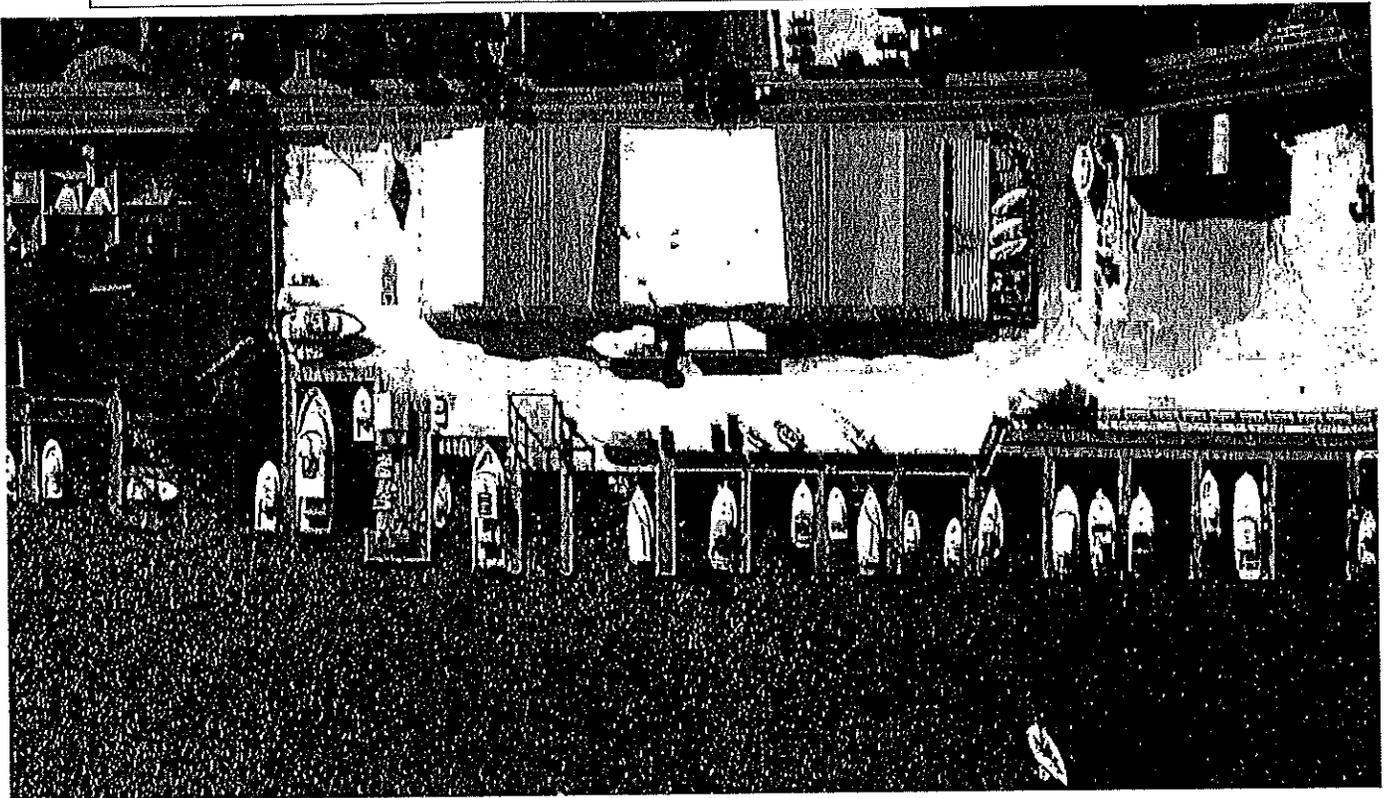
Turn right onto Scranton Ave 0.5 mi

Destination will be on the left

278 Scranton Ave, Falmouth, MA 02540



7.8 Appendix H – Site Photographs



7.9 Appendix I – Stormwater Checklist, Report and Design Calculations

Civil Engineering & Surveying For Greater Cape Cod



**STORMWATER MANAGEMENT REPORT
AND DESIGN CALCULATIONS**

for FALMOUTH MARINE

Project:

Proposed Site Re-Development

Location:

**278 Scranton Avenue
Falmouth, MA 02540**

Owner and Applicant:

**Falmouth Holdings Corporation
c/o Vince Geoffroy
278 Scranton Ave
Falmouth, MA 02540**

July 2022

7.10 Appendix J – Gregg Fraser Comment Letter



MARINE & ENVIRONMENTAL SERVICES
TOWN OF FALMOUTH
180 SCRANTON AVENUE, FALMOUTH, MA 02540
TELE (508) 487-2550 • FAX: (508) 487-2525
TOWN MARINA TELE (508) 487-2551

Falmouth Wetlands – Chapter 235
Wetlands Protection Act MGL 131:40
Harbormaster Inspection Report

Applicant: Vincent Geoffroy
Date on Plan: 6-21-22
Property: 278 Scranton Ave
Assessors Map: 41C-06-012-002
Area of Impact: Falmouth Harbor

**Date of Inspection
and/or Review:** July 16, 2022

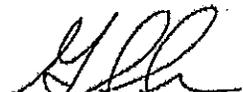
Project Staking: N/A

Navigational Issues: Yes, but adequately addressed by applicant.

Mooring Issues: None

Comments No setback from southern abutter. All activity falls outside the 30' ACOE's channel line.

Recommendation: If approved, add restriction no docked vessel may encroach over the ACOE's channel line as shown on this plan at any time.



Gregg Fraser,
MES Director/Harbormaster

7-16-22
Date

7.11 Appendix K – Charles Martinsen Comment letter



MARINE & ENVIRONMENTAL SERVICES
TOWN OF FALMOUTH
180 SCRANTON AVENUE, FALMOUTH, MA 02540
TEL: (508) 457-2550 • FAX: (508) 467-2525

To: Cape & Islands Engineering
From: Chuck Martinsen
Deputy Director MES / Shellfish Constable
Date: July 21, 2022
Re: 278 Scranton Avenue

Thank you for the opportunity to comment on the proposed plan.

The proposal appears to provide significant improvements and also addresses water runoff from the existing facility, which ultimately should improve water quality within the harbor. Falmouth Harbor has historically been open to the taking of shellfish and is anticipated to be open to the staking of shellfish within one year.

Falmouth Harbor is also an active herring run and this should be considered in the project's timing.

I have no additional comments at this time.

7.12 Appendix L – Plan of Reference



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 25-4779
 MassDEP File #
 1375206
 eDEP Transaction #
 Falmouth
 City/Town

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):

Barnstable
 a. County Barnstable b. Certificate Number (if registered land) 84
 8807
 c. Book 8807 d. Page 84

7. Dates: 07/22/2022 08/10/2022 9/30/2022
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

Site Plan Overall Site Layout
 a. Plan Title Site Plan Overall Site Layout
 Cape and Island Engineering Matthew C. Costa, LSP
 b. Prepared By c. Signed and Stamped by
 08/03/2022 1" = 20'
 d. Final Revision Date e. Scale

f. Additional Plan or Document Title _____ g. Date _____

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. Public Water Supply
- b. Land Containing Shellfish
- c. Prevention of Pollution
- d. Private Water Supply
- e. Fisheries
- f. Protection of Wildlife Habitat
- g. Groundwater Supply
- h. Storm Damage Prevention
- i. Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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B. Findings (cont.)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) _____ a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	_____ a. linear feet	_____ b. linear feet	_____ c. linear feet	_____ d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	_____ a. square feet _____ e. c/y dredged	_____ b. square feet _____ f. c/y dredged	_____ c. square feet	_____ d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
Cubic Feet Flood Storage	_____ e. cubic feet	_____ f. cubic feet	_____ g. cubic feet	_____ h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____ a. square feet	_____ b. square feet		
Cubic Feet Flood Storage	_____ c. cubic feet	_____ d. cubic feet	_____ e. cubic feet	_____ f. cubic feet
9. <input type="checkbox"/> Riverfront Area	_____ a. total sq. feet	_____ b. total sq. feet		
Sq ft within 100 ft	_____ c. square feet	_____ d. square feet	_____ e. square feet	_____ f. square feet
Sq ft between 100-200 ft	_____ g. square feet	_____ h. square feet	_____ i. square feet	_____ j. square feet



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B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input checked="" type="checkbox"/> Land Under the Ocean	<u>171</u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> cu yd c. nourishment	<u> </u> cu yd d. nourishment
14. <input type="checkbox"/> Coastal Dunes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> cu yd c. nourishment	<u> </u> cu yd d. nourishment
15. <input checked="" type="checkbox"/> Coastal Banks	<u>483</u> a. linear feet	<u> </u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u> a. square feet	<u> </u> b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
19. <input checked="" type="checkbox"/> Land Containing Shellfish	<u>171</u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u> </u> a. c/y dredged	<u> </u> b. c/y dredged		
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	<u>8500</u> a. square feet	<u> </u> b. square feet		
22. <input type="checkbox"/> Riverfront Area	<u> </u> a. total sq. feet	<u> </u> b. total sq. feet		
Sq ft within 100 ft	<u> </u> c. square feet	<u> </u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
Sq ft between 100-200 ft	<u> </u> g. square feet	<u> </u> h. square feet	<u> </u> i. square feet	<u> </u> j. square feet



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B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

24. Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on _____ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number 25-4779 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1) is subject to the Massachusetts Stormwater Standards
- (2) is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

see attached

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
2. The Falmouth hereby finds (check one that applies):
 Conservation Commission
- a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw	2. Citation
---------------------------------	-------------

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

<u>Falmouth Wetlands Bylaw</u>	10.00
1. Municipal Ordinance or Bylaw	2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

see attached



FALMOUTH CONSERVATION COMMISSION

59 Town Hall Square, Falmouth, Massachusetts 02540
(508) 495-7445

Vincent Geoffroy, Falmouth Holdings Corp
278 Scranton Ave
DEP #25-4779

FINDINGS:

1. The applicant proposes to reconstruct the existing bulkhead with composite sheet piles, with timber whaler beams, timber cap, tieback rods, and new timber dead-man system. Reconstruct and replace all docks and piers. Replace existing travel lift with reinforced concrete deck travel lift, relocate ticket office, reconstruct boat wash pad with subsurface dual containment tank, and add leaching trenches for stormwater management.
2. Division of Marine Fisheries (DMF) recommends a time of year (TOY) restriction from January 15th to May 31st for all in water silt producing work to protect winter flounder (*Pseudopleuronectes americanus*).
3. Resource areas onsite and within 100 feet of the proposed project include Land Under Ocean, Land Containing Shellfish, Land Subject to Coastal Storm Flowage (LSCSF), Coastal Bank, Salt Marsh and Resource Area Buffer.

INTERESTS

1. Storm Damage Prevention
2. Flood Control
3. Pollution Prevention
4. Protection of fisheries
5. Protection of land containing shellfish
6. Protection of wildlife habitat

STANDARD CONDITIONS

1. Permission is granted to Vincent Geoffroy, Falmouth Holdings Corp, Falmouth, MA, to reconstruct the existing bulkhead with composite sheet piles, with timber whaler beams, timber cap, tieback rods, and new timber dead-man system. Reconstruct and replace all docks and piers. Replace existing travel lift with reinforced concrete deck travel lift, relocate ticket office, reconstruct boat wash pad with

subsurface dual containment tank, and add leaching trenches for stormwater management according to the narrative and plan prepared by Cape and Island Engineering, Inc., dated June 21, 2022 and revised August 3, 2022 and entitled "Site Plan Overall Site Layout" (sheet 1-3) and subject to the following Standard and Special Conditions.

2. This Order is issued pursuant to Mass. General Laws, Chapter 131, sec. 40, the Wetlands Protection Act and Chapter 235 of the Code of Falmouth the Wetlands Bylaw. The Wetlands By-law is more stringent than the Wetlands Protection Act as permitted by that Act. The Conservation Commission reserves the right to impose additional or other conditions to protect the Interests of the Massachusetts Wetlands Protection Act and Falmouth Wetlands Bylaw.
3. The determinations of the Falmouth Conservation Commission are made solely to determine issues arising under the Massachusetts Wetlands Protection Act and the Town of Falmouth Wetlands By-Law, and are therefore concerned exclusively with the question whether any proposed activity will have an adverse effect on the wetlands resource interests listed in the applicable statutes, regulations, by-laws and rules. Nothing contained in this determination is intended in any way to grant to any person any title, easement or other interest in lands, public or private, and the Falmouth Conservation Commission is without legal authority to make any grant of title, easement or other property interest, or to make any determination of property interests. See Tindley v. D.E.Q.E. 10 Mass. App. Ct. 623 (1980).
4. Any work taking place prior to all administrative and legal appeal periods expiring or during the pendency of any such appeal is at the risk of the applicant and/or owner of the property. At the risk of means that should an administrative agency or court find this order and permit were granted in error, all work will have to be restored to its original condition (at the time work was instituted) at the expense of the applicant and/or owner.
5. Issuance of the Order of Conditions does not relieve the permittee from obtaining all other necessary municipal, county, state or federal permits, permission or other approvals required.
6. By the acceptance and recording of this Order, the applicant hereby grants the commission and its duly authorized agents the right to enter onto the land governed by this Order to examine the project and ensure Compliance. Such visits shall be made in a reasonable manner. The Conservation Commission as well as its staff and agents have the authority to issue an Enforcement Order if work does not comply with the terms or intent of the conditions contained herein or the plans herein referenced.
7. The Order of Conditions expires three (3) years from the original date of issuance. Any Amendments to the Order of Conditions **do not** extend the Original Order. You may request an Extension to the original Order of Conditions, in writing, at least 30 days prior to the expiration. Unless otherwise specified, all Conditions cited herein will apply to any and all Amendments to this Order of Conditions.
8. Prior to any work commencing:
 - a. Proof of recording of this Order of Conditions at the Barnstable County Registry of Deeds must be received by the Conservation Commission.
 - b. At least 10 days advance **written** notification shall be provided to the Conservation Commission.

- c. Copies of any other permits and licenses including building permit, special permit, variances, and Chapter 91 license shall be submitted to Conservation Commission.
 - d. The DEP File Number shall be posted on a sign on the street side of the lot and maintained in a visible condition throughout the project. A copy of this Order of Conditions is to be posted onsite, to be maintained in a visible location and condition throughout the project. Copies of this Order of Conditions are also to be provided to all outside contractors, to be kept onsite during work at all times.
9. The Limit of Work shall be replaced as necessary and should to be maintained in good condition throughout the entire construction period. Upon completion of all construction and stabilization of the site, strawbales/silt fencing is to be removed and properly disposed of. No fill is allowed to be placed against or outside the Limit of Work at any time. There shall be no work or storage of materials outside the Limit of Work.
10. The construction site is to be cleaned daily to remove any loose debris and permitted cuttings offsite. Any fill or excavated material not required to backfill and grade to the approved plan of reference shall be immediately removed offsite or to an appropriate upland location noted on the plans.
11. The applicant shall use all means to effectively prevent erosion into the wetland or other Resource Area and to encourage the growth of protective vegetation.
12. Any other proposed activities (alteration, fill, excavation or removal of vegetation) within any Resource Area or within 100 feet of any Resource Area will require that the applicant obtain all necessary permits from the Conservation Commission.
13. Before work can begin (i.e. clearing or construction) the Town of Falmouth Conservation Commission Form(s) 1 and 2 are to be submitted to the Conservation Department, identifying the General Contractor (GC) and other responsible parties and signed by the GC and all other responsible parties confirming that the signatories thereto have read and understand the Order of Conditions and that they jointly and severally take responsibility for compliance with the OOC on site during the life of the project. These documents shall be submitted with the ten (10) day start work notification required by Standard Condition #8(b).
14. Any changes to the plan of record noted in Standard Condition 1 above, no matter how minor in scope, including, but not restricted to, changes in the building footprint and appendages such as decks, addition and/or modification of accessory structures, changes in landscape features such as patios, retaining walls, plantings, removal of vegetation, the modification of finished grades, etc. require that the applicant obtain the permission of the Conservation Commission *before* undertaking the modified work. Depending on the scope of the change, said permission may be obtained by filing for an Administrative Approval, an amended Order of Conditions, or entirely new Notice of Intent. Failure to comply with this condition may subject the applicant to an enforcement order and/or fines.
15. This Order of Conditions will not be fully complied with unless and until a duly executed Certificate of Compliance is recorded or registered, as appropriate, in Barnstable Registry of Deeds. If this Order is based on a professionally rendered drawing then a letter must be submitted from an engineer or architect

certifying full compliance and any deviation from the approved plans, as well as, an "Existing Conditions" plan. This plan shall include ALL structure and landscape features including patios, retaining walls, ornamental plantings, native plantings, AC units, steps, outdoor showers, walkways, etc. Any mitigation trees for the project shall be located and identified to species. Any mitigation shrubs for the project shall be delineated on the plan, labeled as "native buffer shrubs" and the final square footage noted. A request for a Certificate of Compliance shall be made in writing immediately following completion of all work including permanently stabilizing the site with vegetation.

SPECIAL CONDITIONS:

1. Prior to work a onsite meeting shall be held with conservation staff and the applicants representatives and contractors to review construction methodology, sequencing, and access.
2. No in-water, silt producing work shall occur between January 15th and May 31st to protect winter flounder spawning habitat and juveniles.
3. Prior to conducting any work on the property, pre-construction photos shall be taken and submitted to the Conservation department for review. Photos shall be submitted with the 10 day start work notification required by Standard Condition #8(b).
4. All cuttings/debris, etc. are to be kept out of the Resource Areas.
5. The construction site is to be cleaned daily to remove any loose debris.
6. No Certificate of Compliance will be issued until the entire project is completed and the site is permanently stabilized.

VOTE AUTHORIZING SIGNATURES OF COMMISSIONERS

In accordance with the unanimous vote of the Falmouth Conservation Commission, Jennifer L. Lincoln, Conservation Administrator is authorized to sign on behalf of each individual Commissioner as reflected in the recorded Land Court Document: 1,393,706 dated 04-03-2020 9:24 Barnstable Land Court Registry



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E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Please indicate the number of members who will sign this form.
 This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

9/30/22
 1. Date of Issuance
4
 2. Number of Signers

Jennifer L. Lincoln
 Signature
Jamie Mathews
 Signature
Courtney Bird
 Signature
Elizabeth Gladfelter
 Signature
Kevin O'Brien
 Signature

 Signature

 Signature

 Signature

Jennifer L. Lincoln, Conservation Administrator

 Jamie Mathews, Chair
 Printed Name
 Courtney Bird, Vice Chair
 Printed Name
 Elizabeth Gladfelter
 Printed Name
 Kevin O'Brien
 Printed Name

 Printed Name

 Printed Name

 Printed Name

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

9/30/2022 Robert H. Anent
 Date attorney for applicant Date

For Signature Authorization see
 Doc: 1,393,706
 BARNSTABLE LAND COURT REGISTRY



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
25-4779
MassDEP File #
1375206
eDEP Transaction #
Falmouth
City/Town

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

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



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 25-4779
 MassDEP File #
 1375206
 eDEP Transaction #
 Falmouth
 City/Town

G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Conservation Commission

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

To:

Conservation Commission

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

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for: Property Owner

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

Book

Page

In accordance with the Order of Conditions issued on:

Date

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

Instrument Number

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

Document Number

Signature of Applicant



Town of Falmouth Assessing Department

59 Town Hall Square, Falmouth MA 02540

Telephone: 508-495-7380

Fax: 508-495-7384

REQUEST OF CERTIFIED ABUTTERS LIST

Name of person requesting abutters list:

Emily Ganem

Address of person requesting abutters list:

39 Town Hall Square

Falmouth MA 02540

Phone: 508 540 6555

Abutters to (subject property):

Map 47C Section 06 Parcel 012 Lot 002 ✓
Map _____ Section _____ Parcel _____ Lot _____
Map _____ Section _____ Parcel _____ Lot _____

Lot size of subject property: 1.95 Acres

Location of subject property: 278 Scranton Ave ✓

Check one:

Direct abutters (includes properties across street)

Direct abutters in local Historic District (includes properties across the street) within 100'

Immediate abutters (includes only properties with a common property line)

Immediate abutters plus churches and schools within 500'

Properties within 300' ✓

Properties within 300' or abutters abutter to abutter whichever is closest

Properties within 100'

Other (specify) _____

Fee. \$25.00

Total

25.00

RECEIVED

AUG 19 2022

Board of Assessors, Town of Falmouth

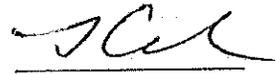
EMAIL emily@amentklauer.com

and

gbruce@amentklauer.com

278 SCRANTON AVE

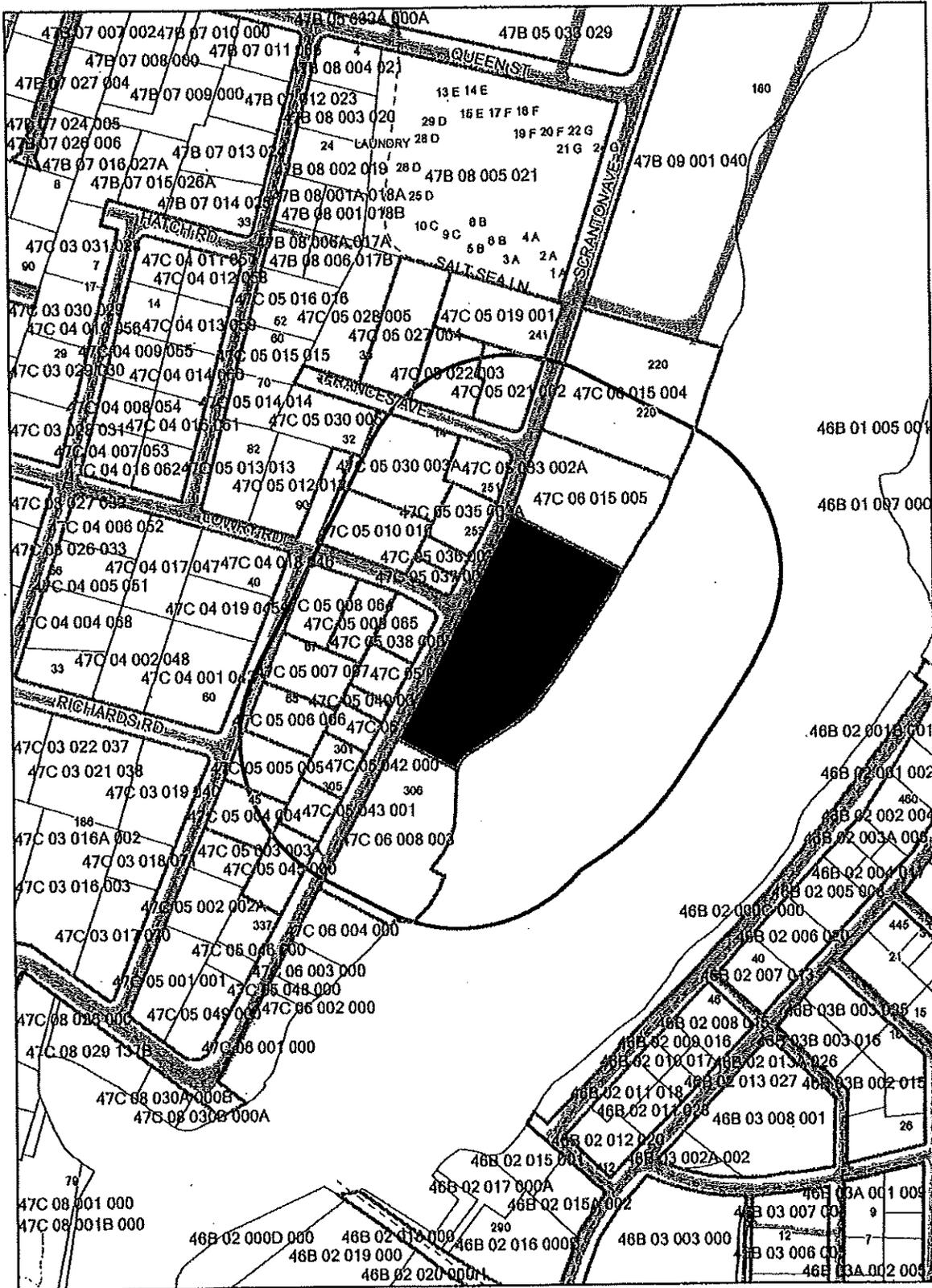
CERTIFIED

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

Bruce Cabral
Assistant Assessor
Town of Falmouth, MA
August 24, 2022

66 SWING LN BARONAS TRUSTEE JANE E GOGUEN TRUSTEE JUDY A 80 SHERWOOD ST ROSLINDALE, MA 02131	47C 05 008 008 LUC: 101	45 SWING LN HARBORWAY CORPORATION 60 SWING LN FALMOUTH, MA 02540	47C 05 004 004 LUC: 101	250 SCRANTON AVE ROBERT TRUSTEE WILLIAM C FALCO NOMINEE TRUST 12 WASHINGTON ST WELLESLEY, MA 02481-1772	47C 08 015 005 LUC: 384
14 LOWRY RD BEARCE TRUSTEE DAVID W BEARCE TRUSTEE ELLEN M 13093 CASTLE HARBOR DR UNIT L 12 NAPLES, FL 34110	47C 05 009 065 LUC: 101	57 SWING LN HARBORWAY CORPORATION 80 SWING LN FALMOUTH, MA 02540	47C 05 005 005 LUC: 106	67 SWING LN SCARLATA STEVEN J SCARLATA ANNMARIE T 67 SWING LN FALMOUTH, MA 02540	47C 05 007 007 LUC: 101
301 SCRANTON AVE BOUCHARD TRUSTEE MADELEINE 301 SCRANTON AVE FALMOUTH, MA 02540	47C 05 042 000 LUC: 101	0 SCRANTON AVE HARBORWAY CORPORATION 80 SWING LN FALMOUTH, MA 02540	47C 05 045 000 LUC: 130	0 FRANCES AVE SIMMLER CHRISTOPHER R OMALLEY SIMMLER NORINE 152 BELLEVIEW ST WEST ROXBURY, MA 02132	47C 05 021 002 LUC: 130
305 SCRANTON AVE BOYAJIAN JOHN BOYAJIAN STACIA 121 GLAZEN LN WAYLAND, MA 01778	47C 05 043 001 LUC: 101	287 SCRANTON AVE KENT TRUSTEE BARRY M KENT TRUSTEE VICTORIA J 287 SCRANTON AVE FALMOUTH, MA 02540	47C 05 039 000A LUC: 101	15 FRANCES AVE SIMMLER CHRISTOPHER R OMALLEY SIMMLER NORINE 15 FRANCES AVE FALMOUTH, MA 02540	47C 05 022 003 LUC: 101
253 SCRANTON AVE CONNOLLY MARK 1701 AVALON WAY PLYMOUTH, MA 02380	47C 05 035 003A LUC: 101	306 SCRANTON AVE MCKIM TRUSTEE MELISSA MCKIM TRUSTEE WILLIAM A 40 TURNERS WAY NORWELL, MA 02061	47C 08 008 003 LUC: 101	8 LOWRY RD SLOBODKIN ANDREA J 8 LOWRY RD FALMOUTH, MA 02540	47C 05 038 000B LUC: 101
0 SCRANTON AVE FALMOUTH HOLDINGS CORP 278 SCRANTON AVE C/O FALMOUTH MARINE FALMOUTH, MA 02540-3401	47C 05 036 002A LUC: 132	15 LOWRY RD MCNALLY DONALD MCNALLY PAULA E 15 LOWRY RD FALMOUTH, MA 02540	47C 05 010 010 LUC: 101	251 SCRANTON AVE STEEL TRUSTEE JEAN E HARKNESS TRUSTEE GAIL A 251 SCRANTON AVE FALMOUTH, MA 02540	47C 05 033 002A LUC: 101
0 SCRANTON AVE FALMOUTH HOLDINGS CORP 278 SCRANTON AVE C/O FALMOUTH MARINE FALMOUTH, MA 02540-3401	47C 05 037 000 LUC: 132	69 SWING LN MURPHY TRUSTEE JAMES L SWING LN REALTY TR 69 SWING LN FALMOUTH, MA 02540	47C 05 008 064 LUC: 101	14 FRANCES AVE WYMAN PETER J WYMAN JULIE A 14 FRANCES AVE FALMOUTH, MA 02540	47C 05 030 003A LUC: 101
278 SCRANTON AVE FALMOUTH HOLDINGS CORP 278 SCRANTON AVE FALMOUTH, MA 02540-3401	47C 08 012 002 LUC: 384	241 SCRANTON AVE O'CONNELL TRUSTEE N HARBOR SIDE REALTY TRUST 780 E 8TH ST SOUTH BOSTON, MA 02127-3403	47C 05 010 001 LUC: 101		
201 SCRANTON AVE FERNALD TRUSTEE BEVERLY F X MESSINA SR FAMILY IRREV TR 81 OAK LEDGE DR BRAintree, MA 02184	47C 05 040 000 LUC: 101	295 SCRANTON AVE PEKENIA JOHN A PEKENIA BARBARA F 295 SCRANTON AVE FALMOUTH, MA 02540-3472	47C 05 041 000 LUC: 101		
220 SCRANTON AVE FLYING BRIDGE RESTAURANT CORP 12 WASHINGTON ST WELLESLEY HILLS, MA 02481-1772	47C 08 015 004 LUC: 328	0 FRANCES AVE REYNOLDS POWERS TRUSTEE ELIZABETH POWERS TRUSTEE ELIZABETH JEAN 127 FRONT ST UNIT 3 MARBLEHEAD, MA 01945	47C 05 027 004 LUC: 130		

278 SCRANTON AVE



PUBLIC HEARING NOTICE

The Falmouth Select Board will hold a public hearing under Section 240-14.8 (Wetlands Regulations) of the Zoning Bylaws of the Town of Falmouth on Monday, October 24, 2022 at 7:15 p.m. in the Select Board Meeting Room, Falmouth Town Hall, 59 Town Hall Square on the application of Falmouth Holdings Corp. for permission to reconstruct the existing bulkhead (seawall), commercial piers and ticket office building, remove and reset utilities, construct boat wash pad with subsurface holding tank, and construct stormwater management leaching trenches, all within previously, legally altered area at 278 Scranton Ave. (Falmouth Marine and Yachting), Falmouth, MA. Area affected is Falmouth Inner Harbor. Interested parties may review the file on this hearing at the Office of the Select Board.

Per Order of the
Select Board

October 7, 2022

BUSINESS

1. Licenses

- a. Application for a Change of Manager of an All Alcohol Club License – Falmouth Post 70 Inc. Amvets – 336 Palmer Avenue, Falmouth **(5 minutes)**

LICENSE APPLICATION REVIEW FORM

Date: 10/24/22

Restaurant/Business: AMVETS Post 70

Address: 336 Palmer Avenue, Falmouth

License Type: All Alcohol Club License

New or Transfer of License _____

or

Change of License Change of Manager

Application sent to the departments, indicated below, for comment:

Police No objection, but pending fingerprint background check.

Fire No objections.

Building _____

Health _____

Zoning _____

Planning _____

DPW _____

Recreation _____

M.E.S. _____

Communications _____

Beach _____

NOTES:

Applicant has submitted fingerprint at Police Department for background check.



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission

For Reconsideration

LICENSING AUTHORITY CERTIFICATION

Falmouth

City/Town

00097-CL-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

\$12 Club (i.e. restaurant, package store)
 (Annual or Seasonal)
 (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

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:

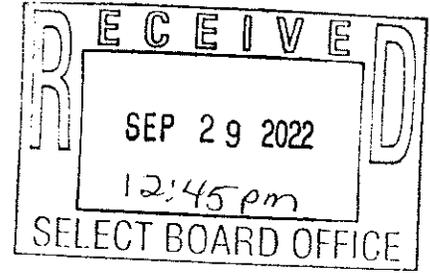
The Local Licensing Authorities By:

Alcoholic Beverages Control Commission
Ralph Sacramone
Executive Director

Rec'd.

Change of Manager

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



PAID

\$110.00 cash

9/29/22



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

RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION
 MONETARY TRANSMITTAL FORM

AMENDMENT-Change of Manager

APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL LICENSING AUTHORITY.

ECRT CODE: RETA

Please make \$200.00 payment here: ABCC PAYMENT WEBSITE

PAYMENT MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL AND INCLUDE THE PAYMENT RECEIPT

ABCC LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)

ENTITY/ LICENSEE NAME

ADDRESS

CITY/TOWN STATE ZIP CODE

For the following transactions (Check all that apply):

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

THE LOCAL LICENSING AUTHORITY MUST SUBMIT THIS APPLICATION ONCE APPROVED VIA THE ePLACE PORTAL

Alcoholic Beverages Control Commission
 95 Fourth Street, Suite 3
 Chelsea, MA 02150-2358



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
Falmouth Post 70 Inc Amvets	Falmouth	00097-CL-0390

2. APPLICATION CONTACT

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

Name	Title	Email	Phone
Guy Patierno	Commander Post 70	[REDACTED]	[REDACTED]

3A. MANAGER INFORMATION

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

Proposed Manager Name	Guy Philip Patierno	Date of Birth	[REDACTED]	SSN	[REDACTED]
Residential Address	[REDACTED]				
Email	[REDACTED]	Phone	[REDACTED]		
Please indicate how many hours per week you intend to be on the licensed premises	10	Last-Approved License Manager	Jeffery Allen Boeder		

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
Feb 12 1996	Still There	Value Stream Manager	IDEX Health & Science	Kris Ikenberry

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	[REDACTED]	Date	[REDACTED]
---------------------	------------	------	------------

APPLICANT'S STATEMENT

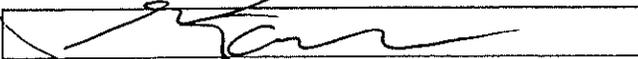
I, Guy Phillip Patierno the: sole proprietor; partner; corporate principal; LLC/LLP manager
Authorized Signatory
of Falmouth Post 70 Inc Amvets
Name of the Entity/Corporation

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:

9/26/2022

Title:

Commander Post 70 Falmouth Amvets

ENTITY 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,

For Corporations ONLY
A true copy attest,

Corporate Officer /LLC Manager Signature

Corporation Clerk's Signature

(Print Name)

(Print Name)



To whom it may concern,

26-Sep-2022

This letter hereby certifies that the executive board of Amvets Post 70 Falmouth met on Thursday September 22nd at 6pm. At that time, we voted on the following agenda items as related to the change of manager for our existing liquor license.

- Guy Philip Patierno is authorized to execute on the entities behalf (Falmouth Post 70 Inc Amvets), and any necessary papers and do all things required to have the application granted.
- Guy Philip Patierno is appointed as Falmouth Post 70 Inc Amvets manager of record and hereby is granted full authority and control of all business therein as the licensee itself could in any way have and exercise.

The board Voted unanimously in favor on both accounts.

Guy Philip Patierno

Commander

Falmouth Post 70 Inc Amvets

Roy Rose

1st Vice Commander

Falmouth Post 70 Inc Amvets

Jeff Boeder

Current License Manager

Falmouth Post 70 Inc Amvets

Certificate of Completion

This Certificate of Completion of
eTIPS On Premise 3.1
For coursework completed on September 26, 2022
provided by Health Communications, Inc.
is hereby granted to:

Guy Patierno

Certification to be sent to:

**336 Palmer Ave
Falmouth MA, 02540-2862 USA**



HEALTH COMMUNICATIONS INC.



This document is not proof of TIPS certification. It signifies only that you have completed the course. Valid certification documents will be forwarded to you.

PUBLIC HEARINGS

2. Application for an Alteration of Premises of an All Alcoholic Common Victualler License – Buca Corp. d/b/a Bucatino Restaurant & Wine Bar, 7 Nathan Ellis Highway **(10 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

LIQUOR LICENSE HEARING

Notice is hereby given under Chapter 138 of the General Laws, as amended, that Buca Corp. d/b/a Bucatino Restaurant and Wine Bar has applied for an Alteration of Premises to its All Alcoholic Beverages Common Victualler License to be exercised at 7 Nathan Ellis Highway, North Falmouth, MA.

A hearing will be held in the Select Board's Meeting Room, Falmouth Town Hall on Monday, October 24, 2022, at 7:15 p.m. on the above application.

Per order of the Select Board

LICENSING BOARD

Douglas C. Brown

Nancy R. Taylor

Samuel H. Patterson

Megan E. English Braga

Onjalé Scott Price

Publication date: Friday, October 14, 2022; Falmouth Enterprise

LICENSE APPLICATION REVIEW

Restaurant/Business: Buca Corp. dba Bucatino Restaurant & Wine Bar

Address: 7 Nathan Ellis Highway

License Type: All Alcohol Common Victualler

New or Transfer of License _____

or

Change of License Alteration of Premises

Police No objections

Fire No objections

Building _____

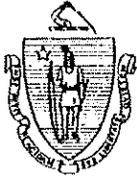
Health Fine as long as no increase in seating

Zoning Special Permit #021-22 allows the outdoor seating requested provided there is no increase in seating

Planning _____

DPW _____

NOTES: The Building Commissioner approved the floor plan and site plan



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission

For Reconsideration

LICENSING AUTHORITY CERTIFICATION

Falmouth

City/Town

00223-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:

Granted under Special Legislation? Yes No

If Yes, Chapter of the Acts of (year)

\$12 Restaurant Annual All Alcoholic Beverages

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

DESCRIPTION OF PREMISES Complete description of the licensed premises

One story building, first floor to be licensed, 4 rooms including the main dining room (seats 84), the Oak room (seats 40), the patio (seats 65) and the Lounge (seats 30), 1 entrance and 7 exits (12,000 sq. ft); basement for offices and storage (5,000 sq. ft). Total sq. ft = 12,200.

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/abec

AMENDMENT-Change or Alteration of Premises Information

Change of Location

- Payment Receipt
- Monetary Transmittal Form
- Chg of Location/Alteration of Premises Application
- Financial Statement
- Vote of the Entity
- Supporting financial records
- Legal Right to Occupy
- Floor Plan
- Abutter's Notification
- Advertisement

Alteration of Premises

- Payment Receipt
- Monetary Transmittal Form
- Chg of Location/Alteration of Premises Application
- Financial Statement
- Vote of the Entity
- Supporting financial records
- Legal Right to Occupy
- Floor Plan
- Abutter's Notification
- Advertisement

1. BUSINESS ENTITY INFORMATION

Entity Name	Municipality	ABCC License Number
Buca Corp.	Falmouth	00223-RS-0390

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

Alter the existing licensed premises to include an outdoor bar with seating for sixteen (16), an outdoor patio with seating for thirty-two (32) and the renovation of the existing restaurant to include a new prep area off of the existing kitchen. Additionally, the interior seating will be reconfigured to include a main dining room with seventy (70) seats (originally 84), private dining room known as the Oak Room with thirty (30) seats (originally 40), function room (formerly known as the Patio) with seventy-two (72) seats (originally 65), and the Lounge with thirty-six (36) seats (originally 30).

APPLICATION CONTACT

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

Name	Title	Email	Phone
Jon D. Aleta, Esquire	Attorney	jaleta@mqmlp.com	(617) 946-4600

2. ALTERATION OF PREMISES

2A. DESCRIPTION OF ALTERATIONS

Please summarize the details of the alterations and highlight any specific changes from the last-approved premises.

Alterations consist of a new outdoor bar with seating for sixteen (16), an outdoor patio with seating for thirty-two (32) and a new prep area off of the existing kitchen. The interior seating will be reconfigured to include a main dining room with seventy (70) seats (originally 84), private dining room known as the Oak Room with thirty (30) seats (originally 40), function room (formerly known as the Patio) with seventy-two (72) seats (originally 65), and the Lounge with thirty-six (36) seats (originally 30). Inside seating will be reduced to allow for an increase in outdoor seating. However, there will be no increase in the total allowed seating, which will remain at 256 seats.

2B. PROPOSED DESCRIPTION OF PREMISES

Please provide a complete description of the proposed premises, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. You must also submit a floor plan.

One story building, first floor to be licensed, 4 rooms including main dining room (seats 70), private dining room known as the Oak Room (seats 30), function room (seats 72) and the Lounge (seats 36); kitchen and prep area; 1 entrance and 8 exits (12,200 sq. ft.); basement for offices and storage (5,000 sq. ft.). Outdoor patio (seats 32) and outdoor bar (seats 16).

Total Sq. Footage	17,200	Seating Capacity	256	Occupancy Number	269
Number of Entrances	1	Number of Exits	8	Number of Floors	2

AMENDMENT-Change or Alteration of Premises Information

3. CHANGE OF LOCATION

3A. PREMISES LOCATION

Last-Approved Street Address

Proposed Street Address

3B. DESCRIPTION OF PREMISES

Please provide a complete description of the premises to be licensed, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. You must also submit a floor plan.

Total Sq. Footage	<input type="text"/>	Seating Capacity	<input type="text"/>	Occupancy Number	<input type="text"/>
Number of Entrances	<input type="text"/>	Number of Exits	<input type="text"/>	Number of Floors	<input type="text"/>

3C. OCCUPANCY OF PREMISES

Please complete all fields in this section. Please provide proof of legal occupancy of the premises. (E.g. Deed, lease, letter of intent)

Please indicate by what means the applicant has to occupy the premises

Landlord Name

Landlord Phone Landlord Email

Landlord Address

Lease Beginning Date Rent per Month

Lease Ending Date Rent per Year

Will the Landlord receive revenue based on percentage of alcohol sales? Yes No

4. FINANCIAL DISCLOSURE

Associated Cost(s): (i.e. Costs associated with License Transaction including but not limited to: Property price, Business Assets, Renovations costs, Construction costs, Initial Start-up costs, Inventory costs, or specify other costs):

Associated Cost(s): Renovation costs for the build-out of the outdoor bar and new kitchen prep area as well as new equipment and furniture is estimated to be

SOURCE OF CASH CONTRIBUTION

Please provide documentation of available funds. (E.g. Bank or other Financial institution Statements, Bank Letter, etc.)

Name of Contributor	Amount of Contribution
The Cooperative Bank of Cape Cod	
Total	

SOURCE OF FINANCING

Please provide signed financing documentation.

Name of Lender	Amount	Type of Financing	Is the lender a licensee pursuant to M.G.L. Ch. 138.
The Cooperative Bank			<input type="radio"/> Yes <input type="radio"/> No
of Cape Cod		[REDACTED]	<input type="radio"/> Yes <input checked="" type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No
			<input type="radio"/> Yes <input type="radio"/> No

APPLICANT'S STATEMENT

I, Robert C. Jarvis the: sole proprietor; partner; corporate principal; LLC/LLP manager
Authorized Signatory

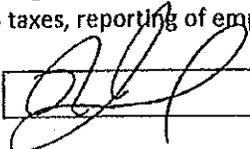
of Buca Corp.
Name of the Entity/Corporation

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:

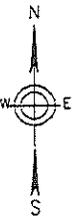
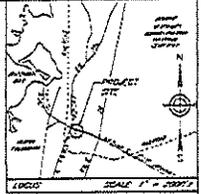
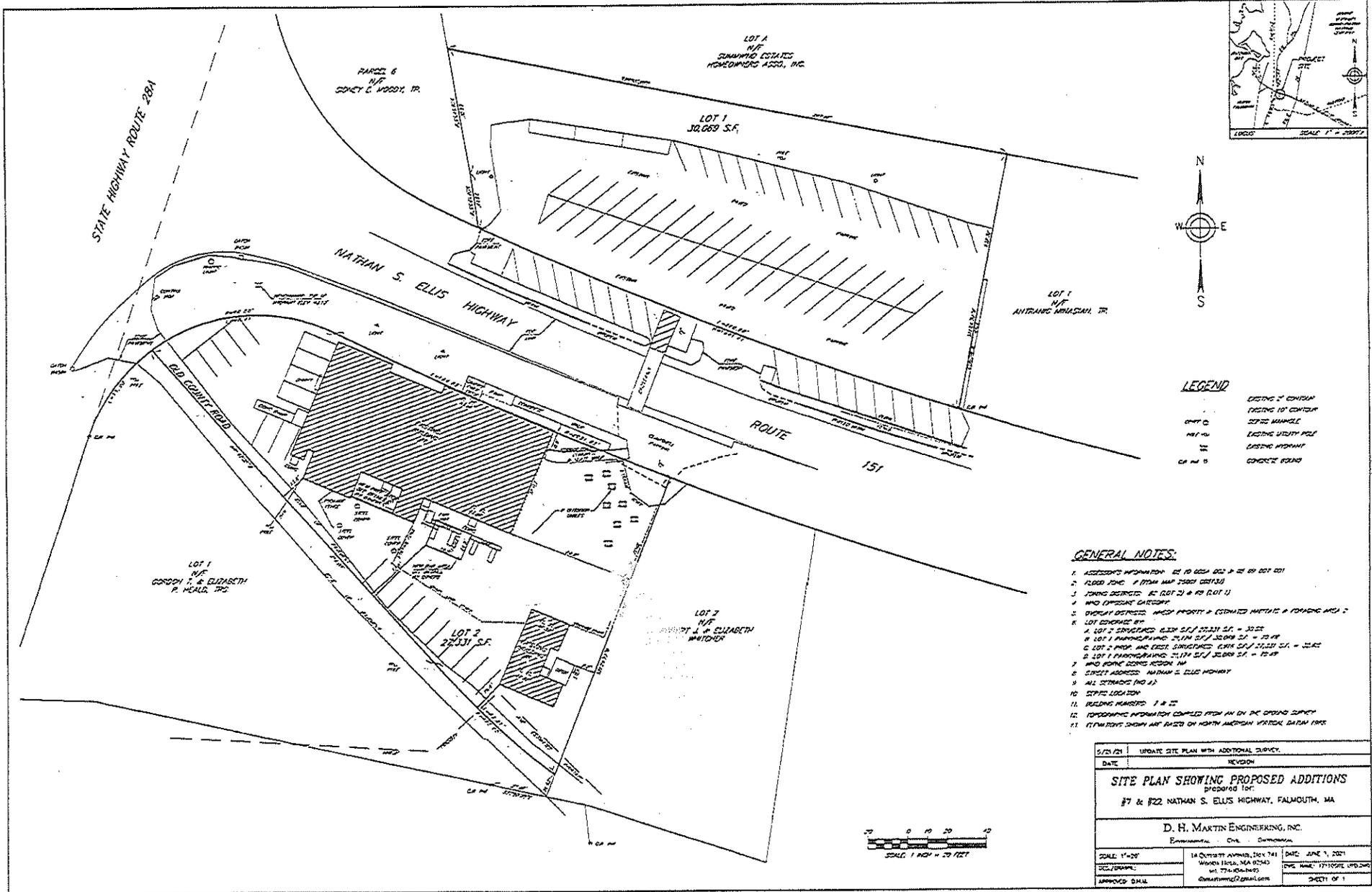


Date:

9/13/2022

Title:

President

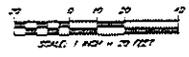


LEGEND

EXISTING 2" CONCRETE	EXISTING 2" CONCRETE
EXISTING 10" CONCRETE	EXISTING 10" CONCRETE
EXISTING MANHOLE	EXISTING MANHOLE
EXISTING UTILITY POLE	EXISTING UTILITY POLE
EXISTING MIDWAY	EXISTING MIDWAY
CONCRETE FOUND	CONCRETE FOUND

- GENERAL NOTES:**
1. ACCESSORY INFORMATION: SEE TO BEA 002 & 01 BY 001 001
 2. FLEED ZONE: F (FIRM MAP 3500 00130)
 3. ZONING DISTRICT: BC (LOT 2) & R3 (LOT 1)
 4. WIND EXPOSURE CATEGORY: II
 5. DIVERSITY DISTRICT: HIGH PRIORITY & ESTIMATED PARTIAL & FORWARD AREA 2
 6. LOT COVERAGES BY:
 - A. LOT 1 STRUCTURED: 0.33% S.F. / 28,333 S.F. = 30.0%
 - B. LOT 1 UNSTRUCTURED: 21.14% S.F. / 30,000 S.F. = 70.4%
 - C. LOT 2 PROP. AND EXIST. STRUCTURED: 0.00% S.F. / 28,333 S.F. = 0.0%
 - D. LOT 2 UNSTRUCTURED: 21.14% S.F. / 30,000 S.F. = 70.4%
 7. WIND BLOWING RECORD: N/A
 8. STREET ADDRESS: NATHAN S. ELLIS HIGHWAY
 9. ALL STRUCTURES (NO 1)
 10. SITE LOCATION
 11. BUILDING HEIGHTS: 1 & 2
 12. TOPOGRAPHIC INFORMATION OBTAINED FROM AN ENR DC CROSS SECTION
 13. ELEVATIONS SHOWN ARE BASED ON NORTH AMERICAN VERTICAL DATUM 1985

5/21/21	UPDATE SITE PLAN WITH ADDITIONAL SURVEY
DATE	REVISION
SITE PLAN SHOWING PROPOSED ADDITIONS	
prepared for:	
77 & 722 NATHAN S. ELLIS HIGHWAY, FALMOUTH, MA	
D. H. MARTIN ENGINEERING, INC.	
Environmental Civil Construction	
SCALE: 1"=20'	18 QUINCY AVENUE, BOX 741
DATE: JUNE 1, 2021	FALMOUTH, MA 01904
DATE: JUNE 17, 2021	TEL: 781-338-1000
APPROVED: DMH	DMH/DMH/DMH/DMH
	SHEET OF 1





APPLICANT: BUCA Corp. dba Bucatino Restaurant & Wine Bar

ADDRESS: 7 Nathan Ellis Highway, North Falmouth, MA

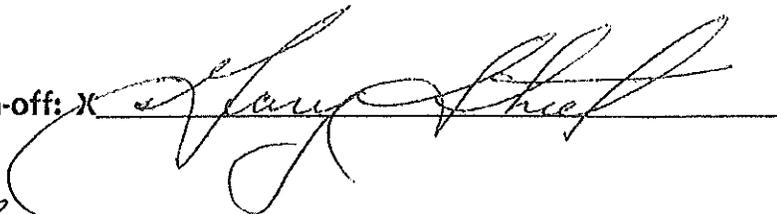
LICENSE OR LICENSE CHANGE APPLIED FOR: _____
Extend/Add licensing for outdoor seating and bar as approved by the ZBA

The attached application has been reviewed by the Building Commissioner's Office with the following supporting documents:

- a. A seating plan completed and stamped by an Engineer or Architect and showing the occupancy load calculation.
- b. If any outdoor seating, a plot plan or site plan by a certified land surveyor. Must include parking

NOTES:

Building Department sign-off: X



DATE:

6-3-22

COMMERCIAL LEASE AGREEMENT

This Agreement and Lease (herein "Agreement" or "Lease") is made this 28th day of April 2016, by and between BUCA NOMINEE TRUST, under declaration of Trust dated April 28, 2016 with a mailing address of 64 Clubhouse Drive, Pocasset, Massachusetts 02559 (herein "LESSOR") and BUCA CORP., a duly organized Massachusetts corporation with a mailing address of 7 Nathan Ellis Highway, North Falmouth, Massachusetts 02556. (herein "LESSEE")

Whereas, the LESSOR owns the building and land at 7 and 22 Nathan Ellis Highway, North Falmouth, Massachusetts 02556. as reflected in the deed recorded with the Barnstable Registry of Deeds (herein referred to as "the property"), and

Whereas, the LESSEE seeks to lease a portion of the Property more specifically described below and LESSOR is willing to lease said portion of the Property to the LESSEE;

Now therefore, the parties agree as follows:

1. PREMISES

The leased Premises consist of a restaurant/commercial building and parking areas, collectively known as 7 and 22 Nathan Ellis Highway, North Falmouth, Massachusetts 02556.

2. TERM

The term of the lease shall be for ten (10) years commencing July, 2016 and terminating July, 2025, subject to rights of renewal as set forth herein.

3. BASE RENT

The initial rent shall be as follows:

During the first ten years of the lease, rent shall be \$ _____ (0.00)
each year, payable monthly in increments of _____ ie 15th day of each
month;

a. Payment of Rent. LESSEE shall pay LESSOR without notice, demand, deduction, or offset, in lawful money of the United States, the monthly Base Rent stated in Paragraph 2 in advance on or before the fifteenth day of each month during the Lease term beginning on the Commencement Date, and shall also pay any other additional payments due to LESSOR ("Additional Rent"), including Operating Costs (collectively the "Rent") when required under this Lease. Payments for any partial month at the beginning or end of the Lease shall be prorated. All payments due to LESSOR under this Lease, including late fees and interest, shall also constitute Additional Rent, and upon failure of Tenant to pay any such costs, charges or expenses, LESSOR shall have the same rights and remedies as otherwise

major health risks, especially for children. These emissions can sometimes occur even when the appliances are not in use. Small leaks at gas pipe connections have been found in most homes. The indoor NO2 levels while cooking can be two to three times higher than the allowable outdoor standard of NO2 emission exposure. And these pollutants linger, enter your lungs, and spread through the whole house. They have been found even in bedrooms when the doors were closed. California and other states are advancing legislation to prohibit gas appliances in buildings.

Electric lighting.

Replace all non-LED bulbs with LEDs.

Check out <http://www.masssave.com> for significant rebates and incentives for appliances, heating and cooling systems, smart thermostats, LED light bulbs and weatherization.

Hilda Maingay and Earle Barnhart run The Green Center, a nonprofit educational institute in Hatchville that evolved from The New Alchemy Institute.

the cell service in the building is so bad that teachers cannot reach the front office or emergency services if needed. While texts occasionally go through, most calls do not connect at all, she said.

Dr. Duerr said this has become a problem recently because the teachers have an online system for accounting for students called Navigate. It is akin to a digital hall pass, and teachers use it when students come and go from classrooms. However, because the school building is fortified as an emergency shelter, this impedes

The request is for a one-time \$250,000 expenditure and falls under the town's capital improvement plan. Member Peter Hargraves said teenagers and students are already on their phones too much. He said it might not be a good thing for students to be able to make calls or go on the internet during class.

"We have strategies to deal with that," Dr. Duerr said, adding that this particular issue has been ongoing and teachers can manage it.

WHOI Honored With Energy-Efficiency Award

Woods Hole Oceanographic Institution was selected as a 2022 Mass Save Climate Leader. It is one of 19 commercial and industrial organizations across the commonwealth to receive this recognition.

With the help of the sponsors of Mass Save, WHOI has made investments in energy efficiency, reduced the institution's carbon

footprint and curbed greenhouse gas emissions. Specific projects and initiatives include LED lighting installations in 50 campus buildings, Energy Star freezer upgrades, occupancy sensors installed in laboratory fume hoods, building efficiency improvements, solar rooftop installations and maintenance of 45 bikes for a bike loaner program.

Legal Notices

LIQUOR LICENSE HEARING

Notice is hereby given under Chapter 138 of the General Laws, as amended, that Buca Corp. d/b/a Bucalino Restaurant and Wine Bar has applied for an Alteration of Premises to its All Alcoholic Beverages Common Victualler License to be exercised at 7 Nathan Ellis Highway, North Falmouth, MA.

A hearing will be held in the Select Board's Meeting Room, Falmouth Town Hall on Monday, October 24, 2022, at 7:15 p.m. on the above application.

Per order of the Select Board

LICENSING BOARD
Douglas C. Brown
Nancy R. Taylor
Samuel H. Patterson
Megan E. English Braga
Onjalé Scott Price

Publication date: Friday, October 14, 2022;
Falmouth Enterprise

October 14, 2022

Falmouth Zoning Board of Appeals Notice of Public Hearing for November 3, 2022

Notice is hereby given of the following **Public Hearing @ 6:30pm and Open Meeting** in the Select Board's Meeting Room, Town Hall, Falmouth, MA, on **Thursday, November 3, 2022**

Application #085-22 Mario Kula and Josephine D'Angelo: Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-3. C. and 240-69. E. of the Code of Falmouth to raze and rebuild the non-conforming, single family dwelling on subject property known as 9 Sycamore Street, Teaticket, Ma.

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 Conservation Commission may appear remotely and are not required to be physically present. Applicants, their representatives, and individuals with enforcement matters before the Conservation Commission may contact the Conservation Department 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 concom@falmouth-ma.gov so they may be displayed for remote public access viewing.

Complete applications are available by request and will be sent via email.

REQUESTS FOR DETERMINATION OF APPLICABILITY

Dan Solien and Kris Horiuchi, 91 Atamansit Road, Falmouth, MA – For permission to replace an existing terrace and sidewalk, remove two trees and a portion of the existing terrace, install a drip strip, and install native plantings.

Stephen P. Bowen, 24 Boston Street, Falmouth, MA – For permission to raze an existing dwelling and to construct a new dwelling, reconfigure the driveway, and install drywells.

REQUESTS FOR A HEARING UNDER A NOTICE OF INTENT

Ronald Simons, Mgr., Hammond Pond Parkway LLC, 14 Ridge Road, Falmouth, MA – For permission to replace decking, and to replace and relocate two float sections on an existing, licensed pier.

By Order of: Jamie Mathews, Chairman

new exterior doors
22.220187 Robert Lytle, 594 West Falmouth Hwy – Modification of previously approved decision for house and barn

On behalf of the Falmouth Historical Commission

October 14, 2022

Falmouth Zoning Board of Appeals Notice of Public Hearing for October 27, 2022

Notice is hereby given of the following **Public Hearing @ 6:30pm and Open Meeting** in the Select Board's Meeting Room, Town Hall, Falmouth, MA, on **Thursday, October 27, 2022**

Application #076-22 Blue Moon Sea Grille, Inc.: Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-107. B. to allow a parking reduction for the proposed restaurant. The subject property is 159 Main Street, Falmouth, Ma.

Application #077-22 Sarah M. Adams: Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-3 C. and 240-69 E. of the Code of Falmouth to construct an addition to the nonconforming dwelling, increasing lot coverages by structures on subject property known as 36 Beach Rose Lane, North Falmouth, Ma.

Application #078-22 Alison Brown and Eugene Garofalo: Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-3 C. and 240-69 E. of the Code of Falmouth to raze the existing dwelling and garage and rebuild with attached garage and a pool; exceeding 20% lot coverages by structures on subject property known as 94 Seapit Road, East Falmouth, Ma.

Application #079-22 Gaetano Fodera and Maria Pia Fodera: Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-3 C. of the Code of Falmouth to raze

Phyllis Downey

From: Noreen Stockman
Sent: Wednesday, September 21, 2022 9:41 AM
To: Phyllis Downey
Subject: RE: Buca Corp-Bucatino-ALTERATION of PREMISES 10.24.22.pdf

ZBA granted a Special Permit #012-22 to construct a small in-fill addition, and allow installation of outdoor bar + seating. Total seating is strictly limited to 256 (BOH and the ZBA granted a parking reduction).

Sincerely,

Noreen H. Stockman
Zoning Administrator
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540
508-495-7462

From: Phyllis Downey <phyllis.downey@falmouthma.gov>
Sent: Tuesday, September 20, 2022 3:31 PM
To: Brian Reid <brian.reid@falmouthpolicema.gov>; Sean Doyle <sean.doyle@falmouthpolicema.gov>; Boyd Demello <boyd.demello@falmouthfirema.gov>; Scott McGann <scott.mcgann@falmouthma.gov>; Gary Street <gary.street@falmouthma.gov>; Noreen Stockman <noreen.stockman@falmouthma.gov>; Falmouth Planning <planning@falmouthma.gov>
Cc: Pamela Marshall <pamela.marshall@falmouthma.gov>; Katie Pierias <katie.pierias@falmouthma.gov>; Linda Kinchla <linda.kinchla@falmouthma.gov>; Morgan Cardoso <morgan.cardoso@falmouthma.gov>
Subject: Buca Corp-Bucatino-ALTERATION of PREMISES 10.24.22.pdf

Good afternoon,

Attached please find an application by Bucatino Restaurant & Wine Bar located at 7 Nathan Ellis Highway for an Alteration of Premises. The plans have been reviewed and approved by the Building Commissioner.

Please note that the Floor Plan shows 32 outdoor seats, however the location shown is not the actual location of the seats. Please see the Site Plan on the next page for the location of the eight tables of four which are around the corner of the building from the proposed outdoor bar, marked by a yellow arrow.

Inside seating will be reduced to allow for an increase in outdoor seating but at no time will the number of seats exceed the 256 per the Certificate of Inspection.

The Select Board will review this application on October 24th. May we please have your recommendations for the Board by Wednesday, October 19th?

Thank you,
Phyllis



TOWN OF FALMOUTH
ZONING BOARD OF APPEALS
DECISION

CASE NO: 012-22

APPLICANT/OWNER: Buca Corp., P.O. Box 797, North Falmouth, Massachusetts (the "Applicant")

Robert C. and Jennifer L. Jarvis, Trustees of the Buca Nominee Trust, 15
Longshank Circle, East Falmouth, Massachusetts (the "Owners")

SUBJECT PROPERTY: 7 and 22 Nathan S. Ellis Highway, North Falmouth, Massachusetts (the
"Premises")

Assessor's Map: Map 05 Section 09 Parcel 007 Lot 001 - #22 Nathan S. Ellis Highway

Map 05 Section 10 Parcel 005A Lot 002 -#7 Nathan S. Ellis Highway

DEED/CERTIFICATE: Book 29611, Page 330

SUMMARY: Special Permit Granted with Conditions

PROCEDURAL HISTORY

1. On February 3, 2022, an application was filed with the Zoning Board of Appeals, requesting a modification of Special Permit #23-88, to construct an in-fill addition to the restaurant, and to allow the installation of an outdoor bar/seating area, at 7 Nathan S. Ellis Highway (the "Premises").
2. Notice was given, as required by M.G.L. Chapter 40 A, Section 11, including notices mailed to all persons deemed to be affected hereby, as they appear on the tax list.
3. The advertised public hearing was opened on April 7, 2022. Voting Board Members present, included: Terrence J. Hurrie, Edwin P. Zylinski, Robert B. Dugan, and James T. Morse.
4. Christopher G. Lebherz, Esq., attorney for the Applicant, 99 Old Bailey Court, Falmouth, MA, appeared before the Board on the application, with Robert C. Jarvis, owner.

5. The Public Hearing was closed on April 21, 2022; following motion made by Mr. Dugan, seconded by Mr. Zylinski, and unanimously voted. Minutes of the meeting/s are on file with the Zoning Board of Appeals.
6. The following documents and information are on file in the office of the Zoning Board of Appeals at Town Hall as set forth below:

Letters/E-mails/Information from Applicant/Representative(s)

- Christopher G. Lebherz, attorney for Applicants, filed an application for a special permit, filing fee, supporting documentation and plans; application was filed with the Town Clerk's office February 3, 2022
- Email dated March 9, 2022 from Attorney Lebherz regarding the referral from the Engineering Department
- Email dated February 16, 2022 from Attorney Lebherz to ZBA Staff
- Grant of License dated January 3, 2022
- Email dated January 20, 2022 from Jed Cornock, Assistant Town Planner, to Christopher Lebherz, Esq.

Letters/Referrals/E-mails from Town Departments

- Referral dated February 7, 2022 from the Assessors – no comment
- Referral dated February 7, 2022 from the Planning Department, signed by Planning Staff Melinda Tondera – *“Applicant does not need to come before the Planning Board as the additional square footage is minor in nature (per discussion with previous Acting Building Commissioner, Eladio Gore)”*
- Referral dated February 7, 2022 from the Health Department, signed by Scott McGann, Health Agent – *“The septic systems on this property were installed under the old Title 5 regs (prior 1995). I would not consider them to have any available capacity for more seating. Therefore, the number of seats would not be increased beyond what has been in existence. Health is fine with reconfiguring the seating arrangement as long as the total seats remains unchanged. A record search in Building and Health show that the Applicant has been allowed to have 256 seats for some time (occupancy certificates, previous building permits, food applications). Existing capacity of 8288 gallons per day is sufficient for the 72 function hall seats and the 184 full-service restaurant seats.”*
- Referral dated February 14, 2022 from the Water Department, signed by Cathal O'Brien, Water Superintendent – *“The water main and service must be on the plans, to avoid temporary and permanent utility conflicts with the proposal.”*
- Referral dated February 17, 2022 from the Fire Department - The Fire Department has no issues with the project as drawn.
- Referral dated March 7, 2022 from the Conservation Commission, signed by Conservation Staff Alissa Bergeron – *“Conservation Staff have no comments on the above referenced project as it appears to be located outside of ConCom jurisdiction.”*
- Referral dated March 9, 2022 from the Engineering Department, signed by Scott Schluter, P.E., with standard comments; and *“the Select Board issued a license dated January 3, 2022 to allow an encroachment within the public right of way; condition addition of drywells, rain garden, or other stormwater infiltration measure for the new roof area at a minimum; comply with section 99-1 Affixing of legible numbers required, time limit for compliance; recommend a parking analysis and plan showing that there will be enough parking – comply with section 240-14.1E.,*

240-14.1G., 240-14.1H, 240-14-1I and 240-14.1., defer to Zoning Board if this information should be provided; concern with clamshell parking, defer to Building Commissioner if this surface meets ADA."

- Email dated February 7, 2022 from ZBA Staff to Attorney Lebherz
- ZBA Staff submitted previous Special Permits 14-91 and 23-88
- "New and Renewal Certification of Inspections," dated December 23, 2021
- Minutes from Zoning Board of Appeals hearings April 7 and 21, 2022

Letters/E-mails from Abutters/Interested Parties

- Letter, not dated from Patricia Cusack, 16 Beaman Lane, North Falmouth (opposition – submitted at hearing)
- Email dated April 16, 2022 from Patricia Cusack, 16 Beaman Lane, North Falmouth (comments)
- Email dated April 21, 2022 from Robert Manning, 30 Beaman Lane, North Falmouth (support)

Plans submitted by Applicant/Applicant's Representative

- "Site Plan Showing Proposed Additions," Sheet 1 of 1, dated June 1, 2021 - with a final revision date of April 12, 2022, prepared for #7 & #22 Nathan S. Ellis Highway, Falmouth, MA, as drawn by D. H. Martin Engineering, Inc., 14 Quissett Avenue, Box 741, Woods Hole, MA – plan is stamped and signed by David H. Martin, P.E. and Gary S. Labrie, P.L.S.;
- "Proposed/Existing Rear Elevations," 7 Nathan Ellis Highway, North Falmouth - plans are not authored or dated, Board date "Received," stamp of March 23, 2022; and
- "Proposed Floor Plan," Sheet A1.0, dated December 15, 2021; "Proposed Outdoor Bar Floor Plan & Section," Sheet A1.1, dated May 17, 2021; "Conceptual Site Plan," Sheet A1.2, dated May 17, 2022

Hearing:

The Notice of Hearing and referrals were read into the record.

The Minutes of the hearing are available at the Town Clerk's Office, and are part of the record.

DECISION:

Findings:

1. The subject site is located at 7 and 22 Nathan S. Ellis Highway, North Falmouth, Massachusetts ("the Premises"). Number 7 Nathan S. Ellis Highway (Lot 2) comprises 27,331 square feet of area, and is zoned Business 2 (B2). This lot is roughly triangular in shape, bound on the north by Nathan S. Ellis Highway, and on the southwest by Old County Road (now known as Beaman Lane). The easterly lot line is shared with a residential single family lot. This lot is improved by a restaurant, plus a detached single family dwelling (at the southeast corner of the lot).
2. The façade of the restaurant is sited on the street lot line of Nathan S. Ellis Highway (Route 151) and portions of a parking area, berm, fence, and the entrance ramp and walk, encroach into the roadway layout of Route 151. The rear setback of the restaurant building is 13.8 feet from Old County Road (now known as Beaman Lane), and 64.8 feet from the easterly side lot line. There is also a residential building on the southeast corner of the lot, sited 16.6 feet from the south, and 9.5-feet from the east. Approximately 24 parking spaces are shown on this lot.
3. Number 22 Nathan S. Ellis Highway (Lot 1) comprises 30,069 square feet of area, and is zoned Single Family Residential B. This lot is improved by a parking lot, that supports the restaurant. The

restaurant use on the Premises dates back at least to 1988. The parking lot is a nonconforming use, but has been in existence, dating back to at least 1988, according to copies of previous Special Permits. This parking lot has a full row of parking spaces sited in the road layout of Nathan S. Ellis Highway; 75 total parking spaces are shown on this parcel.

4. The Select Board granted a license "Grant of License," authorizing the encroachments on both lots into Route 151 (Nathan S. Ellis Highway), which was signed by the Falmouth Select Board on January 3, 2021 (sic). The license was recorded at the Barnstable Registry of Deeds on January 6, 2022.
5. The Premises is located in Coastal Pond Overlay District, and is located in the margins of the Wildlife Foraging Corridor.
6. There were previous Special Permits on the subject site, including #14-91 and #23-88.
7. The existing lot coverage by structures on Lot 2 is 30.5%, and will increase to 32.6%.
8. The existing lot coverage by pavement and parking on Lot 1 is 70.4%, and will remain the same.
9. The Applicant met with concerned abutters, to respond to their concerns, and agreed to install a stockade fence and arborvitae screening, to replace the existing chain link fence, at the easterly side of Lot 2.
10. The current occupancy for restaurant seating is 256, which was granted by the Board of Health and Building Department of the Town years ago, according to records submitted to this Board. This Special Permit will reflect this permitted seating for 256, which is increased from this Board's original grant for 165 seats.
11. The parking requirement for 256 seats is 128 parking spaces; however, the By-Law allows for a 25% reduction. With a 25% reduction, the parking requirement would be 96 spaces; the Applicant is providing 99 parking spaces. The Applicant has added parking spaces, and demonstrated sufficient parking; no complaints were registered regarding parking at the Premises. The Board voted to grant a waiver for the 25% parking reduction allowed within the By-Law.
12. The Health Department reported: *"The septic systems on this property were installed under the old Title 5 regs (prior 1995). I would not consider them to have any available capacity for more seating. Therefore, the number of seats would not be increased beyond what has been in existence. Health is fine with reconfiguring the seating arrangement as long as the total seats remains unchanged. A record search in Building and Health show that the Applicant has been allowed to have 256 seats for some time (occupancy certificates, previous building permits, food applications). Existing capacity of 8288 gallons per day is sufficient for the 72 function hall seats and the 184 full-service restaurant seats."*
13. Engineering Department requested a condition to add drywells, rain garden, or other stormwater infiltration measure for the new roof area at a minimum; comply with section 99-1 Affixing of legible numbers required, time limit for compliance.
14. The Applicant meets the criteria for a Special Permit under Zoning Bylaw Sections 240-12.1 E, 240-10.2 A, and 240-14.1 F of the Code of Falmouth, to construct an in-fill addition to the restaurant, for kitchen preparation space, and to allow the installation of an outdoor bar/seating area, on Lot 2, 7 Nathan S. Ellis Highway.

In addition to the above findings, the Board found that the proposal will be in harmony with the general purpose and intent of the By-Law; will not be substantially more detrimental to the neighborhood than the existing nonconformities.

NOW THEREFORE, BE IT RESOLVED, that the Zoning Board of Appeals, being of the opinion aforesaid, the acting under the provisions of the Code of Falmouth, voted unanimously, following a motion made by Mr. Dugan, and seconded by Mr. Zylinski, to grant a Special Permit under 240-12.1 E, 240-10.2 A, and 240-14.1 F of the Code of Falmouth, to allow construction of an in-fill addition to the restaurant, and to allow the installation of an outdoor bar/seating area at 7 Nathan S. Ellis Highway, North Falmouth, Massachusetts ("the Premises"). The Special Permit shall be subject to the following conditions:

Conditions:

1. The Plans submitted and reviewed by the Board; were as follows:
 - "Site Plan Showing Proposed Additions," Sheet 1 of 1, dated June 1, 2021 - with a final revision date of April 12, 2022, prepared for #7 & #22 Nathan S. Ellis Highway, Falmouth, MA, as drawn by D. H. Martin Engineering, Inc., 14 Quisset Avenue, Box 741, Woods Hole, MA – plan is stamped and signed by David H. Martin, P.E. and Gary S. Labrie, P.L.S.;
 - "Proposed/Existing Rear Elevations," 7 Nathan Ellis Highway, North Falmouth - plans are not authored or dated, Board date "Received," stamp of March 23, 2022; and
 - "Proposed Floor Plan," Sheet A1.0, dated December 15, 2021; "Proposed Outdoor Bar Floor Plan & Section," Sheet A1.1, dated May 17, 2021; "Conceptual Site Plan," Sheet A1.2, dated May 17, 2022
2. The Applicant shall provide a revised plan, demonstrating the proposed fence and plantings, to be approved by the Zoning Administrator, prior to issuance of a building permit.
3. The Applicant shall comply with all Town Department referrals/recommendations.
4. The Occupancy shall be limited to 256 seats, which includes both indoor and outdoor seating.
5. All construction materials and vehicles shall be kept on site.
6. Construction hours are limited to 7:00 a.m. through 7 p.m., Monday – Friday, and 8 a.m. through 4 p.m. on Saturdays. There shall be no construction on Sundays or Town observed holidays, absent an emergency.
7. The Applicant shall contact the Falmouth Police Department if police detail is required during construction.
8. This permit shall not take effect until a copy of the decision bearing the certification of the Town Clerk that 20 days has elapsed, after the decision had been filed in the office of the Town Clerk, with no appeal being filed; or an appeal has been filed within such time, is recorded in Barnstable Registry of Deeds. A copy of the recorded Decision shall be provided to the Zoning Board of Appeals. (Any person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit, and that any construction performed under the permit, may be ordered undone).
9. Any deviation, no matter how minor, from the approval issued by this Board, shall be submitted to the Board for approval, prior to implementation of said change. The Zoning Administrator may make a determination as to whether the changes are minor in nature, and can be approved

administratively, or whether they will require a hearing for an amendment. Changes made prior to an approval may be subject to a full hearing, and are at risk that the Zoning Board of Appeals may deny the request.

10. This Special Permit shall lapse three years from the date on which this decision is filed in the Town Clerk's Office, if a substantial use of the Special Permit has not sooner commenced; except for good cause shown, as determined by the Zoning Board of Appeals.

True Copy Attest:



Member, Zoning Board of Appeals

RECEIVED
MAY 25, 2022 PM 3:37
TOWN CLERK

Date Filed With Town Clerk