

**TOWN OF FALMOUTH**  
**SELECT BOARD**  
**REVISED AGENDA**  
**MONDAY, FEBRUARY 27, 2023 – 6:00 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.*

**6:00 p.m. OPEN SESSION**

**6:00 p.m. EXECUTIVE SESSION**

1. M.G.L. c.30A s.21(a)(3) – to discuss strategy with respect to collective bargaining - non-union personnel

**6:30 p.m. OPEN SESSION**

1. Call to Order
2. Pledge of Allegiance
3. Proclamation in Recognition of Waquoit Congregational Church
4. Recognition
5. Announcements
6. Public Comment

**6:35 p.m. TOWN MANAGER'S PRELIMINARY REPORT**

**6:40 p.m. COMMITTEE INTERVIEWS**

1. Interview, vote and appoint committee members
  - a. Agricultural Commission – Stanwood Ingram
  - b. Commission on Substance Use – Rabbi Elias Lieberman, Richard Corey Jr.

**6:45 p.m. PUBLIC HEARINGS**

1. Wetlands/Dock Hearing – Kathleen A. White Trustee, Kathleen A. White Revocable Trust – Modify the existing permitted pier by converting the end portion to a ramp and float in Childs River, located at 209 Seapit Road, East Falmouth (10 minutes)

**6:55 p.m. BUSINESS**

1. Discuss and vote 5% local retirement COLA option (10 minutes)
2. Emerald Properties Affordable Housing and Community Play Space Plan (10 minutes)
3. Application for a Change of Officers/Directors and a Change of Manager – Cape Verdean Club of Falmouth, Inc., located at 126 Sandwich Road, East Falmouth (5 minutes)
4. Discuss and Consider Vote to Call Special Town Meeting April 10, 2023 (10 minutes)
5. Vote Article Recommendations for April 2023 Annual Town Meeting (15 minutes)
6. Authorize Application for SAFER Grant to Fund Additional Fire Department Personnel (5 minutes)
7. Confirm name of Hatchville Fire Station (5 minutes)

**7:45 p.m. CONSENT AGENDA**

1. Licenses

- a. Application for Special One-Day All Alcohol Liquor License – Bands for Badges, Inc. – Cape Cod Fairgrounds – 8/12/23
- b. Application for Special One-Day Wine & Malt Liquor License – Food Truck Festivals of America LLC – Cape Cod Food Truck & Craft Beer Festival – Cape Cod Fairgrounds – 8/5/23
- c. Application for Special One-Day All Alcohol Liquor License – Belonging to Each Other, Inc. – 3<sup>rd</sup> Claddagh Bowl – Trade Center Bowl, 89 Spring Bars Rd. – Saturday, 3/18/23
- d. Application for a Pledge of License of an All Alcohol Innholder License – Seacrest Concessionaire, LLC d/b/a Seacrest Concessionaire located at 350 Quaker Road, North Falmouth
- e. Application for a Common Victualler License – J2 Bagels, Inc. d/b/a Cape Cod Bagels, located at 419 Palmer Avenue, Falmouth

2. Administrative Orders

- a. Approve Eversource petition to install approximately 39' (feet) of 1" (inch) conduit and cable under town road Westmoreland Drive starting at existing pole 1102/5. This work is necessary to provide electric service to 30 Westmoreland Drive.
- b. Approve Eversource petition to install on private property one new pull box to be labeled 10600/010 and to install approximately 130' (feet) of 2-4" (inch) conduit and cable under town road northwesterly starting at new pull box 10600/010. This work is necessary to provide electric service to 267 Clinton Avenue.
- c. Approve request to spend over \$500 from the Fire Rescue Department donation account for the purchase of Challenge Coins
- d. Vote to approve request from The 300 Committee for a Conservation Restriction for the Ed Brown-Leger 3.72-acre property at 0 Boxberry Hill Road
- e. Approve request from Falmouth Housing Trust, Inc. for a Waiver of the Building Permit Fees for the Sam Turner Road (Esker Place Modification) Affordable Housing Project
- f. Authorize application to Division of Local Services for determination of whether a second referendum is required due to the increase in cost for the Wastewater Treatment Facility Improvements project

**7:50 p.m. MINUTES**

1. Review and Vote to Approve Minutes of Meetings

- a. Public Session – January 23, 2023; February 13, 2023

**7:55 p.m. TOWN MANAGER'S SUPPLEMENTAL REPORT**

**8:00 p.m. SELECT BOARD REPORTS**

**8:10 p.m. DISCUSSION OF FUTURE AGENDA ITEMS**

**8:20 p.m. ADJOURN**

Nancy R. Taylor, Chair  
Select Board

## **OPEN SESSION**

### **3. Proclamation in Recognition of Waquoit Congregational Church**



**PROCLAMATION  
IN RECOGNITION of Waquoit Congregational Church**

WHEREAS, Waquoit Congregational Church was gathered in the village of Waquoit in the town of Falmouth in 1848; and

WHEREAS, the church's classic Greek Revival architecture enhanced by its historic white and dark green paint scheme, and its important role in the early life of Waquoit Village have been recognized by the National Registry of Historic Buildings; and

WHEREAS, the church serves as a gateway to the town of Falmouth from the east while its steeple continues to serve as a beacon for sailors and pilots alike, and

WHEREAS, the church, as the oldest public building in Waquoit, has, since its inception, played a vital role in the community as a gathering place for people in the village of Waquoit and beyond; and

WHEREAS, the church continues to serve the wider community with its many programs, activities and missions both locally and internationally;

NOW, THEREFORE, the Select Board of the town of Falmouth hereby proclaims **March 12, 2023** as **Waquoit Congregational Church Day** in Falmouth, MA on the occasion of its 175th Anniversary.

We have hereunto set our hand and caused the Great Seal of the Town of Falmouth to be affixed on this 27<sup>th</sup> day of February, 2023.

\_\_\_\_\_  
Nancy R. Taylor, Chair

\_\_\_\_\_  
Douglas C. Brown

\_\_\_\_\_  
Onjalé Scott Price, Vice Chair

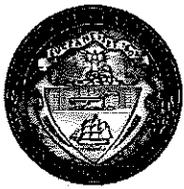
\_\_\_\_\_  
Edwin (Scott) P. Zylinski II

\_\_\_\_\_  
Samuel H. Patterson

SELECT BOARD

**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, Interim Town Manager  
SUBJECT: Preliminary Report for February 27, 2023  
DATE: February 24, 2023

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**Committee Interviews:**

1. Agricultural Commission - There is one applicant for one vacancy
2. Commission on Substance Use – There are two applicants for one vacancy

**Hearings:**

1. Wetlands/Dock Hearing – Kathleen A. White, 209 Seapit Road, East Falmouth:

The applicant seeks to amend an existing pier permit. The application has been approved by the Conservation Commission. MES staff have not identified any shellfish concerns.

**Business:**

1. Discuss and vote 5% local retirement COLA option:

The Falmouth Retirement Board has voted to increase the cost of living adjustment received by current Town of Falmouth retirees for this fiscal year from 3% to 5%. Under state law, this adjustment is normally capped at 3%. Due to higher inflation rates this year, the Commonwealth adopted legislation allowing municipal retirement boards to increase the COLA to 5% for FY2023. For reference, the COLA for social security as of January 2023 was 8.7%. It should be noted that per state law and Falmouth local adoption, this increase is applied to a maximum of \$14,000 even if the retiree's annual pension allowance is far greater than that. An individual retiree will receive an increase of up to \$280. The Retirement Board estimates the total cost of this increase for 450 retirees will be \$105,864 per year. This cost increase will not take effect until after the next valuation study is completed in 2024. The cost to the Town is significant but it is hard to argue with the need.

2. Emerald Properties Affordable Housing and Community Play Space:

Town Planner Jed Cornock and Housing Coordinator Kim Fish will outline a plan to pursue multiple uses of these two parcels as directed by the Select Board. Mass Housing Partnership commissioned a due diligence engineering report at no cost to the Town. This report identifies a limited footprint for potential development due to conservation restrictions. We will be seeking input from the Board on a concept plan for the site and authorization to proceed with community engagement. Subject to Board approval, a request for proposals will be developed based on community input to solicit private developers interested in constructing affordable housing. The Community Play Space would proceed separately with an application to the Community Preservation Committee.

3. Cape Verdean Club Change of Manager:

Town staff reviewed the application for a change of manager and raised no concerns. The Board deferred action on this application when it appeared on the January 30<sup>th</sup> agenda as the manager was not in attendance. The manager has confirmed her attendance for this meeting.

4. Discuss and Consider Vote to Call Special Town Meeting April 20, 2023:

The Finance Committee did not include the Sustainability Coordinator position in the budget being recommended to Town Meeting. One reason cited is that the position will not be added to the Town Position Classification Plan until after article 29 is approved. One solution to this procedural concern is to hold a special town meeting within the annual. We would take up additions to the Position Classification Plan before the operating budget in the special town meeting warrant which would allow both the Sustainability Coordinator and the Assistant Parks Superintendent to be added before the budget vote. The Finance Committee could potentially revisit its position on these two positions. The Select Board could also move to amend the budget to add these positions if the Finance Committee chooses not to do include them in the main motion.

5. Vote Article Recommendations:

The Select Board is responsible for issuing a recommendation to Town Meeting for 13 articles on the April 2023 Town Meeting Warrant as shown on the article list in your packet. We have also included in the packet draft explanations for these articles. The Town Meeting warrant book with recommendations and explanations needs to be sent to the printer by March 10<sup>th</sup> so there will not be another opportunity to vote recommendations unless a meeting is added to the Board's calendar for March 6<sup>th</sup>.

6. SAFER Grant Application:

We seek the Board's approval to apply for a SAFER grant to pay for the wages and benefits of 6 firefighter/EMT or Paramedic positions. If successful, this grant would pay for up to 100% of the cost of these positions for three years. We will not know whether or not the Town will receive this grant until June 2023 at the soonest. I want to emphasize that an override is needed to create a reliable, long-term, funding source whether or not the Town receives this grant which provides temporary funding.

7. Confirm Name of Hatchville Station:

The five existing fire stations are all named for the neighborhood in which they are located. Chief Smith and I recommend the new station be referred to as the Hatchville Fire Station. Previously, the station has been referred to as the Sandwich Road Station. This naming does not trigger the Naming Policy procedure as the station is not being named for a person.

**Consent Agenda:**

1. Licenses:

There are 5 license approvals on the consent agenda of which 4 are recurring special one day liquor licenses for the Cape Cod Fair Grounds and one is a common victualler license for Cape Cod Bagels which is undergoing a change in ownership. All applications have been reviewed for completeness and no staff have raised no concerns.

## 2. Administrative Orders:

Among the 6 administrative orders, 3 are routine and self-explanatory.

- d. The Conservation Restriction for 0 Boxberry Hill Road was previously approved by the Board but the state legal review team required a revision so it needs to be voted again.
- e. Falmouth Housing Trust (FHT) recently received a comprehensive permit to construct 4 additional affordable units on Sam Turner Rd. They seek a waiver of permit fees consistent with Board policy. The FHT has submitted an application for funds from the Falmouth Affordable Housing Fund which is under review and will be brought to the Board for consideration at a future date.
- f. As you know, the cost estimate for the Wastewater Treatment Facility Improvements is \$9.5 million more than estimated last April. Voters at the May 2022 Town election approved a debt exemption for this project. We seek the Board's approval of the enclosed application to be submitted to the Bureau of Accounts at the Department of Revenue which will determine whether a second ballot measure is required in order for the debt for this additional \$9.5 million to be exempted from the Proposition 2 ½ levy limit.

//SB Report 02-27-2023

## **OPEN SESSION**

### **COMMITTEE INTERVIEWS**

1. Interview, vote and appoint committee members
  - a. Agricultural Commission – Stanwood Ingram

### 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 (2 positions)	6/30/24
Agricultural Commission (1 position)	6/30/23
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 (3 positions)	6/30/23, 6/30/25
Commission on Substance Use (1 position)	6/30/24
Conservation Commission (3 alternate positions)	6/30/23, 6/30/25
Constable (2 positions)	6/30/24
Cultural Council (2 positions)	6/30/24
EDIC (Economic Development & Industrial Corporation) (1 position)	6/30/23
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 (1 position)	6/30/23
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
Veterans Council Committee (1 at-large position)	6/30/23
Waterways Committee (1 position)	6/30/25
Zoning Board of Appeals (1 associate position)	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](mailto:townmanager@falmouthma.gov).

Agricultural Commission (7 full members) (3-year terms)

One vacancy:

- Unexpired term ending 6/30/23

One applicant:

- Stanwood Ingram



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](http://www.falmouthma.gov).

Name: STANWOOD INGRAM

Address: 104 Comanche Dr Village: Falmouth ZIP: 02543

Mailing Address: SAME Village: \_\_\_\_\_ ZIP: \_\_\_\_\_

Telephone: [REDACTED] Email: [REDACTED]

How long have you been a Resident X (date: 2008) / Taxpayer X (date: 2008)

Amount of time you are available to give: try for whatever time is needed

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

1. Ag Comm
2. \_\_\_\_\_
3. \_\_\_\_\_

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: \_\_\_\_\_

Field manager @ Casna Messett Farm

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

Member of Ag Comm (2009 - 2018?)

005 8 S MAI

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

Day to day work is in Ag

Was head of Ag Comm during work to purchase Andrews Farm

Have worked to help establish Comm Gardens in town

Was former treasurer for Farming Falmouth

You may attach a resume to this application.

List three (3) references:

<u>Name</u>	<u>Title</u>	<u>Phone</u>
1. Ron Smolowitz	owner Comanessett Farm	
2. Karen Schwalbe	Exec Dir Mass Farm Bureau	
3. Scott M Peterson	Local Fruit tree grower	

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.

3/3/08 23  
DATE

Stanwood K Ingram  
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.

## **OPEN SESSION**

### **COMMITTEE INTERVIEWS**

1. Interview, vote and appoint committee members
  - b. Commission on Substance Use
    - Rabbi Elias Lieberman
    - Richard Corey, Jr.

Commission on Substance Use (5 full members) (3-year terms)

One vacancy:

- Term ending 6/30/24

Two applicants:

- Rabbi Elias Lieberman
- Richard Corey, Jr.



TOWN OF FALMOUTH

BOARD, COMMITTEE OR COMMISSION  
APPLICATION FORM

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Name: RABBI ELIAS LIEBERMAN

Address: 214 Hatchville Rd, Village: FAL. ZIP: 02536

Mailing Address: " Village: " ZIP: "

Telephone: [REDACTED] Email: [REDACTED]

How long have you been a Resident  (date: 1990) / Taxpayer  (date:     )

Amount of time you are available to give: As needed for the work of the commission.

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

1. FALMOUTH SUBSTANCE USE COMMISSION
2. \_\_\_\_\_
3. \_\_\_\_\_

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  
Counseling congregants with substance use issues; family members with substance use disorder.

Town offices held in Falmouth or elsewhere and dates of years served: N/A

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

- Commitment to the goals of the commission
- Knowledge gained through the years about substance use
- Communication skills (oral and written)
- Fundraising experience

List three (3) references:

- |    | <u>Name</u>      | <u>Title</u>                                  | <u>Phone</u> |
|----|------------------|---|--------------|
| 1. | Pamela Rothstein | Dir. of Lifelong Learning (Fal, Jewish Cong.) | [REDACTED]   |
| 2. | Rev. Nell Fields | Pastor, Weymouth Cong. Church                 | [REDACTED]   |
| 3. | Gary Tabor, Ph.D | Therapist                                     | [REDACTED]   |

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 Board of Selectmen's Appointment Policy and read the material provided.

1-19-23  
DATE

[Signature]  
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 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 Board of Selectmen, 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.falmouthmass.us](http://www.falmouthmass.us).

Name: Richard L. Corey, Jr  
Address: 9 Moonakis Rd Village: E. Falmouth ZIP: 02536

Mailing Address: Same as Above Village: \_\_\_\_\_ ZIP: \_\_\_\_\_

Telephone: [REDACTED] Email: [REDACTED]

How long have you been a Resident 65 yrs (date: \_\_\_\_\_) / Taxpayer 50 yrs (date: \_\_\_\_\_)

Amount of time you are available to give: 2 couple of hours a week

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

1. Substance Use Coalition
2. \_\_\_\_\_
3. \_\_\_\_\_

Seeking: Permanent Position  Alternate Position

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

Relevant affiliation and work and personal experiences Recovery Coach

25 years Sobriety

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 have over 22 years experience mentoring men and women in the community who are in Recovery.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

List three (3) references:

Name	Title	Phone
1. Troy Clarkson	CFO City of Brockton	[REDACTED]
2. John Druley	Owner Quaker Homes	[REDACTED]
3. Mike Palmer	Toua Clerk	[REDACTED]

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 Board of Selectmen's Appointment Policy and read the material provided.

February 1, 2023  
DATE

Richard L. Corey, Jr  
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.

## OPEN SESSION

## PUBLIC HEARINGS

1. Wetlands/Dock Hearing – Kathleen A. White Trustee, Kathleen A. White Revocable Trust – Modify the existing permitted pier by converting the end portion to a ramp and float in Childs River, located at 209 Seapit Road, East Falmouth **(10 minutes)**



# TOWN OF FALMOUTH

Office of the Town Manager & Select Board

59 Town Hall Square, Falmouth, Massachusetts 02540

Telephone: (508) 495-7320

[townmanager@falmouthma.gov](mailto:townmanager@falmouthma.gov)

## 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, February 27, 2023 at 6:45 p.m. in the Select Board Meeting Room, Falmouth Town Hall, 59 Town Hall Square on the application of Kathleen A. White Trustee, Kathleen A. White Revocable Trust for permission to modify the existing permitted pier by converting the end portion to a ramp and float, located at 209 Seapit Road, East Falmouth, MA. Area affected is Childs River. 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, February 10, 2023 and Friday, February 17, 2023; Falmouth Enterprise.*

**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, February 27, 2023 at 6:45 p.m. in the Select Board Meeting Room, Falmouth Town Hall, 59 Town Hall Square on the application of Kathleen A. White Trustee, Kathleen A. White Revocable Trust for permission to modify the existing permitted pier by converting the end portion to a ramp and float, located at 209 Seapit Road, East Falmouth, MA. Area affected is Childs River. Interested parties may review the file on this hearing at the Office of the Select Board.

Per Order of the  
Select Board

February 10, 17, 2023

**Diane Davidson**

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**From:** Alissa Bergeron  
**Sent:** Tuesday, February 21, 2023 10:50 AM  
**To:** Diane Davidson  
**Cc:** Jennifer Lincoln  
**Subject:** RE: Special Permit Application - Wetlands/Docks - 209 Seapit Road  
**Attachments:** Seapit Rd 209 (White) 25-4810 OOC 01 09 23.pdf; Seapit Rd 209 (White) 25-4810 Plan 10 17 22.pdf

Hi Diane,

Conservation Staff do not have any comments on this application other than that the submitted proposal and plan match what was approved by the Conservation Commission. I have attached the approved plan and Order of Conditions for reference.

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

**From:** Diane Davidson <[diane.davidson@falmouthma.gov](mailto:diane.davidson@falmouthma.gov)>  
**Sent:** Wednesday, February 15, 2023 9:44 AM  
**To:** Falmouth Conservation Commission <[concom@falmouthma.gov](mailto:concom@falmouthma.gov)>; Gregg Fraser <[gregg.fraser@falmouthma.gov](mailto:gregg.fraser@falmouthma.gov)>; Charles Martinsen <[chuck.martinsen@falmouthma.gov](mailto:chuck.martinsen@falmouthma.gov)>  
**Subject:** Special Permit Application - Wetlands/Docks - 209 Seapit Road

To All,

For your information: The Select Board has received the attached application for a special permit for a dock:

**Applicant:** Kathleen A. White Trustee, Kathleen A. White Revocable Trust  
**Location:** 209 Seapit Road, East Falmouth  
**Proposed Work:** To modify the existing permitted pier by converting the end portion to a ramp and float  
**Body of Water:** Childs River

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, February 22.

The hearing is scheduled at the Select Board meeting on Monday, February 27, 2023 at 6:45 p.m.

Thank you.

Diane

*Diane S. Davidson*  
*Office Manager/Licensing*  
*Office of the Town Manager and Select Board*

*APPLICATION FOR PERMIT TO FILL, DREDGE OR  
OTHERWISE ALTER WETLANDS*

Filing under Section 240-77 (Wetland Regulations) of the Falmouth Zoning By Law

*PROPOSED PIER MODIFICATION*

*209 SEAPIT ROAD*

*EAST FALMOUTH, MASSACHUSETTS*

Prepared for:

Kathleen White

Prepared by:



**Falmouth Engineering, Inc.**  
17 Academy Lane, Suite 200  
Falmouth, MA  
02540

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**APPLICATION FOR PERMIT TO DREDGE, FILL, OR ALTER WETLANDS**

**ATTACHMENT A - PROJECT NARRATIVE**

**ATTACHMENT B – HARBORMASTER COMMENTS**

**ATTACHMENT C – ORDER OF CONDITIONS 25-4810**

**ATTACHMENT D - DRIVING DIRECTIONS TO SITE**

**ATTACHMENT E - CHAPTER 91 LICENSE 11953 & PLAN**

**ATTACHMENT F - PLAN OF PROPOSED PIER MODIFICATIONS**

**APPLICATION TO FILL, DREDGE, FILL, OR ALTER WETLANDS**

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**PAID**

\$75.00 CK# 19608

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)

**RECEIVED**  
**FEB - 2 2023**

To the Board of Selectmen  
Falmouth, MA

~~FALMOUTH TOWN CLERK~~

Date: February 1, 2023

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: Kathleen A. White Trustee, Kathleen A. White Revocable Trust 32 Dellwood Ct. Pleasant Hill, CA 94523  
(full name) (address)

AGENT: Falmouth Engineering, Inc. 17 Academy Ln. Ste. 200 Falmouth, MA 02540  
(full name) (address)

APPLICANT: Same as owner  
(full name) (address)

1. Location of Property: Map 32 Section 19 Parcel 001 Lot 210

Street Name and House Number 209 Seapit Road

2. Body of water, marsh or stream affected: Childs River

3. Description of property and project site: Single family dwelling with existing licensed dock.

a. Dimensions, Acreage of total parcel: 21, 880 S.F.

b. Length of water marsh frontage: 170'

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

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: N/A

g. Other (docks, piers and etc.) Modify existing fixed pier by converting end portion to ramp & float

h. Method (equipment to be used) for proposed work: Barge supported crane

4. Purpose of proposed work: Non-commercial docking & access to navigable waters.

5. Zoning which governs area: RC

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? Order of Conditions 25-4810

8. Remarks \_\_\_\_\_

9. Project Summary for legal notice: \_\_\_\_\_

The Applicant proposes to modify the existing permitted pier by converting the end portion to a ramp and float.

Owner: Kathleen A. White Trustee,  
Kathleen A. White Revocable Trust  
32 Dellwood Ct.

Pleasant Hill, CA 94523

(Name & Address)

TEL #:

Agent: Falmouth Engineering, Inc.  
17 Academy Ln. Ste. 200

Falmouth, MA 02540

(Name & Address)

TEL #: 508.495.1225

Applicant: Same as owner

(Name & Address)

TEL #:

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

**ATTACHMENT A**

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**PROJECT NARRATIVE**

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# **ATTACHMENT A - PROJECT NARRATIVE**

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## **1.0 Introduction and Project Overview**

Falmouth Engineering Inc. has filed this Notice of Intent (NOI) application on behalf of Kathleen White, the applicant for 209 Seapit Road in East Falmouth. The Applicant proposes to modify the existing permitted pier by converting the end portion to a ramp and float. The existing pier was permitted by the previous owner as a fixed pier. The current owner has difficulty entering and exiting her boat from the higher fixed pier at times of low tide. The float will allow for easier access into the boat because the float will be lower and closer to the water surface allowing for easier access into the boat. The modified dock is proposed in the same location and the same length as the existing fixed dock.

Included in this modification project is the relocation of the existing 6 timber pilings to new locations to allow for the conversion of the fixed end to a ramp and float.

The application is being jointly filed pursuant to the Section 240-77 (Wetland Regulations) of the Falmouth Zoning By-Law.

## **2.0 Existing Conditions**

The lot consists of approximately 22,000± square feet of land in a developed residential area of East Falmouth (refer to Figure 1-Site Location Map). A single family residence occupies the central portion of the site. Other residential properties lie to the north and south of the site.

Eel Pond is located directly west of the site. A residence, driveway and landscaping typical of the area is located on the lot. A narrow band of salt marsh also abuts the property to the west.

### *2.1 Regulated Wetland Resource Areas*

All coastal resource areas within 100 feet of the proposed project facilities have been identified and appropriately located in the field. Adjacent resource areas include land under the ocean (Eel Pond), land containing shellfish, salt marsh, and land subject to coastal storm flowage. The attached plan shows each of the resource areas that have been identified in the project area.



FIGURE 1-SITE LOCATION MAP

209 SEAPIT ROAD

EAST FALMOUTH, MA

## *2.2 Estimated Habitat and Protected Species*

Information published by the Massachusetts Division of Fisheries and Wildlife, Natural Heritage and Endangered Species Program indicates that the proposed dock construction is not located within Estimated Habitat of Rare Wetlands Habitat and Priority Habitat.

### **3.0 Proposed Project**

The project involves the modification of a permitted fixed pier by converting a portion of the fixed pier to a ramp and float. Included in this modification is the removal of the fixed pier "L" and a section of the fixed walkway and relocation of 6 existing piles.

Piles will be driven, not jetted by a barge supported pile driver. The proposed float will be fitted with a galvanized chain float stop system that will limit the minimum separation from the bottom to 3 feet as required by regulation.

The portions of the fixed pier to be removed will be disposed of at an approved landfill.

### **4.0 Anticipated Impacts to Resource Areas**

#### *Anticipated Impacts*

The pier modifications are limited to what is described above. As such, the only temporary disturbance is the relocation of 6 existing timber piles. The piles will be driven using a barge-mounted pile driver equipped with a vibratory hammer.

The barge will float at all times and not make contact with the bottom.

Impacts to wetland resources will be temporary during installation.

### **5.0 Summary**

The existing wetland resources, potential project impacts, and proposed mitigation measures associated with the pier modifications have been fully documented in the Notice of Intent. The pier modifications will allow the applicant to more easily access the moored boat with only temporary impacts during the pile re-installation. The applicant looks forward to a favorable Decision by the Select Board.

**ATTACHMENT B**

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**HARBORMASTER COMMENTS**

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**MARINE & ENVIRONMENTAL SERVICES**  
**TOWN OF FALMOUTH**  
180 SCRANTON AVENUE, FALMOUTH, MA 02540  
TEL: (508) 457-2550 • FAX: (508) 457-2525  
TOWN MARINA TEL: (508) 457-2551

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

**Applicant:** Kathleen White  
**Date on Plan:** October 17, 2022  
**Property:** 209 Seapit Road  
**Assessors Map:** 32 19 001 210  
**Area of Impact:** Child's River

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***Date of Inspection***

***and/or Review:*** November 3, 2022

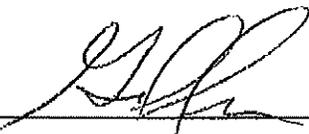
***Project Staking:*** N/A

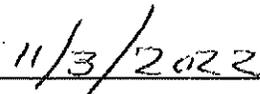
***Navigational Issues:*** None

***Mooring Issues:*** None

***Comments*** No expansion to existing footprint

***Recommendation*** Approve as proposed with chain float stop.

  
\_\_\_\_\_  
Gregg Fraser,  
MES Director/Harbormaster

  
\_\_\_\_\_  
Date

**ATTACHMENT C**

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**ORDER OF CONDITIONS 25-4810**

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## FALMOUTH CONSERVATION COMMISSION

59 Town Hall Square, Falmouth, Massachusetts 02540

(508) 495-7446

January 9, 2023

Kathleen A White  
Kathleen A. White Revocable Trust  
32 Dellwood Court  
Pleasant Hill, CA 94523

RE: 209 Seapit Road, East Falmouth, MA 02536  
DEP# 25-4810

Dear Kathleen White,

Enclosed please find a copy of the Order of Conditions. Please obtain the plan of reference for your approved project from your representative. This Order is valid for three years from its date of issuance. The original permit will need to be registered at the Registry of Deeds. Proof of Recording must be submitted to the Conservation Commission office.

Please read the Order of Conditions and Plan carefully and refer to them often. Your contractor must have a copy of the Order of Conditions and the Conservation Permit posted on-site throughout the duration of the project. As the property owner it is ultimately your responsibility to ensure that work be done according to all Standard and Special Conditions and according to the Plan of Reference. If you decide to sell your property, please transfer the Order and the Plan of Reference to the new owner.

When all work under the approved permit, including landscaping, has been completed on the project, the proper procedure is for your representative (the engineer) to apply to the Conservation Commission for a Certificate of Compliance. The engineer must submit a signed statement that all work has been completed according to the Plan of Reference and noting any deviation from the plan. The representative (engineer) is the point of contact with the Conservation Commission and should coordinate with you throughout the duration of the project until a Certificate of Compliance is issued. Your representative will register the Certificate of Compliance in the Registry of Deeds. Proof of Recording must be submitted to the Conservation Commission office.

Thank you for taking the time to read this letter. By complying with the Wetland Protection Act and the Falmouth Wetland Bylaw and Regulations you are helping to maintain a high quality of life for yourself and others in the Town of Falmouth.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer L. Lincoln".

Jennifer L. Lincoln  
Conservation Administrator

CC: Falmouth Engineering, Inc.



**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:  
 25-4810  
 MassDEP File #  
 eDEP Transaction #  
 Falmouth  
 City/Town

**A. General Information**

Please note: this form has been modified with added space to accommodate the Registry of Deeds Requirements

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



1. From: Falmouth  
Conservation Commission

2. This issuance is for (check one):  
 a.  Order of Conditions      b.  Amended Order of Conditions

3. To: Applicant:

Kathleen A. White

a. First Name      b. Last Name

Kathleen A. White Revocable Trust

c. Organization

32 Dellwood Ct.

d. Mailing Address

Pleasant Hill CA 94523

e. City/Town      f. State      g. Zip Code

4. Property Owner (if different from applicant):

a. First Name      b. Last Name

c. Organization

d. Mailing Address

e. City/Town      f. State      g. Zip Code

5. Project Location:

209 Seapit Road East Falmouth

a. Street Address      b. City/Town

32 19 001 210

c. Assessors Map/Plat Number      d. Parcel/Lot Number

Latitude and Longitude, if known:      d      m      s      d      m      s

d. Latitude      e. Longitude



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:  
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MassDEP File #

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):
- |                   |  |  |  |
|-------------------|--|--|--|
| <u>Barnstable</u> |  | <u>196031 (Lot 210 Plan 11210-16)</u>      |  |
| a. County         |  | b. Certificate Number (if registered land) |  |
| <u></u>           |  | <u></u>                                    |  |
| c. Book           |  | d. Page                                    |  |
7. Dates:
- |                                |                               |                     |
|--------------------------------|-------------------------------|---------------------|
| <u>11/10/2022</u>              | <u>11/30/2022</u>             | <u>1/10/2023</u>    |
| 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):
- |   |   |
|---|---|
| <u>Site Plan - Proposed Dock Modification</u> |   |
| a. Plan Title                                 |   |
| <u>Falmouth Engineering, Inc.</u>             | <u>Michael J. Borselli, P.E., Gary S. Labrie,</u> |
| b. Prepared By                                | <u>P.L.S.</u>                                     |
| <u>10/17/2022</u>                             | <u>1" = 20'</u>                                   |
| d. Final Revision Date                        | e. Scale  |
| <u></u>                                       |   |
| 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. <input type="checkbox"/> Public Water Supply  | b. <input type="checkbox"/> Land Containing Shellfish | c. <input type="checkbox"/> Prevention of Pollution        |
| d. <input type="checkbox"/> Private Water Supply | e. <input type="checkbox"/> Fisheries                 | f. <input type="checkbox"/> Protection of Wildlife Habitat |
| g. <input type="checkbox"/> Groundwater Supply   | h. <input type="checkbox"/> Storm Damage Prevention   | i. <input type="checkbox"/> 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.



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:  
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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

196031 (Lot 210 Plan 11210-16)

a. County

b. Certificate Number (if registered land)

c. Book

d. Page

7. Dates: 11/10/2022 11/30/2022 1/9/2023  
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 - Proposed Dock Modification

a. Plan Title

Falmouth Engineering, Inc.

Michael J. Borselli, P.E., Gary S. Labrie,  
P.L.S.

b. Prepared By

10/17/2022

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.



**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

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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	_____ b. square feet	_____ c. square feet	_____ d. square feet
	_____ e. c/y dredged	_____ f. c/y dredged		
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>140 ±</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> c. nourishment cu yd	<u>                    </u> d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	<u>                    </u> a. square feet	<u>                    </u> b. square feet	<u>                    </u> c. nourishment cu yd	<u>                    </u> d. nourishment cu yd
15. <input type="checkbox"/> Coastal Banks	<u>                    </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>140 ±</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>140 ±</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



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
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City/Town

### 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.



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:

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MassDEP File #

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Falmouth

City/Town

### 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            25-4810            "
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.



**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection - Wetlands**  
**WPA Form 5 – Order of Conditions**  
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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;



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:  
25-4810

MassDEP File #

eDEP Transaction #

Falmouth

City/Town

### 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:

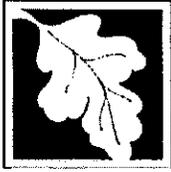
i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

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.



**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:  
 25-4810  
 MassDEP File #

eDEP Transaction #  
 Falmouth  
 City/Town

**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):

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.



**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:  
 25-4810  
 MassDEP File #  
 eDEP Transaction #  
 Falmouth  
 City/Town

**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 Regulation</u>	<u>10.00</u>
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



**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:  
 25-4810  
 MassDEP File #  
 \_\_\_\_\_  
 eDEP Transaction #  
 Falmouth  
 City/Town

**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.

1/19/2023  
 1. Date of Issuance  
4  
 2. Number of Signers

Kevin F. O'Brien  
 Signature  
Courtney F. Bird, Jr  
 Signature  
MAHUE MATHEWS  
 Signature  
Elizabeth H. Gladfelter  
 Signature  
 \_\_\_\_\_  
 Signature  
 \_\_\_\_\_  
 Signature  
 \_\_\_\_\_  
 Signature

KEVIN F. O'BRIEN  
 Printed Name  
Courtney F. Bird, Jr  
 Printed Name  
MAHUE MATHEWS  
 Printed Name  
Elizabeth H. Gladfelter  
 Printed Name  
 \_\_\_\_\_  
 Printed Name  
 \_\_\_\_\_  
 Printed Name  
 \_\_\_\_\_  
 Printed Name

by hand delivery on  
1-10-23 Erica Buselli  
 Date  
FALMOUTH ENGINEERING, LLC.

by certified mail, return receipt requested, on  
 \_\_\_\_\_  
 Date



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:

25-4810

MassDEP File #

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:  
 25-4810  
 MassDEP File #  
 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



## FALMOUTH CONSERVATION COMMISSION

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

Kathleen White  
Kathleen A. White, Revocable Trust  
209 Seapit Rd  
DEP# 25-4810

### **FINDINGS:**

1. The applicant proposes to modify the existing dock by convert a portion of the fixed structure to a ramp and float and relocate six (6) piles.
2. A native planting area required under DEP #25-2985 appears to have been replaced over the years with primarily hydrangeas.
3. Resource areas onsite and within 100 feet of the proposed project include Land Under Ocean, Land Under Salt Pond, Land Subject to Coastal Storm Flowage (LSCSF), Land Containing Shellfish, Salt Marsh, Coastal Banks, and Resource Area Buffer.

### **STANDARD CONDITIONS**

1. Permission is granted to Kathleen White, Kathleen A. White, Revocable Trust, 209 Seapit Rd Falmouth, to modify a portion of the existing dock/pier by converting the end of the dock from a fixed structure to a ramp and float system., according to the plans by Falmouth Engineering, Inc., dated October 17, 21022 and entitled "Site Plan – Proposed Dock Modification" 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. All work shall be done according to the plan of reference noted in paragraph 1. Any proposed changes will require that the applicant first obtain all necessary permits and approvals from the Conservation Commission. Any changes undertaken without obtaining approval from the Commission are not permitted and subject to an Enforcement Order. Violations of the Wetlands Protection Act are subject to a maximum fine of \$25,000.00 per day.

4. 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).
5. 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.
6. 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 may have to be restored to its original condition (at the time work was instituted) at the expense of the applicant and/or owner.
7. Issuance of this Order of Conditions does not relieve the applicant from obtaining all other necessary municipal, county, state or federal permits, permission or other approvals required.
8. 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.
9. Prior to any work commencing:
  - a. Proof of recording of this Order of Conditions including the plan of reference 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. The Town of Falmouth Conservation Commission Pier Maintenance or Construction Form for Marine Contractors (which ever applies) must be completed and returned to the Conservation Commission.
  - d. Copies of any other permits and licenses including building permit, special permit, variances, and Chapter 91 license shall be submitted to Conservation Commission.
  - e. 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.

- f. Photographs shall be taken within 20 feet parallel to both sides of the dock alignment of any areas crossing freshwater wetlands or salt marsh. Post construction photographs shall be taken and submitted to the Conservation Commission. Any areas of wetland that have been damaged or destroyed shall be restored immediately to the satisfaction of the Conservation Commission.
10. Unless otherwise specified, all Conditions cited herein will apply to any and all Amendments to this Order of Conditions.
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 on ground draining into the wetlands or other Resource Areas.
12. All cuttings and debris from permitted clearing of the lot prior to construction shall be removed offsite immediately. No debris can be stored, even temporarily, in a resource area or within 100 feet of any resource area. .
13. All 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 more than 100 feet from any resource area.
14. No creosote-treated wood or CCA treated wood may be used. The use of non-toxic materials is mandatory and shall be certified in writing by a professional engineer.
15. Equipment, vehicles or other objects are not allowed to be placed or stored on any wetland or resource area at any time.
16. Any additional work, not identified at the time this permit was granted, within the Limit of Work , in a resource area or within 100 feet of any resource area will require that the applicant first obtain all necessary permits from the Conservation Commission before proceeding with such work.
17. All work shall be done by hand or from a barge-supported crane during high tide.
18. Any barge used for this project must float at all times.
19. Piles shall be driven, not jetted.
20. All construction debris shall be removed off-site to an approved upland disposal site.
21. The street number and address and the DEP number of the dock approved by this Order shall be affixed to the seaward face (end) of the dock using three inch (3") digits of bright contrasting color. This number shall be maintained in clear visible condition throughout the lifetime of the dock.
22. Water lines and attached hoses shall have nozzles attached.

23. Boats at the dock shall not be allowed to leak oil or other pollutants into the water, nor shall oil or fuel be stored on the dock or pier.
24. Motorboats shall not be run in gear while tied to the dock, since prop wash disturbs shellfish beds, stirs up sediment and causes bank erosion.
25. 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. A request for a Certificate of Compliance must be accompanied by and "Existing Conditions" plan and Engineers written certification of compliance certifying the dock or pier has been constructed and completed in accordance with the conditions contained herein and notes any deviation from the approved plans.
26. The dock must be properly maintained in a safe and functioning manner. Docks and piers are coastal structures requiring continual maintenance or else lend themselves to causing significant damage to property at the time of storms. If not properly maintained docks and piers pose a significant danger to public safety. Docks and piers not properly maintained, which in the opinion the Commission have a potential of being destroyed in a storm, may be ordered removed at the owner's expense. You have a right to hearing prior to any such order being issued.

### **SPECIAL CONDITIONS**

1. All floats and piers if designed to be in continual use shall have adequate bubblers protecting piles during winter months.
2. The property shall be restored to its previous vegetative condition in accordance with the Proposed Landscape Plan prepared by Falmouth Engineering, Inc., dated December 22, 2006, and revised December 29, 2006, and April 10, 2007.
3. All plantings shall be maintained in good health and shall be allowed to grow into their full and mature form. These plantings shall not be altered in any way (pruned, removed, etc.) without first obtaining a permit from the Conservation Commission for such work. This condition shall be ongoing with the deed.
4. Special Condition # 3 shall be written into the COC and registered with and ongoing with the deed.

### **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

**ATTACHMENT D**

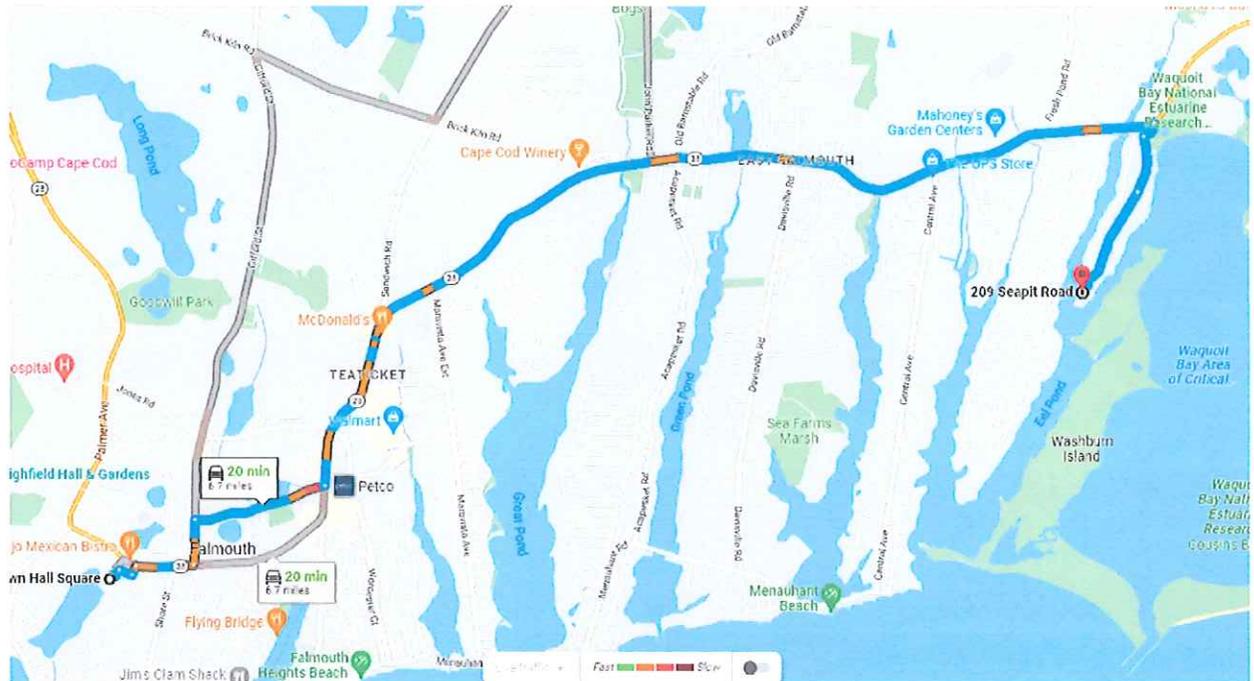
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**DRIVING DIRECTIONS TO SITE**

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## Driving Directions to Site

From Town Hall, turn right onto Main Street and follow to Route 28 for approximately 4½ miles. Turn right onto Waquoit Landing Road and follow to Seapit Road. Number 209 will be on your right.



**ATTACHMENT E**

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**CHAPTER 91 LICENSE 11953 AND PLAN**

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NOT AN OFFICIAL COPY  
The Commonwealth of Massachusetts  
OFFICIAL COPY

No. 11953

NOT AN OFFICIAL COPY  
NOT AN OFFICIAL COPY



Whereas, Daniel Baker

of - the State of Rhode Island, has applied to the Department of Environmental Protection for license to - construct and maintain a proposed pier --

and has submitted plans of the same; and whereas due notice of said application, and of the time and place fixed for a hearing thereon, has been given, as required by law, to the - Board of Selectmen -- of the - Town -- of -- Falmouth --;

NOW, said Department, having heard all parties desiring to be heard, and having fully considered said application, hereby, subject to the approval of the Governor, authorizes and licenses the said

Daniel Baker, subject to the provisions of the ninety-first chapter of the General Laws, and of all laws which are or may be in force applicable thereto, to -- construct and maintain a proposed pier --

in and over the waters of -- Childs River -- in the Town of -- Falmouth -- and in accordance with the locations shown and details indicated on the accompanying DEP License Plan No. 11953, (2 sheets).

PLAN FILED  
IN PLAN DEPT.

Prop. Adv. - Scapit Rd., Falmouth, MA  
CTF# 184901  
Lot 210 Pl. 1121046

The structures authorized hereby shall be limited to the following uses: noncommercial docking and boating access to navigable waters.

N O T A N O T  
A N A N  
O F F I C I A L O F F I C I A L

This License shall be valid for thirty (30) years from the date of license issuance. By written request of the Licensee for an amendment, the Department may grant a renewal for the term of years not to exceed that authorized in the original license.

C O P Y  
A N A N

All work authorized herein shall be completed within five (5) years of the date of license issuance. Said construction period may be extended by the Department for one or more one year periods without public notice, provided that the Applicant submits to the Department, thirty (30) days prior to the end of the construction period, a written request to extend the period and provides adequate justification for said extension.

Within sixty (60) days of completion of the licensed project, the Licensee shall request in writing that the Department issue a Certificate of Compliance in accordance with 310 CMR 9.19. The request shall be accompanied by a certification by a registered professional engineer licensed in the Commonwealth that the project was completed in accordance with the License.

SPECIAL WATERWAYS LICENSE CONDITIONS

In partial compensation for the private use of structures on lands seaward of the low water mark ("Commonwealth tidelands"), which interferes with the rights of the public to use such lands, the Licensee shall allow the public to pass on foot, for any purpose and from dawn to dusk, on the land shown on the License Plan as Commonwealth tidelands. This condition shall not be construed to prevent the Licensee from taking reasonable measures to discourage unlawful activity by users of the area(s) intended for public passage, including but not limited to trespassing on adjacent private areas and deposit of refuse of any kind or nature in the water or on the shore.

In accordance with any license condition, easement, or other public right of lateral passage that exists in private tidelands, the area of the subject property lying between the high and low water mark, the Licensee shall allow the public in the exercise of such rights to pass freely over all structures within such area.

Accordingly, the Licensee shall place and maintain, in good repair, a public access sign on the sides of the pier at mean high water authorized herein or at each property line, adjacent to the ordinary high water shoreline. Said signs, provided by the Department, shall be posted immediately upon receipt. Nothing in this condition shall be construed as preventing the Licensee from excluding the public from portions of said structure(s) or property not intended for lateral passage.

The exercise by the public of free on-foot passage in accordance with this license shall be considered a permitted use to which the limited liability provisions of M.G.L. c. 21, §17c shall apply.

No creosote-treated wood or copper chromated arsenic treated wood may be used. The use of non-toxic materials is mandatory and shall be specified by a professional

engineer. Pressure treated wood that does not contain arsenic may be used.

NOT NOT

The Licensee shall allow Agents of the Department to enter the project site to verify compliance with the conditions of this Chapter of License.

COPY COPY

Please see page 4 for additional conditions of this license.

NOT NOT

AN AN

OFFICIAL OFFICIAL

COPY COPY

Duplicate of said plan, number 11953 is on file in the office of said Department, and original of said plan accompanies this License, and is to be referred to as a part hereof.

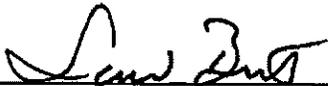


The amount of tidewater displaced by the work hereby authorized has been ascertained by said Department, and compensation thereof has been made by the said -- Daniel Baker -- by paying into the treasury of the Commonwealth ~~Two Dollars (\$2.00)~~ - - for each cubic yard so displaced, being the amount hereby assessed by said Department (<1 cubic yards = \$0).

NOT NOT  
Nothing in this License shall be so construed as to impair the legal rights of any person.

OFFICIAL OFFICIAL  
This License shall be void unless the same and the accompanying plan are recorded within 60 days from the date hereof, in the Barnstable County Registry of Deeds.

IN WITNESS WHEREAS, said Department of Environmental Protection have hereunto set their hands this 31st day of December in the year Two Thousand and Seven.

Commissioner 

Department of  
Environmental  
Protection

Program Chief 

THE COMMONWEALTH OF MASSACHUSETTS

This license is approved in consideration of the payment into the treasury of the Commonwealth by the said ----- Daniel Baker -----

of the further sum of -- One Thousand Four Hundred Seventy (\$1,470.00) --

the amount determined by the Governor as a just and equitable charge for rights and privileges hereby granted in the land of the Commonwealth.

Approved by the Governor.

BOSTON,  
  
Governor

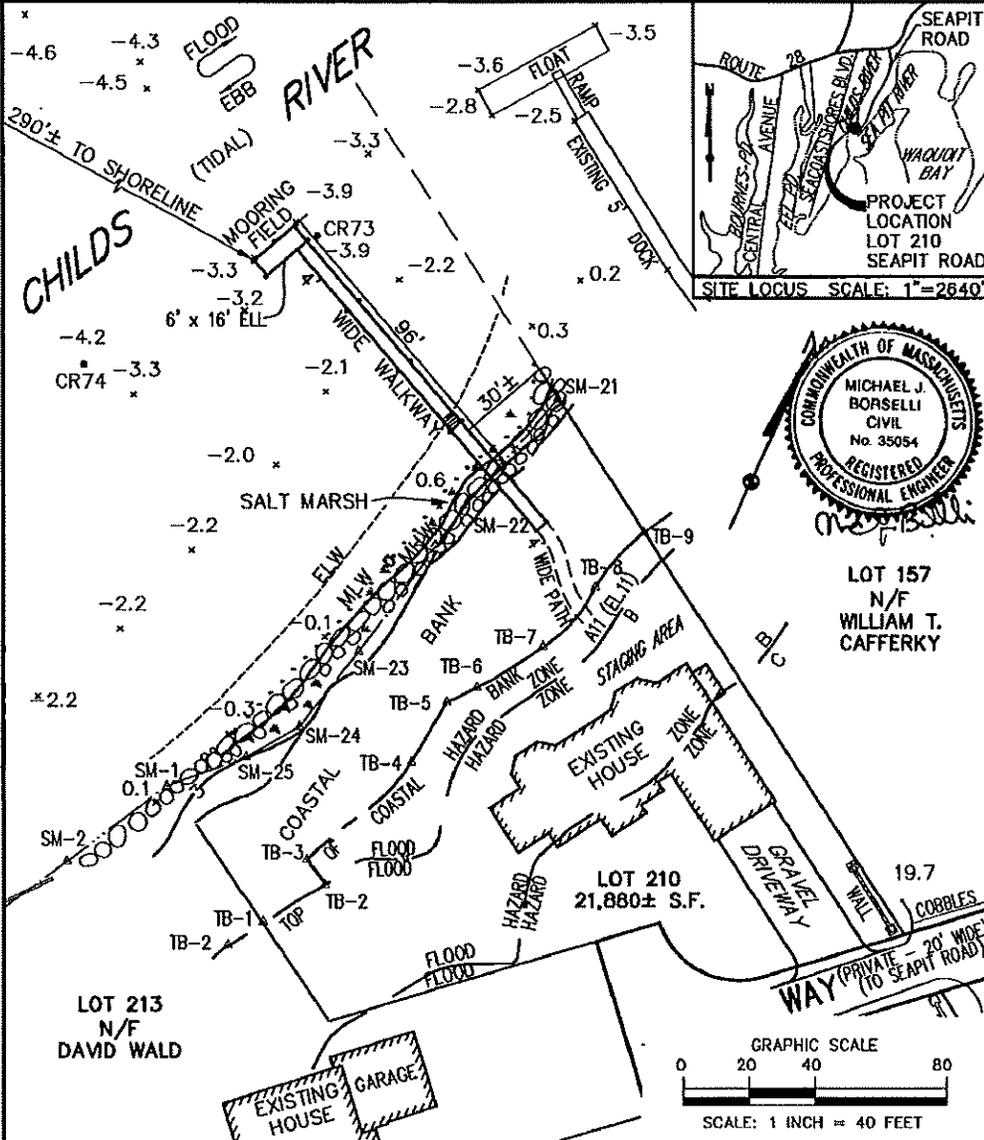
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NOT AN OFFICIAL COPY

NOT AN OFFICIAL COPY I CERTIFY THAT THIS PLAN WAS MADE IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

9/21/07  
DATE

Michael J. Borselli  
REGISTERED PROFESSIONAL ENGINEER



LOT 157  
N/F  
WILLIAM T.  
CAFFERKY

PURPOSE: PRIVATE RECREATIONAL USE  
PLAN ACCOMPANYING PETITION OF DANIEL BAKER, SEAPIT ROAD  
PLAN OF PROPOSED PIER  
IN CHILD'S RIVER  
FALMOUTH, BARNSTABLE COUNTY, MA

PLAN BY: 141 LOCUST ST. UNIT A  
FALMOUTH, MA 02540  
508.495.1225  
508.495.3229 fax

DATE: MAY 27, 2007 SHEET: 1 OF 2

DATUM:  
BASED ON MLW = 0.0  
ELEV. ABOVE MHW BASED ON N.G.V.D.

LICENSE PLAN NO. 11953  
Approved by Department of Environmental Protection  
of Massachusetts  
  
DEC 3 2007

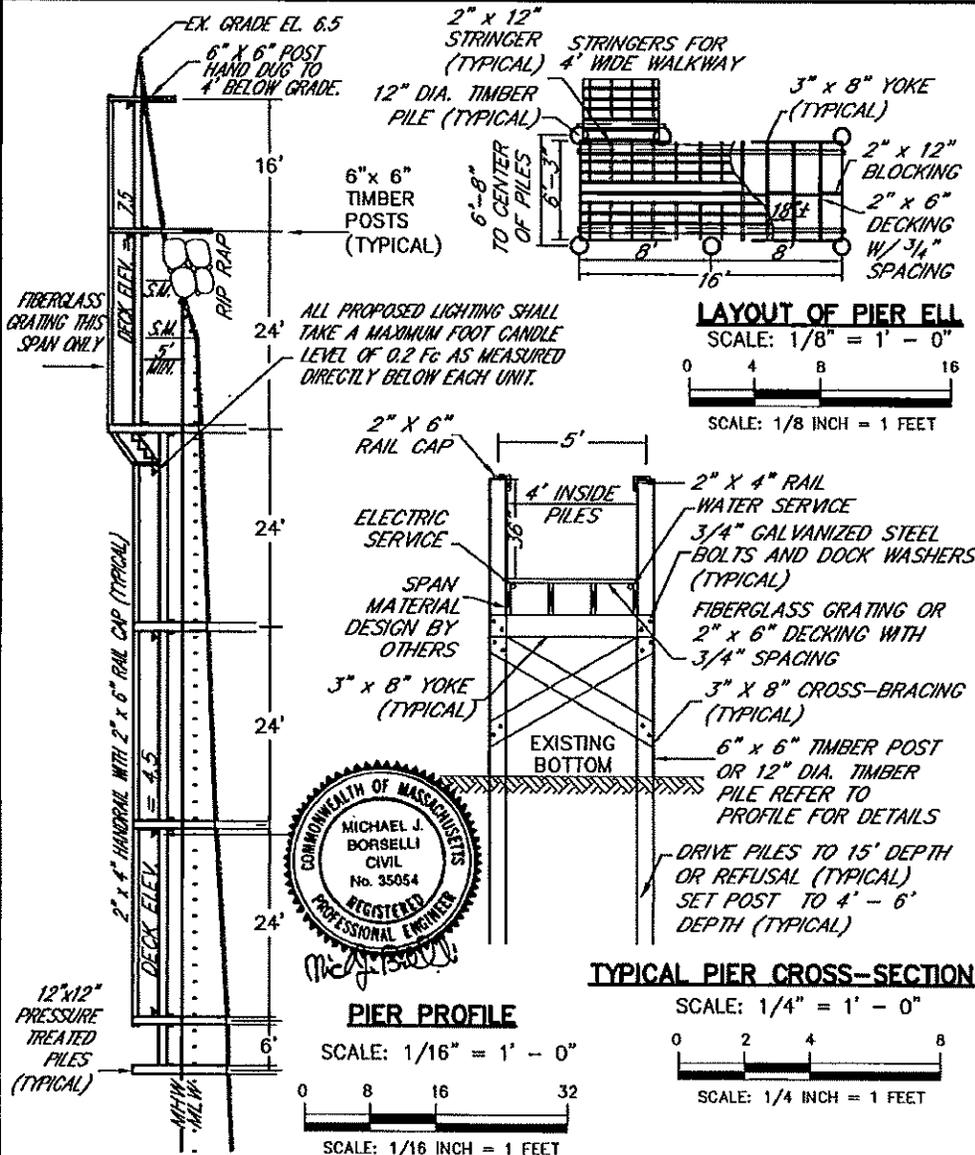
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NOT AN OFFICIAL COPY I CERTIFY THAT THIS PLAN WAS MADE IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

9/21/07 DATE

Michael J. Borselli REGISTERED PROFESSIONAL ENGINEER



PURPOSE: PRIVATE RECREATIONAL USE  
PLAN ACCOMPANYING PETITION OF DANIEL BAKER, SEAPIT ROAD PLAN OF PROPOSED PIER IN CHILDS RIVER FALMOUTH, BARNSTABLE COUNTY, MA  
PLAN BY: FALMOUTH ENGINEERING 141 LOCUST ST. UNIT A FALMOUTH, MA 02540 508.495.1225 508.495.3229 fox  
DATE: MAY 27, 2007 SHEET: 2 OF 2

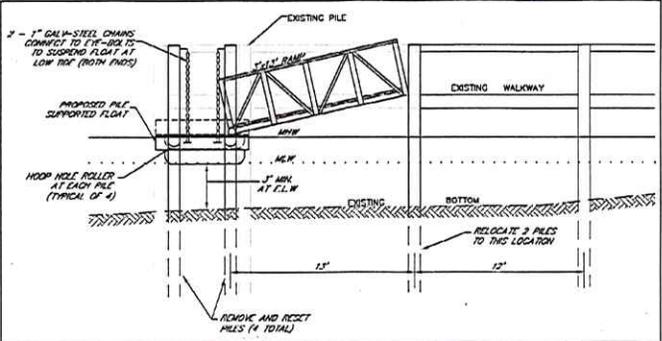
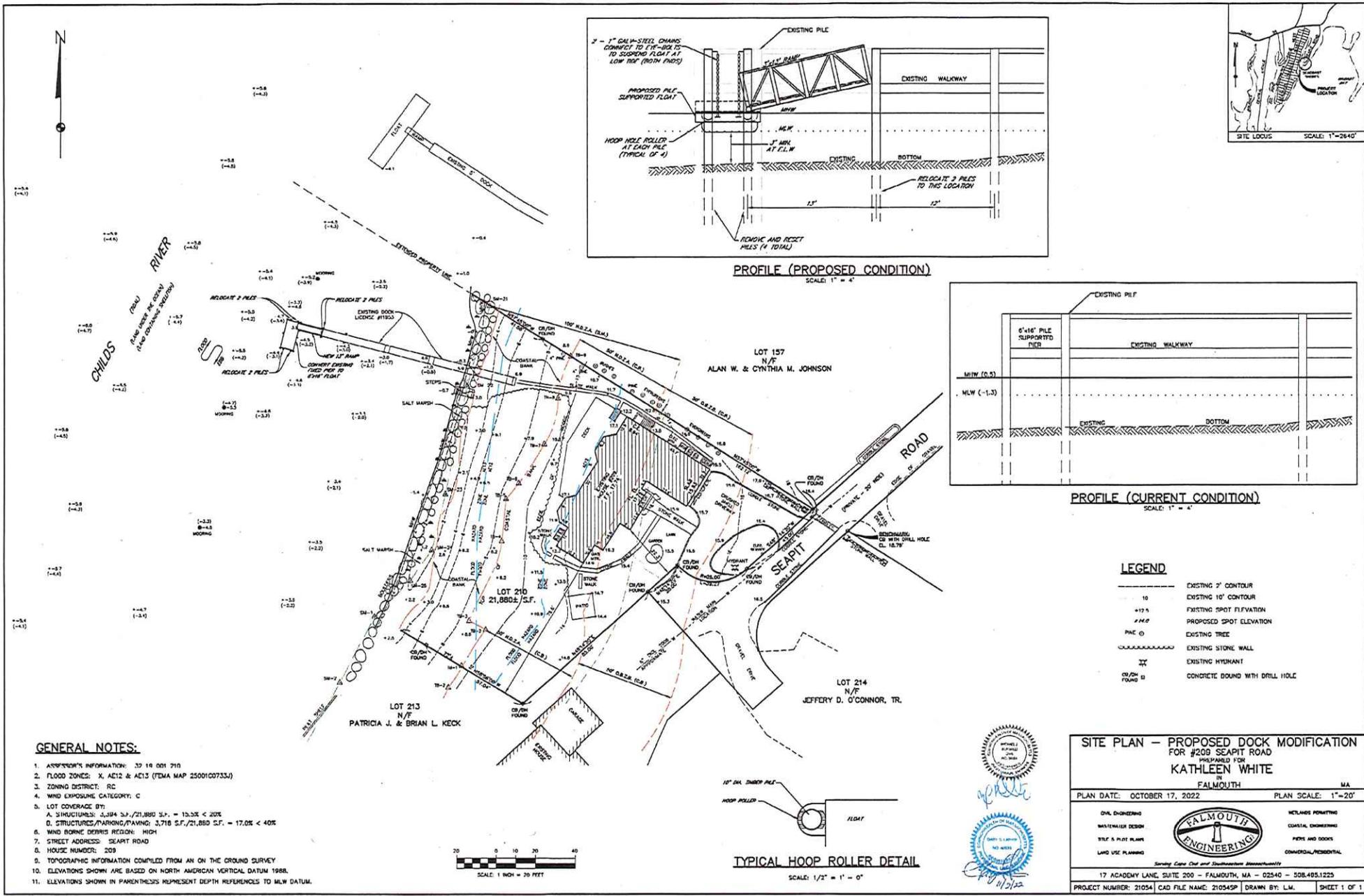
DATUM:  
BASED ON MLW = 0.0  
ELEV. ABOVE MHW BASED ON N.G.V.D.  
LICENSE PLAN NO. 11953  
Approved by Department of Environmental Protection  
Date: 05/31/2007

**ATTACHMENT F**

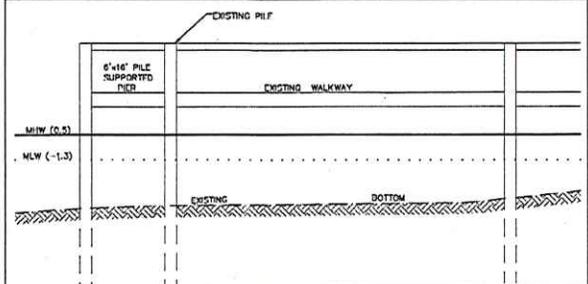
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**PLAN OF PROPOSED PIER MODIFICATIONS**

---



PROFILE (PROPOSED CONDITION)  
SCALE: 1" = 4'



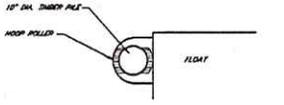
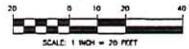
PROFILE (CURRENT CONDITION)  
SCALE: 1" = 4'

**LEGEND**

---	EXISTING 7' CONTOUR
---	EXISTING 10' CONTOUR
+12.5	EXISTING SPOT ELEVATION
14.0	PROPOSED SPOT ELEVATION
○	EXISTING TREE
-----	EXISTING STONE WALL
---	EXISTING HYDRANT
○/□ FOUND	CONCRETE BOUND WITH DRILL HOLE

**GENERAL NOTES:**

1. ASSUMED INFORMATION: 32 18 001 210
2. FLOOD ZONES: X, AE12 & AE13 (FEMA MAP 25001C0733J)
3. ZONING DISTRICT: RC
4. WIND EXPOSURE CATEGORY: C
5. LOT COVERAGE BY:
  - A. STRUCTURES: 3,384 S.F./21,880 S.F. = 15.5% < 20%
  - B. STRUCTURES/PARKING/PAVING: 3,716 S.F./21,880 S.F. = 17.0% < 40%
6. WIND BORN DEBRIS REGION: HIGH
7. STREET ADDRESS: SEAPIT ROAD
8. HOUSE NUMBER: 209
9. TOPOGRAPHIC INFORMATION COMPILED FROM AN ON THE GROUND SURVEY
10. ELEVATIONS SHOWN ARE BASED ON NORTH AMERICAN VERTICAL DATUM 1988.
11. ELEVATIONS SHOWN IN PARENTHESES REPRESENT DEPTH REFERENCES TO M.L.W. DATUM.



TYPICAL HOOP ROLLER DETAIL  
SCALE: 1/2" = 1' - 0"



**SITE PLAN - PROPOSED DOCK MODIFICATION FOR #209 SEAPIT ROAD**  
PREPARED FOR  
**KATHLEEN WHITE**  
IN  
FALMOUTH, MA

PLAN DATE: OCTOBER 17, 2022 PLAN SCALE: 1"=20'

CIVIL ENGINEERING WATERWALL DESIGN TRIP & PLAY PLANS LAND USE PLANNING		HIGHLANDS PLANNING COASTAL ENGINEERING PERMITS AND DOCKS COMMERCIAL/RESIDENTIAL
---	--	--

17 ACADEMY LANE, SUITE 200 - FALMOUTH, MA - 02540 - 508.485.1225  
PROJECT NUMBER: 21054 CAD FILE NAME: 21054SP DRAWN BY: L.M. SHEET 1 OF 1



RECORDED

FEB 03 2023

Board of Assessors, Local of Falmouth

## 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: Diane Davidson

Address of person requesting abutters list: Town Manager/Select Board Office

Phone: x7321

Abutters to (subject property):  
Map 32 Section 19 Parcel 001 Lot 210  
Map \_\_\_\_\_ Section \_\_\_\_\_ Parcel \_\_\_\_\_ Lot \_\_\_\_\_  
Map \_\_\_\_\_ Section \_\_\_\_\_ Parcel \_\_\_\_\_ Lot \_\_\_\_\_

Lot size of subject property: \_\_\_\_\_

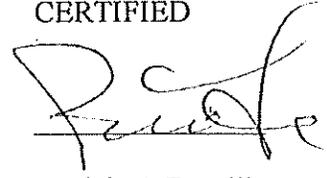
Location of subject property: 209 Seapit Road, East Falmouth

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 N/A

209 SEAPIT RD  
CERTIFIED

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

Patricia A Favulli  
Director of Assessing  
Town of Falmouth  
February 9, 2023, 2023

194 SEAPIT RD 32 19 001A 160A  
-----  
LUG: 101  
GORIN DANIEL R  
GORIN LISA F  
194 SEAPIT RD  
E FALMOUTH, MA 02538

191 SEAPIT RD 32 19 001A 167  
-----  
LUG: 101  
JOHNSON ALAN W  
JOHNSON CYNTHIA M  
46 BRIANT DRIVE  
SUDBURY, MA 01776

213 SEAPIT RD 32 19 001 213  
-----  
LUG: 101  
KECK TRUSTEE PATRICIA J  
KECK TRUSTEE BRIAN L  
PO BOX 3276  
WAQUOIT, MA 02538

210 SEAPIT RD 32 19 001 214  
-----  
LUG: 101  
OCONNOR JEFFERY DRINAN  
OCONNOR CHRISTOPHER SEAN  
1329 A STREET  
C/O CHRIS OCONNOR  
NAPA, CA 94558

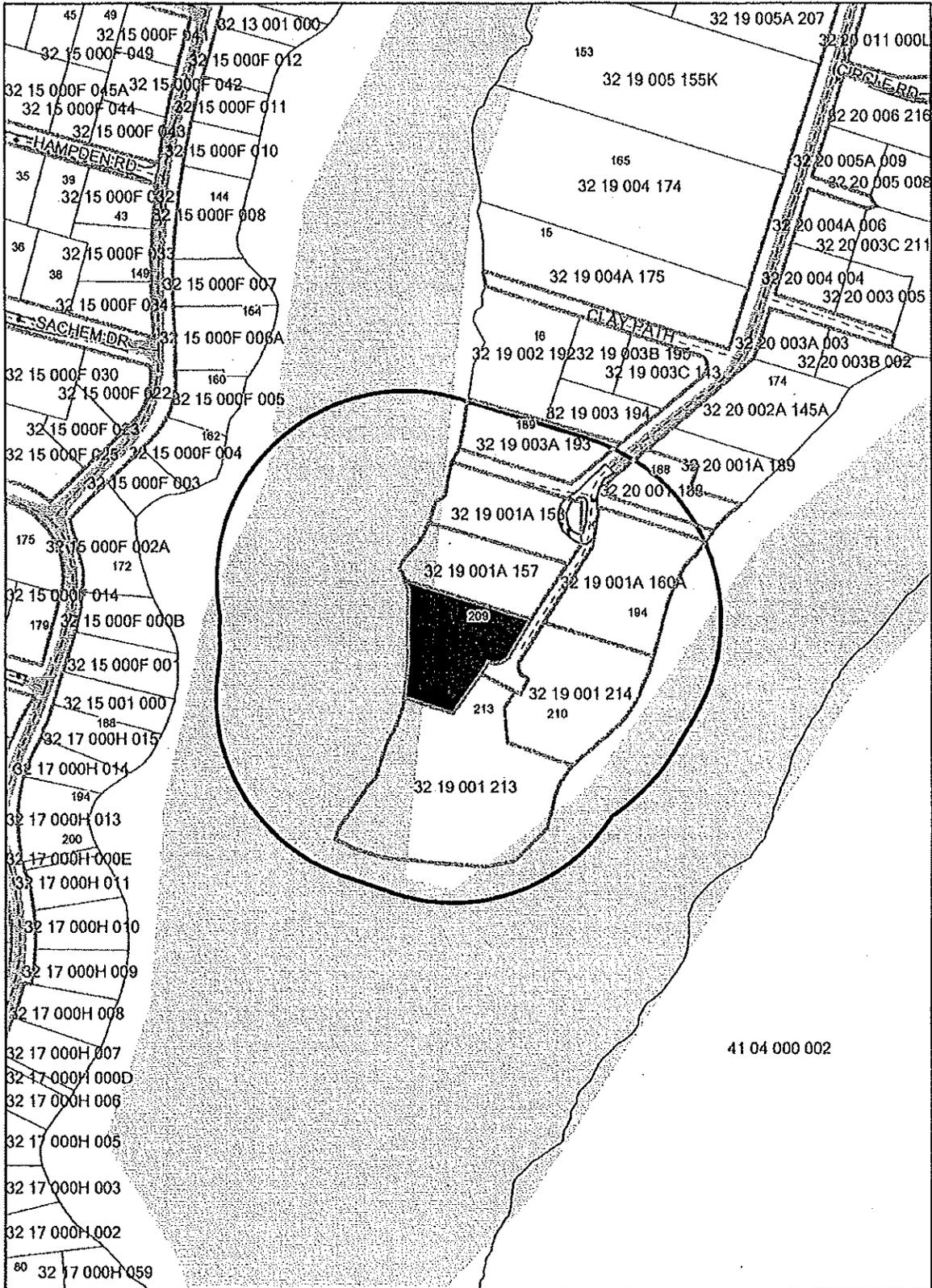
188 SEAPIT RD 32 20 001 188  
-----  
LUG: 101  
SEAPAD LLC  
4 EMMA DR  
HOPKINTON, MA 01748-1574

189 SEAPIT RD 32 19 003A 193  
-----  
LUG: 101  
SETTE TRUSTEE RICHARD A  
SETTE TRUSTEE JEANMARIE  
189 SEAPIT RD  
EAST FALMOUTH, MA 02538

5 RIVERS VIEW RD 32 19 001A 158  
-----  
LUG: 101  
WALD DAVID  
WALD DIANA L  
4102 FAIRWAY DR N  
JUPITER, FL 33477

209 SEAPIT RD 32 19 001 210  
-----  
LUG: 101  
WHITE KATHLEEN A  
K A WHITE REVOC TRUST  
32 DELLWOOD CT  
PLEASANT HILL, CA 94523

# 209 SEAPIT RD



## **OPEN SESSION**

## **BUSINESS**

1. Discuss and vote 5% local retirement COLA option **(10 minutes)**

### **Recommended motion:**

**“To grant an increase to the Cost-of-Living Adjustment from 3.0% to 5.0% on a maximum base retirement allowance of \$14,000 for FY2023, pursuant to Chapter 269 of the Acts of 2022.”**



# Falmouth Retirement System

80 DAVIS STRAITS, SUITE 102 • FALMOUTH, MA 02540

TELEPHONE: (508) 457-0578

FACSIMILE: (508) 540-9962

WWW.FALMOUTHRETIREMENTMA.GOV

January 26, 2023

Select Board

Attn: Nancy R. Taylor, Chair

59 Town Hall Square

Falmouth, MA 02540

Dear Madame Chair:

Pursuant to Chapter 269 of the Acts of 2022, the Falmouth Retirement Board, at its meeting on January 19, 2023, voted to grant an increase to the Cost-of-Living Adjustment from 3.0% to 5.0% on a maximum base retirement allowance of \$14,000 for FY 2023. Respectfully, the Falmouth Retirement Board request that the Select Board for the Town of Falmouth vote to accept the same.

If you should have any questions, please feel free to contact this office at 508-457-0578.

Respectfully,

Francis X. St. Germaine III  
Director

Attachment

# AN ACT RELATIVE TO COST-OF-LIVING ADJUSTMENTS FOR RETIREES

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to provide for increased cost-of-living adjustments for retirees, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. (a) (1) Notwithstanding section 103 of chapter 32 of the General Laws or any other general or special law to the contrary, the retirement board of any system that has accepted said section 103 may elect to establish a cost-of-living adjustment increase of not less than 3 per cent and not greater than 5 per cent on the base amount provided for in said section 103 for fiscal year 2023.

(2) The sum of the dollar amount of the cost-of-living increase on the base amount, together with the amount of retirement allowance, pension or annuity to which the cost-of-living increase is applied, shall become the fixed retirement allowance, pension or annuity for all future purposes, including the application of subsequent cost-of-living adjustments in future years.

(b) A retirement board may grant a cost-of-living increase of not less than 3 per cent and not greater than 5 per cent on the base amount for fiscal year 2023 at any time during the fiscal year.

(c) This section shall take effect for the members of a retirement system by a majority vote of the board of such system and upon local acceptance: (i) of the city council upon recommendation of the mayor in a city, (ii) of the city council upon recommendation of the city manager in a city having a Plan D or Plan E charter, (iii) of the chief executive officer, as defined in section 7 of chapter 4 of the General Laws, in a town, (iv) of the county commissioners in a county and (v) by vote of the governing board, commission or committee in a district or other political subdivision of the commonwealth. For any retirement system comprising more than 1 political subdivision of the commonwealth, this section shall be effective by a majority vote of the board of such system and upon the acceptance of two-thirds of cities and towns within the system by approval of: (i) the city council upon recommendation of the mayor in a city, (ii) the city council upon recommendation of the city manager in a city having a Plan D or Plan E charter, and (iii) the chief executive officer, as defined in section 7 of chapter 4 of the General Laws, in a town.

SECTION 2. This act shall take effect on July 1, 2022.

*Approved, November 16, 2022.*



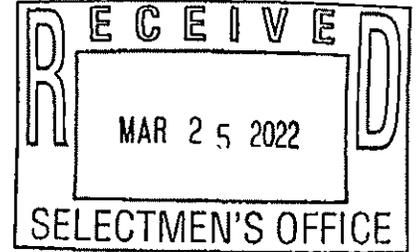
# Falmouth Retirement System

80 DAVIS STRAITS, SUITE 102 • FALMOUTH, MA 02540

TELEPHONE: (508) 457-0578

FACSIMILE: (508) 540-9962

WWW.FALMOUTHRETIREMENTMA.GOV



March 21, 2022

Select Board

Attn: Douglas C. Brown, Chairman

59 Town Hall Square

Falmouth, MA 02540

Dear Mr. Chairman:

Pursuant to M.G.L. Chapter 32 § 103(l), notice is hereby given to the Select Board for the Town of Falmouth that the Falmouth Retirement Board, at its meeting on February 24, 2022, voted to grant a 3.0% Cost-of-Living Adjustment on a retirement allowance for FY 2023.

If you should have any questions, please feel free to contact this office at 508-457-0578.

Very truly yours,

Francis X. St. Germaine III  
Director

Received on this 25<sup>th</sup> day of March, 2022

Signature: Phyllis A Downey

**OPEN SESSION**

**BUSINESS**

2. Emerald Properties Affordable Housing and Community Play Space Plan **(10 minutes)**

# **EMERALD PROPERTIES PROJECT**

Affordable Housing  
Accessible Recreation  
Historic Preservation

67 & 81 Davisville Road, Falmouth, MA 02536

# AGENDA

- Introduction
- Primary Goals
- Data Review & Local Stories
- Master Plan
- Process & Timeline
- Next Steps



# INTRODUCTION

The town is using its own land to *help address the ongoing housing crisis* and working with the key stakeholders to *create an all-inclusive, multi-generational play space*, all while working to *preserve the existing historical and community resources*.



**AFFORDABLE  
HOUSING**



**ACCESSIBLE  
RECREATION**



**HISTORIC  
PRESERVATION**

# PRIMARY GOALS

Create affordable housing, develop accessible recreation, preserve existing historical and community resources

Goal #1: Create consensus around a Master Plan for the properties

Goal #2: Address the ongoing housing crisis

Goal #3: Develop more accessible recreation opportunities

Goal #4: Preserve the existing historical and community resources

Goal #5: Ensure the public is included in the process

# DATA REVIEW: AREA MEDIAN INCOME (AMI)

Household Size	30% AMI	50% AMI	80% AMI	100% AMI	120% AMI
1	\$22,850	\$38,050	\$60,900	\$76,100	\$91,400
2	\$26,100	\$43,500	\$69,600	\$87,000	\$104,400
3	\$29,350	\$48,950	\$78,300	\$97,850	\$117,400
<b>4</b>	<b>\$32,600</b>	<b>\$54,350</b>	<b>\$86,950</b>	<b>\$108,700</b>	<b>\$130,400</b>
5	\$35,250	\$58,700	\$93,950	\$117,400	\$141,000
6	\$37,850	\$63,050	\$100,900	\$126,100	\$151,400

Source: U.S. Department of Housing and Urban Development (HUD)

Based on the FY 2022 Area Median Income (AMI) for Barnstable County: \$115,600

Barnstable, Bourne, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Provincetown, Sandwich, Truro, Wellfleet, and Yarmouth

# DATA REVIEW: RENT LIMITS

Type of Unit	30% AMI	50% AMI	80% AMI	100% AMI	120% AMI
Studio	\$571	\$951	\$1,522	\$1,902	\$2,285
1	\$611	\$1,019	\$1,631	\$2,175	\$2,610
2	\$733	\$1,223	\$1,957	\$2,446	\$2,935
3	\$848	\$1,413	\$2,261	\$2,718	\$3,260
4	\$946	\$1,576	\$2,522	\$2,935	\$3,525
5	\$1,043	\$1,736	\$2,783	\$3,153	\$3,785

Source: U.S. Department of Housing and Urban Development (HUD)

Based on the FY 2022 Fair Market Rent Calculations

Barnstable, Bourne, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Provincetown, Sandwich, Truro, Wellfleet, and Yarmouth

# LOCAL STORIES

Faces Of Affordable Housing

## Over The Bridge And Far Away

By ELIZABETH SAITO Dec 30, 2022  1

[Home](#) / [Falmouth](#) / [Falmouth News](#)



Ashley Halstead grew up in Falmouth and now lives over the Sagamore Bridge in Bourne.

GENE M. MARCHAND/ENTERPRISE

Ashley E. Halstead, 35, grew up in Falmouth and now lives just over the Sagamore Bridge—not by choice—in a two-bedroom apartment with her two boys, Trenton, 14, and Warren, 13.

Faces Of Affordable Housing

## Family Struggles Toward Homeownership

By GILDA GEIST Jan 13, 2023  1

[Home](#) / [Falmouth](#) / [Falmouth News](#)



Travis and Chinna Mapp say that were it not for their boys' love of the Falmouth schools, the family would have left Falmouth for someplace more affordable.

GILDA GEIST/ENTERPRISE

When Chinna D. Mapp, 46, moved from the United Arab Emirates to Cape Cod for her dream job at Falmouth Public Schools, she did not know how hard it would be to find a stable home for her family. "I knew it was going to be expensive," she said, "but I didn't think it would be almost impossible."

# PROPERTIES: WHAT WE KNOW

## #67 Davisville Road ("Emerald House Property")

- Public Use (PU) zoning district
- 4.92 acres
- Acquired in 1995 for public recreation & conservation – *Article 97 Protection*

## #81 Davisville Road ("Rapoza Property")

- Residential A (RA) zoning district
- 3.94 acres
- Acquired in 2007 for public recreation & municipal purposes - *No Article 97 Protection*



# TECHNICAL ASSISTANCE: TAKEAWAYS

## Massachusetts Housing Partnership (MHP) – *Free to Falmouth*

### Due Diligence Report (2021)

- Would need to be a 40B project
- Septic system assumed to be enhanced nitrogen removal and designed for 44 bedrooms
- 200-foot Riverfront Resource Area extends into the properties

### Properties Conceptual Design (2022)

- Playground (1.5 acres) remains on Article 97 Land (#67 Davisville Rd)
- All housing would be located on #81 Davisville Rd
- Emerald House and Community Gardens remain in place

# MASTER PLAN: THEN

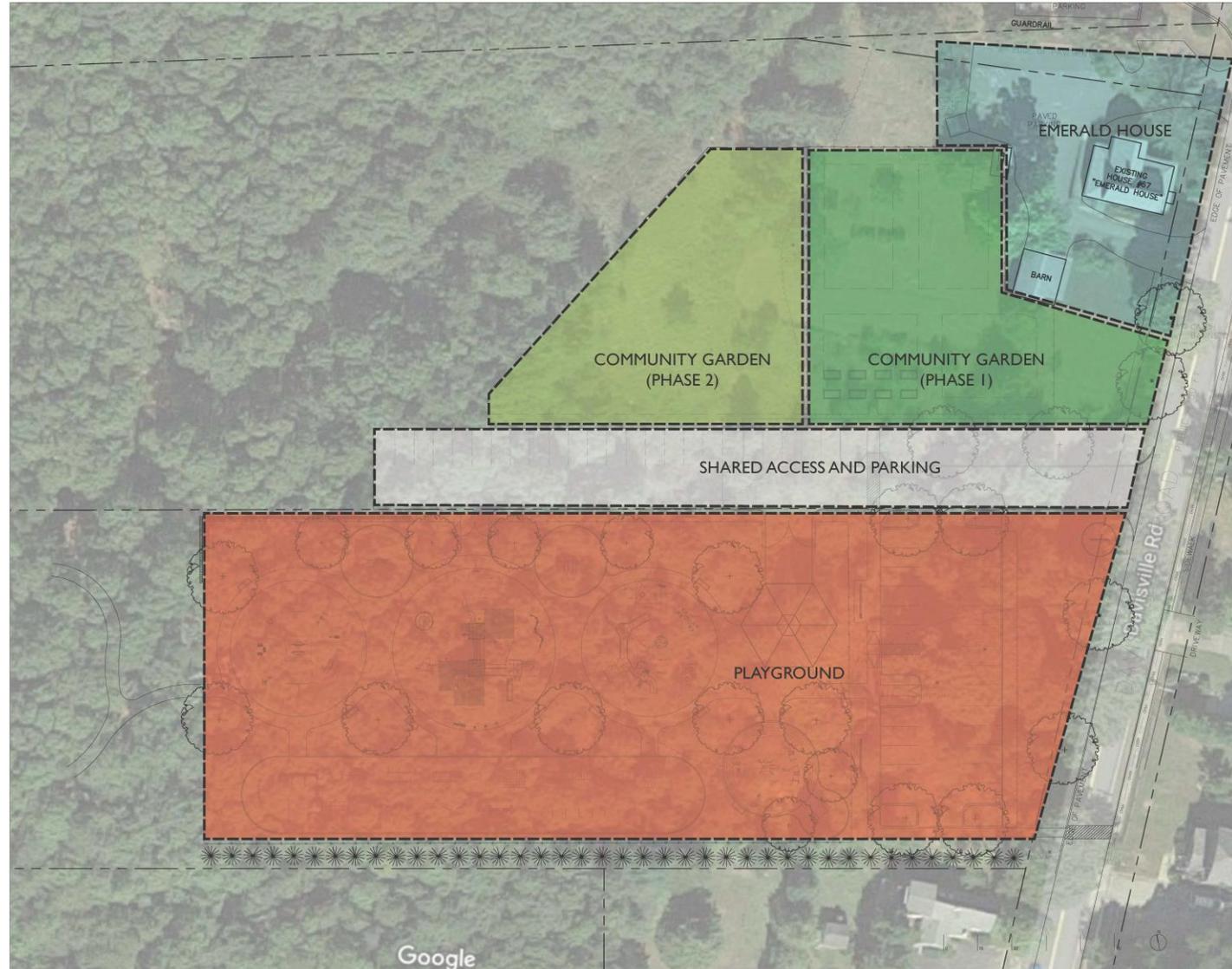
2020

Emerald House  
Property

Community  
Gardens

Accessible  
Playground

*No Housing*

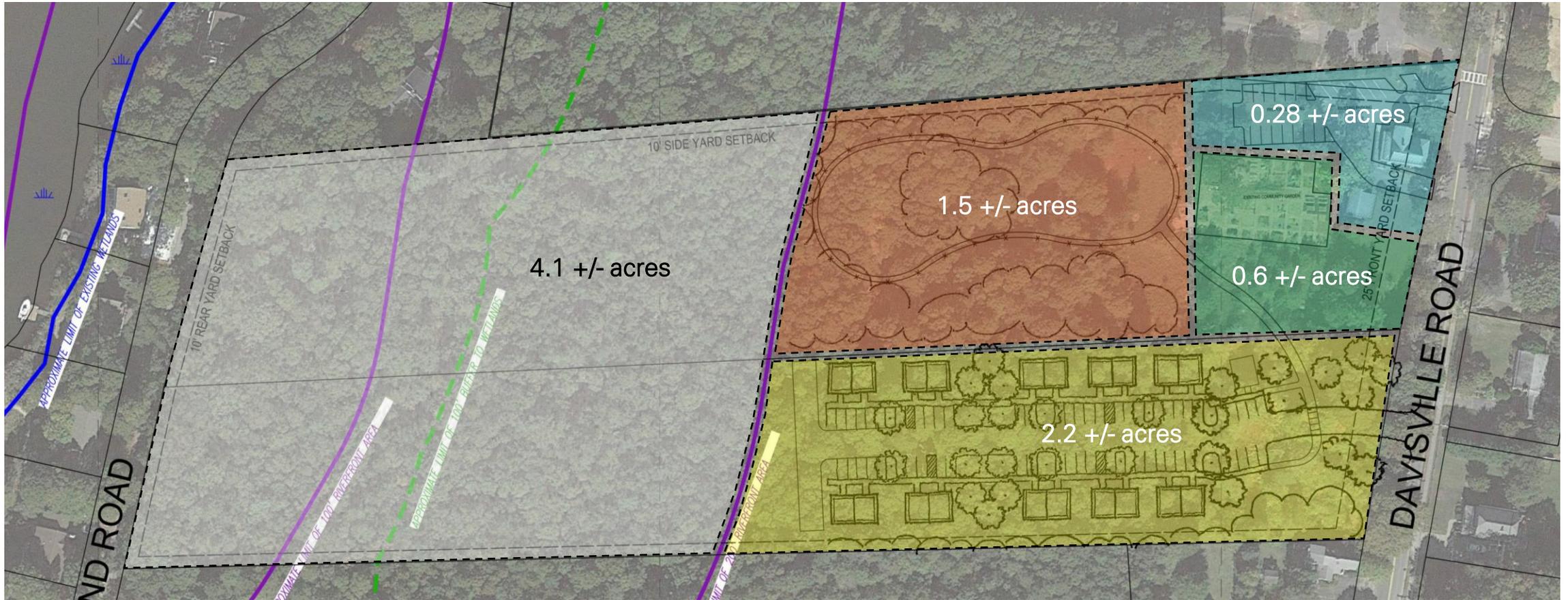




# MASTER PLAN: NOW

Create affordable housing, develop accessible recreation, preserve existing historical and community resources

*For Illustrative Purposes Only*



Key factors: 1) Environmental features (white area) limit development area; 2) #67 Davisville was acquired for recreational and conservation purposes.

# PROCESS

1

## PLANNING

Develop a master plan for the properties

2

## OUTREACH

Solicit feedback from the public and key stakeholders

3

## REQUEST FOR PROPOSALS

Find developers for the project

4

## PRE-CONSTRUCTION

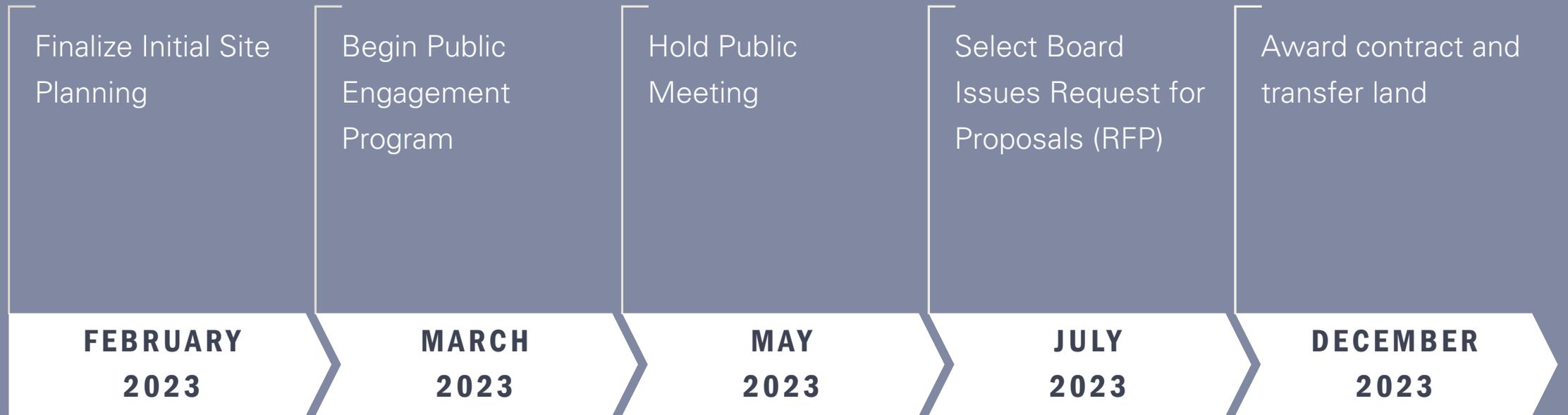
Retain a developer and transfer the land

5

## CONSTRUCTION

Build the housing and accessible play space

# TIMELINE



*Affordable housing and accessible play space will be separate projects*

# NEXT STEPS: REQUEST FOR PROPOSALS

## Developing a Request for Proposals (RFP) for the Housing

- Develop goals for proposed project
- Conduct initial feasibility assessment
- Formulate critical characteristics for proposed development
- Secure support from stakeholders
- Assemble request for proposal materials
- Develop criteria for selecting a developer
- Design the evaluation process
- Create a list of submission requirements
- Advertise the request for proposals
- Review developers' proposals
- Select the developer
- Negotiate terms for the disposition and management of the land

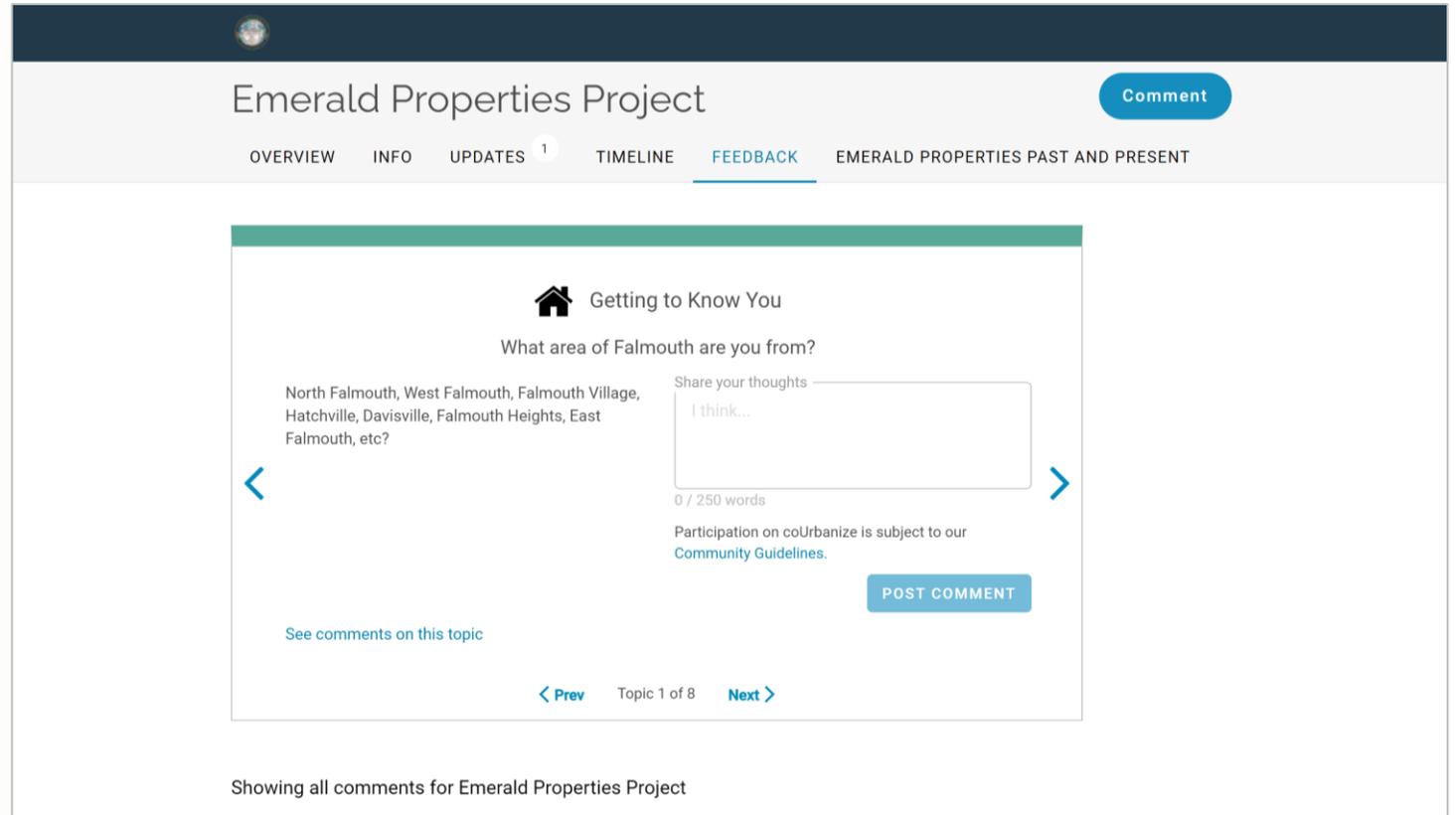
# NEXT STEPS: DRAFT RFP ELEMENTS

- A range of bedrooms, from a minimum of 44 to a maximum of 90
- A range of income levels, from 80% to 120% AMI
- Up to 70% local preference for people who live or work in Falmouth or have children in the Falmouth school system
- Architecture and design compatible with the area
- Energy efficient construction and orientation for solar panels
- Communal outdoor gathering spaces
- *Innovative/Alternative septic system capable of reducing nitrogen levels*
- Adequate water system that meets the project's demand and doesn't affect the existing demand for the area
- No potable water irrigation system
- Safe walkable connections to the adjacent play space and Elementary School
- Drought tolerant native landscaping
- Adequate buffers on three sides (north, south, and east) of the property

# NEXT STEPS: SHARE YOUR THOUGHTS

## Options:

- Visit the project website and leave comments
- Fill out a paper questionnaire
- Email the Planning Department



The screenshot displays the 'Emerald Properties Project' website. At the top, there is a navigation bar with links for 'OVERVIEW', 'INFO', 'UPDATES' (with a '1' notification), 'TIMELINE', 'FEEDBACK' (highlighted), and 'EMERALD PROPERTIES PAST AND PRESENT'. A 'Comment' button is visible in the top right corner. The main content area features a section titled 'Getting to Know You' with a house icon. Below this, a question asks 'What area of Falmouth are you from?' with a list of options: 'North Falmouth, West Falmouth, Falmouth Village, Hatchville, Davisville, Falmouth Heights, East Falmouth, etc?'. To the right of the question is a text input field labeled 'Share your thoughts' with the placeholder 'I think...'. Below the input field, it shows '0 / 250 words'. A 'POST COMMENT' button is located below the input field. At the bottom of the form, there is a link 'See comments on this topic' and navigation arrows for 'Prev' and 'Next' (Topic 1 of 8). At the very bottom of the page, it says 'Showing all comments for Emerald Properties Project'.

<https://www.emeraldpropertiesfalmouth.com>

# THANK YOU

## Questions or Comments?

Email us at: [planning@falmouthma.gov](mailto:planning@falmouthma.gov)

## Visit the Project Website

<https://www.emeraldpropertiesfalmouth.com>



## **OPEN SESSION**

## **BUSINESS**

3. Application for a Change of Officers/Directors and a Change of Manager – Cape Verdean Club of Falmouth, Inc., located at 126 Sandwich Road, East Falmouth **(5 minutes)**

**LICENSE APPLICATION REVIEW**

Restaurant/Business: Cape Verdean Club of Falmouth, Inc.

Address: 126 Sandwich Road

License Type: All Alcohol Club License

New or Transfer of License \_\_\_\_\_  
\_\_\_\_\_

or

Change of License Change of Manager and Change of Officers

- Police No objection
- Fire No objection
- Building \_\_\_\_\_
- Health \_\_\_\_\_
- Zoning \_\_\_\_\_
- Planning \_\_\_\_\_
- DPW \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**NOTES:** Officers for this club have no beneficial interest, they are volunteers, therefore no advertisement is required for these amendments.



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

APPLICATION FOR MULTIPLE AMENDMENTS

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):

- 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 Alcoho/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

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

APPLICATION FOR MULTIPLE AMENDMENTS

**1. BUSINESS ENTITY INFORMATION**

Entity Name	Municipality	ABCC License Number
Cape Verdean Club Falmouth, Inc	Falmouth	00059-CL-0390

Please provide a narrative overview of the transaction(s) being applied for. On-premises applicants should also provide a description of the intended theme or concept of the business operation. Attach additional pages, if necessary.

Non-profit club providing entertainment and cultural education to members and guest

**APPLICATION CONTACT**

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

Name	Title	Email	Phone
Corrie Green	President-elect	capeverdeanclubfalmouth@gmail.com	508-241-0866

**2. AMENDMENT-Change of License Classification**

<input type="checkbox"/> <b>Change of License Category</b> All Alcohol, Wine and Malt, Wine Malt and Cordials	Last-Approved License Category	<input type="text"/>
	Requested New License Category	<input type="text"/>
<input type="checkbox"/> <b>Change of License Class</b> Seasonal or Annual	Last-Approved License Class	<input type="text"/>
	Requested New License Class	<input type="text"/>
<input type="checkbox"/> <b>Change of License Type*</b> I.e. Restaurant to Club *Certain License Types CANNOT change once issued*	Last-Approved License Type	<input type="text"/>
	Requested New License Type	<input type="text"/>

**3. AMENDMENT-Change of Business Entity Information**

<input type="checkbox"/> <b>Change of Corporate Name</b>	Last-Approved Corporate Name:	<input type="text"/>
	Requested New Corporate Name:	<input type="text"/>
<input type="checkbox"/> <b>Change of DBA</b>	Last-Approved DBA:	<input type="text"/>
	Requested New DBA:	<input type="text"/>
<input type="checkbox"/> <b>Change of Corporate Structure</b> LLC, Corporation, Sole Proprietor, etc	Last-Approved Corporate Structure	<input type="text"/>
	Requested New Corporate Structure	<input type="text"/>

**4. AMENDMENT-Pledge Information**

<input type="checkbox"/> <b>Pledge of License</b>	To whom is the pledge being made:	<input type="text"/>
<input type="checkbox"/> <b>Pledge of Inventory</b>		
<input type="checkbox"/> <b>Pledge of Stock</b>		

## 5. AMENDMENT-Change of Manager

**Change of License Manager**

### A. MANAGER INFORMATION

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

Proposed Manager Name  Date of Birth

Residential Address

Email  Phone

Please indicate how many hours per week you intend to be on the licensed premises  Last-Approved License Manager

### B. CITIZENSHIP/BACKGROUND INFORMATION

Are you a U.S. Citizen?  Yes  No \*Manager must be a 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

### C. EMPLOYMENT INFORMATION

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

Start Date	End Date	Position	Employer	Supervisor Name
10/30/1996	current	Command Support Staff	102nd Intelligence Wing	Joel Lewandowski

### D. 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  Date

## 6. AMENDMENT-Change of Officers, Stock or Ownership Interest

- Change of Officers/Directors**    
  **Change of Ownership Interest (LLC Managers/LLP Partners, Trustees)**    
  **Change of Stock (E.g. New Stockholder/ Transfer or Issuance of Stock)**

List all individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.). Attach additional page(s) provided, if necessary, utilizing Addendum A.

- The individuals and titles listed in this section must be identical to those filed with the Massachusetts Secretary of State.
- The individuals identified in this section, as well as the proposed Manager of Record, must complete a CORI Release Form.
- Please note the following statutory requirements for Directors and LLC Managers:  
**On Premises (E.g. Restaurant/ Club/Hotel) Directors or LLC Managers** - At least 50% must be US citizens;  
**Off Premises(Liquor Store) Directors or LLC Managers** - All must be US citizens and a majority must be Massachusetts residents.
- If you are a Multi-Tiered Organization, please attach a flow chart identifying each corporate interest and the individual owners of each entity as well as the Articles of Organization for each corporate entity. Every individual must be identified in Addendum A.

Name of Principal	Residential Address	SSN	DOB
Correnia Green	46 Highland Street Mashpee, MA 02649	[REDACTED]	[REDACTED]
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
President	NA	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA resident			<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Cynthia Rodrigues	492 East Falmouth Highway East Falmouth, MA 02533	[REDACTED]	[REDACTED]
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Vice President	NA	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA resident			<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Philomena Gilbert	19 Wheelhouse Circle East Falmouth MA 02536	[REDACTED]	[REDACTED]
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Clerk	NA	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA resident			<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Doreen Monteiro	18 Fresh Pond Road East Falmouth MA 02536	[REDACTED]	[REDACTED]
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Treasurer	NA	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA resident			<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Rosalind Edwards	100 Teaticket Highway Apt 1207 Teaticket MA 02536	[REDACTED]	[REDACTED]
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Asst Clerk	NA	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA resident			<input checked="" type="radio"/> Yes <input type="radio"/> No
Name of Principal	Residential Address	SSN	DOB
Andrea Diggs	410 Caswell Street E Taunton, MA 02718	[REDACTED]	[REDACTED]
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
Director	NA	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
MA resident			<input checked="" type="radio"/> Yes <input type="radio"/> No

Additional pages attached?  Yes  No

### CRIMINAL HISTORY

Has any individual listed in question 6, and applicable attachments, ever been convicted of a State, Federal or Military Crime? If yes, attach an affidavit providing the details of any and all convictions.

Yes  No

### MANAGEMENT AGREEMENT

Are you requesting approval to utilize a management company through a management agreement? Please provide a copy of the management agreement.

Yes  No



**OPEN SESSION**

**BUSINESS**

4. Discuss and Consider Vote to Call Special Town Meeting April 10, 2023 **(10 minutes)**

**OPEN SESSION**

**BUSINESS**

5. Vote Article Recommendations for April 2023 Annual Town Meeting **(15 minutes)**



## APRIL 2023 ANNUAL TOWN MEETING

Select Board Announce Annual Town Meeting Schedule ..... Monday, December 5, 2022

Close Warrant ..... Friday, January 13, 2023

Select Board Vote Articles & Execute Warrant.....Monday, January 30, 2023

Publish Articles Only ..... Friday, February 3, 2023

Presentation on Petition Articles.....Monday, February 13, 2023

Select Board Vote Recommendations .....Monday, February 27, 2023

Publish Warrant with Recommendations and Mail Warrant Booklets ..... Friday, March 17, 2023

Town Meeting.....Monday, April 10, 2023

Article	Recomm.
1 Choose Town Officers	Fincom
2 Hear Reports from Committees and Town Officers	Fincom
3 Fix Salaries of Elected Officials	Fincom
4 Fund: FY2024 Operating Budget	Fincom
5 Authorize: Stabilization Fund for Fire Department Wages and Expenses	Fincom
6 Fund: Override for Fire Department Wages and Expenses and Fire Department Stabilization Fund	Fincom
7 Fund: Capital Improvement Stabilization Fund	Fincom
8 Fund: Other Post Employment Benefits Trust Fund	Fincom
9 Authorize: FY2023 Budget Transfers	Fincom
10 Fund: FY2023 Supplemental Budget Appropriations	Fincom
11 Authorize: Rescind Borrowing Authorizations	Fincom
12 Authorize: Revolving Funds	Fincom
13 Authorize: Retiree COLA Calculation Adjustment	Fincom
14 Authorize: Rescind Acceptance of Civil Service for Police and Fire	Select Board
15 Petition: Authorize Access to Conduct Testing for Wind Energy Landfall	Select Board
16 Petition: Amend Town Code Leaf Blower Regulation	Select Board
17 Petition: Amend Town Code Noise Violations and Penalties	Select Board
18 Petition: Amend Town Code Plastic Reduction Bylaw	Select Board
19 Petition: Resolution to Support Change to State Flag	Select Board
20 Fund: Union settlements and Non-union wage adjustments	Fincom
21 Fund: Various items from free cash	Fincom
22 Fund: School capital items	Fincom
23 Fund: School design and owner's project manager services for three roof replacements	Fincom
24 Fund: Supplemental Appropriation for Wastewater Treatment Facility Improvements	Fincom
25 Fund: Design and Permitting of sewer system extension to Teaticket-Acapesket and related sewer system improvements	Fincom
26 Fund: Water Service Line Lead Inventory	Fincom
27 Fund: Water Supply Testing - unregulated contaminants	Fincom
28 Fund: Evaluation of Ashumet Well & Fresh Pond Well Treatment Locations	Fincom
29 Amend: Position Classification Plan	Select Board
30 Amend: Town Code Section 156-17 Fingerprint-Based Background Checks	Select Board
31 Amend: Town Code Section 280-12 Vehicle for Hire Permit, Insurance Certification	Select Board
32 Amend: Town Code Section 180-53 Flow Neutral Bylaw	Select Board
33 Amend: Town Code Sections 83-1 - 83-12 Stable Regulations	Select Board
34 Accept: MGL Chapter 41, Section 110A calculating legal deadlines for filing matters with Town Clerk	Select Board
35 Authorize: Nstar d/b/a Eversource Electric Company Easement	Select Board

Article	Recomm.
36 CPC: Fund Upper Coonamessett River Restoration	CPC
37 CPC: Fund Little Pond Conservation Area improvements	CPC
38 CPC: Fund Edward Marks Building exterior improvements	CPC
39 CPC: Fund Old Burying Ground ground penetrating radar survey	CPC
40 CPC: Fund Preservation of Francis Wicks House and historical artwork rehabilitation, 55 Palmer Ave	CPC
41 CPC: Fund Preservation of Highfield Hall, 56 Highfield Drive	CPC
42 CPC: Fund Falmouth Affordable Housing Fund	CPC
43 CPC: Fund Administrative Expenses	CPC

**ARTICLE 1:** To choose all other necessary Town Officers for the year in accordance with nominations to be offered at Town Meeting.

**RECOMMENDATION (Finance Committee):** That the Town vote Article 1 as printed.

**ARTICLE 2:** To hear reports of Committees and Town Officers and act thereon.

**RECOMMENDATION (Finance Committee):** That the Town vote Article 2 as printed.

**ARTICLE 3:** To see if the Town will vote to fix the salaries of the Elected Officials as follows:

Moderator	-----	\$1,500
Town Clerk	-----	\$102,622
Select Board Members	-----	\$5,000
Chair of Select Board	-----	\$6,000

And further, the Town Clerk is authorized to receive a Cost of Living Adjustment on the same terms and conditions of Technical Administrative and Management (TAM) employees. Or do or take any other action in the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):** That the Town vote Article 3 as printed.

**ARTICLE 4:** To see if the Town will vote to appropriate such sums of money as may be deemed necessary to defray the Town's expenses for Fiscal Year 2024 and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):** The Fiscal 2024 operating budget is found in the center section of the warrant booklet.

**EXPLANATION:**

**ARTICLE 5:** To see if the Town will vote to establish a stabilization fund pursuant to M.G.L. c. 40 § 5B to pay for Fire Department Wages and Expenses including, but not limited to, costs associated with training, equipment, wages, overtime, and benefits for fourteen (14) additional firefighter positions. Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):** That the Town vote Article 5 as printed.

**EXPLANATION:**

**ARTICLE 6:** To see if the Town will vote to appropriate a sum of money to pay for the wages, benefits and expenses associated with hiring fourteen (14) additional firefighters and to appropriate a sum of money for the Stabilization Fund for Fire Department Wages and Expenses contingent upon voter approval of a proposition 2½ override ballot question. Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):** That the Town vote to raise and appropriate \$600,000 to pay for the wages, benefits and expenses associated with hiring up to 14 additional firefighters and raise and appropriate \$350,000 to the Stabilization Fund for Fire Department Wages and Expenses and that both appropriations shall be contingent upon voter approval of a proposition 2 ½ override ballot question under General Laws Chapter 59 Section 21C. Said funds to be expended under the jurisdiction of the Town Manager.

**EXPLANATION:**

**ARTICLE 7:** To see if the Town will vote to appropriate a sum of money to the Capital Improvement Stabilization Fund for the purpose of funding future capital improvements, and to determine how the same shall be raised. Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):** That the Town vote to raise and appropriate \$1,032,079 to the Capital Improvement Stabilization Fund.

**EXPLANATION:**

**ARTICLE 8:** To see if the Town will vote to appropriate a sum of money to the Other Post-Employment Benefits Trust Fund for further appropriation, and to determine how the same shall be raised. Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):** That the Town vote to raise and appropriate \$500,000 to the Other Post-Employment Benefits Trust Fund.

**EXPLANATION:**

**ARTICLE 9:** To see if the Town will vote to transfer a sum of money within the FY 2023 budget approved by Article 10 of the April 4, 2022 Annual Town Meeting to make necessary adjustments thereto, and to determine how the same shall be raised. Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):** That the Town vote to transfer \$\_\_\_\_,000 within the FY2023 budget as follows:

<u>Transfer From</u>		<u>Transfer To</u>		
01-914-5177	Health Insurance	01-210-5130	Fire Overtime	\$50,000.00
		01-220-5130	Police Overtime	
01-994-5177	Health Insurance	01-230-5130	Communications OT	\$__,000.00
01-994-	Health Insurance	01-423-5541	Snow and Ice	\$__,000.00
01-994-	Health Insurance	01-433-5379	Recycling.	\$300,000.00
01-994-	Health Insurance	01-916-5179	Medicare	\$115,000.00
<b>Total</b>				<b>\$__000.00</b>

**EXPLANATION:**

**ARTICLE 10:** To see if the Town will vote to appropriate a sum of money to supplement the FY 2023 budget approved by Article 10 of the April 4, 2022 Annual Town Meeting, and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):**

**EXPLANATION:**

**ARTICLE 11:** To see if the Town will vote to rescind certain amounts of unissued borrowing. Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):**

**EXPLANATION:**

**ARTICLE 12:** To see if the Town will vote to authorize continued use of the following Revolving Funds for certain Town departments under M.G.L. c. 44 § 53E½ for the fiscal year beginning July 1, 2023, with the specific receipts credited to each fund, the purposes for which each fund may be spent and the maximum amount that may be spent from each fund for the fiscal year as follows:

Revolving Fund	Authorized to Spend	Revenue Source	Use of Fund	FY24 Spending Limit	Disposition of FY23 Fund Balance
Emerald House	Town Manager	Payments in Lieu of Rent	Maintenance of Building	\$28,000	Available for expenditure
Recreation Department	Recreation Director	Participation Fees	Departmental Special Activities	\$40,000	Available for expenditure
Historical Commission	Historical Commission	Sale of Books	Administer Book Program	\$7,500	Available for expenditure
Shellfish Propagation	Conservation Commission	Mitigation and Donations	Purchase Shellfish Seed	\$13,000	Available for expenditure
Shellfish and Aquaculture	Marine and Environ Svcs	Rental Equipment	Propagation and Aquaculture	\$150,000	Available for expenditure
Senior Services	Senior Services Director	Fees	Activities	\$500,000	Available for expenditure
TOTAL SPENDING				\$738,500	

Or do or take any action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):**

**EXPLANATION:**

**ARTICLE 13:** To see if the Town will vote, in accordance with M.G.L. c. 32 §103(j), to increase from \$14,000 per year to \$16,000 per year the maximum base amount upon which the annual cost-of-living-adjustment (COLA) for a retiree is calculated. Said increase is to be effective July 1, 2023. Or do or take any other action on the matter. On request of the Falmouth Contributory Retirement Board.

**RECOMMENDATION (Finance Committee):**

**EXPLANATION:** Municipal employees in Massachusetts do not earn social security credits for municipal service. Further, any COLA awarded by the Falmouth Retirement Board is capped at 3% regardless of the annual rate of inflation and this COLA is applied only to the first \$14,000 of a Falmouth retiree's annual retirement allowance. For Social Security pensions, the COLA is applied to the entire Social Security retirement allowance. This article would increase the base retirement allowance to which a COLA is applied from \$14,000 to \$16,000. If the Falmouth Retirement Board adopts the maximum COLA of 3% for a given year, approval of this article will result in an individual retiree receiving a pension increase that is \$60.00 more than it otherwise would have been for that year ( $\$2,000 \times 3\% = \$60.00$ ). The cost of this article for FY2024 has been included in the FY2024 budget.

**ARTICLE 14:** To see if the Town will vote to rescind its acceptance of Section 48 of Chapter 31 of the General Laws (Tercentenary Edition)(Civil Service for fire and police forces), which acceptance was done pursuant to Article 54 of the February 12, 1936 Town Meeting. Provided, however, that such rescission shall not affect any contractual rights or civil service rights already in existence and will only apply to the civil service rights of successor employees, reserving any collectively bargained rights. Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Select Board):**

**EXPLANATION:** This article proposes to rescind the acceptance of a state General Law pertaining to the police and fire department's inclusion in civil service. At the February 12, 1936 Town Meeting, the Town voted for the police and fire department personnel to be members of the state's civil service system. Nearly 100 years later, in order to enjoy increased flexibility and responsiveness in its hiring and promotion practices, the Town continues to seek independence from the requirements of civil service laws. The rescission of this general acceptance law will clarify that all current fire and police personnel will continue to enjoy all collectively bargained civil service rights, and any person newly hired to the police and fire departments will not be subject to civil service laws.

**ARTICLE 15:** To see if Town Meeting will vote in favor of allowing offshore wind developers the right of entry to conduct soil investigations and studies to assess the feasibility of horizontal directional drilling in Town-owned parcels. This right of entry to conduct physical investigation agreements will grant offshore wind developers only temporary access to conduct said investigations and studies. Any offshore wind electric cable landing on or siting of facilities on any other Town-owned property must be approved by the Select Board or other Town bodies with jurisdiction over such matters.

The Agreement will allow the Town to better assess the feasibility of an interconnection with offshore renewable energy projects that would facilitate the decarbonization of the Massachusetts electric grid and assist the Commonwealth in achieving net-zero greenhouse gas emissions by 2050 consistent with state climate law and the Climate Emergency declared by the Town of Falmouth in 2020.

On petition of Alessandro Bocconcelli, Linda Bowers, Rosemary Carey, Eleanor Ling, David Mark Welch, Scott Mueller, Matthew Patrick.

**RECOMMENDATION (Select Board):**

**EXPLANATION:** This petition article proposes to grant Town Meeting the authority to allow a private entity a right of entry onto Town property to conduct certain testing of the land. By statute, all Town property is held by the Select Board unless designated to another Town department. M.G.L. c. 40 § 3.

Only the Select Board or the designated Town department has the ability to grant a right of entry related to Town property. This petition article is advisory in nature.

**ARTICLE 16:** To see if Town Meeting will vote to adopt the following as a general bylaw into Chapter 150 of the Code of the Town of Falmouth, establishing seasonal restrictions on the use of gas-powered leaf blowers. Or do or take any other action on the matter.

Section 150-5, Leaf Blower Restrictions

- 1) No leaf blower may be operated in the Town of Falmouth at a noise level higher than 67 decibels, as rated by the manufacturer. To comply with this section, leaf blowers must bear a manufacturer's label documenting a noise rating of 67 dBs or less and said label may not be altered or concealed. All leaf blowers shall meet current EPA standards for leaf blowers.
  - 2) Subject to the additional restrictions below, permitted hours of use for all leaf blowers are limited to 7:00 a.m. to 5:00 p.m. at all times during the year, including Sundays and legal holidays.
  - 3) Seasonal ban: Gas-powered leaf blowers may only be used from March 1 through May 31 and from October 1 through December 31.
  - 4) Electric or battery powered leaf blowers may be used year round.
  - 5) The Director of the DPW, in their sole discretion, may suspend enforcement of this bylaw after a declared weather emergency for an amount of time to be determined by the Director.
  - 6) This bylaw may be enforced by the Falmouth Police Department.
- The Town shall be exempt from all restrictions in this bylaw.

Section 150-6 Violations

Violations of this section are subject to civil ticketing pursuant to M.G.L. c. 40 section 21D and may be punishable by a fine of \$50.00.

These bylaws will become effective on January 1, 2024. On petition of Patricia P. Johnson and others.

**RECOMMENDATION (Select Board):**

**EXPLANATION:** The petitioner has indicated she will not oppose indefinite postponement of this article. This petition article would create a bylaw to regulate the use of leaf blowers. Prohibitions include a limit on the maximum allowable decibel level for any leaf blower, restrictions on the hours of operation, and a seasonal ban on gas powered leaf blowers during the summer months. The bylaw would task the police department with enforcement.

The enforcement of bylaws of this nature is notoriously difficult to achieve because of the challenges with verifying and substantiating a violation. Leaf blowers are often used for such brief periods that by the time an enforcing agent is able to report to the location to conduct an investigation, the alleged violation has ceased. Enforcement cannot be achieved when there is insufficient information or evidence to determine whether a violation has occurred.

**ARTICLE 17:** To see if the Town will vote to amend Chapter 1, General Provisions, Article I, Section 1-2C of the Code of Falmouth regarding noncriminal disposition as follows:

- a) Amend Chapter 150, Noise, so as to read:

Chapter/Part/ Article Section	Subject Enforcing Official	Fine
----------------------------------	----------------------------	------

Ch. 150, Section 6 Leaf Blowers

Police

\$50.00

Or do or take any other action on the matter. On petition of Patricia P. Johnson and others.

**RECOMMENDATION (Select Board):**

**EXPLANATION:** The petitioner has indicated she will not oppose indefinite postponement of this article. This petition article would amend the non-criminal dispensation bylaw at § 1-2C to add a fine of \$50.00 for any violation of the proposed leaf blower bylaw. If the proposed leaf blower bylaw is voted upon favorably by Town Meeting, by the requirements of M.G.L. c. 40 § 21D, a fine may only be imposed by also amending § 1-2C to include this fine.

**ARTICLE 18:** To see if the Town will vote to amend the Town's General Bylaw by inserting a new bylaw entitled, Plastic Reduction, as follows, and to authorize the Town Clerk to assign appropriate numbering therefor:

CHAPTER \_\_\_\_: PLASTIC REDUCTION

This bylaw is enacted pursuant to the general police power in order to protect the health, safety and welfare of the inhabitants of the Town.

Effective Date

This Bylaw shall take effect on September 1, 2024

Purpose and Intent

Plastic food containers and single-use utensils form a significant portion of the solid waste stream going into landfills. Local landfills are running out of room; our future solid waste may have to be transported hundreds of miles to a landfill at considerable cost. Plastic food containers are not recyclable, nor are they biodegradable. Once buried in our landfills, they will persist for centuries. If incinerated the toxins in plastic are linked to cancer and threaten our air quality. Appropriate alternative and sustainable products are readily available from the vendors used by local food establishments; cooperative bulk buying arrangements are possible. Thus, elimination of plastic food containers and utensils is in the best interest of the health and welfare of Town inhabitants.

Definitions

"Disposable Food Service Container" means single-use disposable products for serving or transporting prepared, ready-to-consume food. This includes plates, bowls, trays, hinged or lidded containers, and utensils.

"Food Establishment" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, as further defined in 105 CMR 590.002. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000, et. seq., shall be considered a Food Establishment for purposes of this Bylaw.

"Plastic" is defined as any type of plastic resin, which may contain recycled material, and may be sold as recyclable, biodegradable, or compostable. The material is commonly categorized in terms of #1, #2, #3, #4, #5, #6, #7; plastic as referenced includes all categories.

“Prepared Food” means any food or beverage prepared for consumption on the Food Establishment’s premises, using any cooking or food preparation technique. This does not include any raw uncooked meat, fish or eggs unless provided for consumption without further food preparation.

“Town Facility” means any building, structure, land, or park owned or operated by the Town of Falmouth, its agents and departments.

“Town Facility Users” means all persons, societies, associations, organizations, or special event promoters who require a permission to use a Town Facility. Town Facility Users also includes concession contracts with the Town, Town-managed concessions, Town-sponsored events, and food services provided at the Town’s expense.

#### Prohibition

A. Except as provided herein, Food Establishments are prohibited from dispensing Prepared Food to customers in Disposable Food Service containers and utensils made from Plastic.

B. Town Facility Users are prohibited from dispensing Prepared Food to customers in Disposable Food Service containers made from Plastic and providing utensils made from Plastic.

#### Administration and Enforcement

This Bylaw is enforced by the Town Administrator, or any committee appointed by them. Any Food Establishment or Town Facility User which violates any provision of this Bylaw shall be subject to the following penalties:

First Offense: Written warning

2<sup>nd</sup> Offense: \$150 fine

3<sup>rd</sup> Offense and Subsequent Offenses: \$300 fine

Any such fines collected shall be payable to the Town of Falmouth. Each day the violation continues constitutes a separate violation. After detection of an initial violation, the designated inspection authority will be required to verify subsequent compliance until compliance with this bylaw is established. All businesses will be routinely inspected until the Town Administrator deems the inspection to be no longer be required. On petition of Philip Alexander Gessen.

#### **RECOMMENDATION (Select Board):**

**EXPLANATION:** This petition article would create a bylaw to prohibit the use of disposable food containers and plastic utensils by food establishments. The proposed bylaw contains a provision for civil ticketing that is not consistent with existing bylaws or with M.G.L. c. 40 § 21D.

#### **ARTICLE 19:** Resolution in Support of Changing the State Flag & Seal of Massachusetts

Whereas the history of the Commonwealth of Massachusetts is replete with instances of conflict between the European Colonists and the Native Nations of the region, who first extended the hand of friendship to the Colonists on their shores in 1620, and helped them to survive starvation during the settlers’ first winters on their land;

Whereas members of the Native Nation for whom the Commonwealth of Massachusetts is named were ambushed and killed by Myles Standish, first commander of the Plymouth Colony, at Wessagussett (now Weymouth) in April of 1623, barely two years after the Pilgrims arrived;

Whereas the Colonial broadsword held by a white hand above the head of the indigenous person on the Massachusetts Flag and Seal is modeled after Myles Standish's own broadsword, borrowed for that purpose from the Pilgrim Hall in Plymouth by the illustrator Edmund Garrett in 1884;

Whereas the proportions of the body of the Indigenous person on the Flag and Seal were taken from the skeleton of an Indigenous person unearthed in Winthrop, the bow modeled after a bow taken from an Indigenous man shot and killed by a colonist in Sudbury in 1665, and the facial features taken from a photograph of an Ojibwe chief from Great Falls, Montana, considered by the illustrator to be a "fine specimen of an Indian," though not from Massachusetts;

Whereas the history of relations between Massachusetts since Colonial times and the Native Nations who continue to live within its borders includes the forced internment of thousands of so-called "praying Indians" on Deer Island, in Boston Harbor, where they died by the hundreds of exposure in the winter of 1675, the enslavement of Indigenous people in Boston, Bermuda, and the Caribbean Islands, the offering of 40 pounds sterling as bounty for the scalps of Indigenous men, women and children in Massachusetts beginning in 1686;

Whereas Indigenous people were legally prohibited from even stepping foot into Boston from 1675 until 2004, when that Colonial law was finally repealed;

Whereas the 400<sup>th</sup> anniversary of the landing of the Colonists at Plymouth Plantation, which gave rise to the long chain of genocidal wars and deliberate government policies of cultural destruction against Native Nations of this continent, occurred in the year 2020, affording every citizen of the Commonwealth a chance to reflect upon this history and come to an appreciation of the need for better relations between the descendants of the Colonial immigrants and the Native Nations of the Commonwealth;

Whereas the land area now known as the Town of Falmouth, shares a rich Native history with modern tribal Nations such as the Wampanoag, who have inhabited this area long before the first colonial settlers arrived in 1660;

Now, therefore, BE IT RESOLVED that the Town of Falmouth hereby adopts this resolution in support of the work of the Special Commission on the Official Seal and Motto of the Commonwealth, established by a Resolve of the General Court in 2021 and appointed by the Governor to recommend changes to the current flag and seal of Massachusetts, and in support of a new flag and seal for the Commonwealth that may better reflect our aspirations for harmonious and respectful relations between all people who now call Massachusetts home. The town clerk shall forward a copy of this resolution to Sen. Susan Moran, Rep. Dylan Fernandes, and Rep. David Vieira, with the request that they continue their strong support for the work of the aforementioned Special Commission and their advocacy for a new flag and seal for the Commonwealth; and take any additional action pertaining thereto. On Petition of Sandra Faiman-Silva.

**RECOMMENDATION (Select Board):**

**EXPLANATION:** This petition article proposes the adoption of a resolution in support of the work of the by the State Legislature's Special Commission on the Official Seal and Motto of the Commonwealth in their advocacy for a new flag and seal for the Commonwealth.

**ARTICLE 20:** To see if the Town will vote to appropriate a sum of money for the purpose of wage adjustments for union settlements and non-union employees of the Town, and to determine how the same shall be raised. Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):**

**EXPLANATION:**

**ARTICLE 21:** To see if the Town will vote to appropriate a sum of money from free cash for the following purposes, and to determine by whom the same shall be expended.

- To support opioid use disorder treatment, harm reduction and other purposes outlined in the “Statewide Opioid Settlements”;
- To support the Falmouth Fireworks Celebration;
- To fund consultant services to conduct independent reviews of one or more Town departments;

Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):**

**EXPLANATION:**

**ARTICLE 22:** To see if the Town will vote to appropriate a sum of money for the purpose of repairing the Lawrence School elevator and replacing the Morse Pond School fire alarm, and any other costs incidental or related thereto, and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):**

**EXPLANATION:**

**ARTICLE 23:** To see if the Town will vote to appropriate a sum of money for the purpose of funding the design, permitting and construction for phase one of the roof replacement projects for the East Falmouth Elementary, North Falmouth Elementary, and Morse Pond schools, and any other costs incidental and related thereto, and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):**

**EXPLANATION:**

**ARTICLE 24:** To see if the Town will vote to appropriate an additional sum of money for the purpose of funding the design and construction of improvements, which costs have increased due to inflation, to the Town’s Wastewater Treatment Facility on Blacksmith Shop Road, originally approved and authorized by Article 14 of the April 4, 2022 Town Meeting, including costs incidental and related thereto, and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):**

**EXPLANATION:**

**ARTICLE 25:** To see if the Town will vote to appropriate a sum of money to fund the engineering, design and permitting of the collection and transmission system and expanded treated wastewater discharge area for Phase 1 of the Teaticket-Acapesket Service Area, including costs incidental and

related thereto, and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):**

**EXPLANATION:**

**ARTICLE 26:** To see if the Town will vote to appropriate a sum of money for the purpose of funding the costs of engineering/inspection services for a lead service line inventory project, including the payment of costs incidental or related thereto, and to determine how the same shall be raised and by whom expended. Or do or take any other action in the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):** The sum of \$128,000 is appropriated for the purpose of financing the costs of dedicated engineering/inspection for a lead service line inventory, including the payment of costs incidental or related thereto; that to meet this appropriation the Treasurer with the approval of the Select Board is authorized to borrow \$128,000 and issue bonds or notes therefor under Chapter 44 of the General Laws and/or Chapter 29C of the General Laws; that the Treasurer with the approval of the Select Board is authorized to borrow all or a portion of such amount from the Massachusetts Clean Water Trust established pursuant to Chapter 29C and in connection therewith to enter into a financing agreement and/or security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; and that the Select Board or other appropriate local body or official is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary or convenient to carry out the project.

**EXPLANATION:** This article provides funding for the dedicated engineering/inspection services required to complete a full inventory of service lines connected to the Town's water distribution system as required to comply with the United States Environmental Protection Agency (EPA) Lead and Copper Rule Revisions (LCRRs).

**ARTICLE 27:** To see if the Town will vote to appropriate a sum of money for the purpose of complying with the United States Environmental Protection Agency (USEPA) Unregulated Contaminant Monitoring Rule (UCMR5) sampling and reporting requirements, and any other costs incidental or related thereto, and to determine how the same shall be raised and by whom expended. Or do or take any action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):** That the Town transfer the sum of \$30,000 from certified free cash for the purposes of this Article. Said funds to be expended under the jurisdiction of the Town Manager

**EXPLANATION:** This article provides funding for the completion of the United States Environmental Protection Agency (USEPA) Unregulated Contaminant Monitoring Rule (UCMR5) sampling and reporting requirements.

**ARTICLE 28:** To see if the Town will vote to appropriate a sum of money for the purpose of evaluating locations for treatment of the raw water from the Ashumet Well and the Fresh Pond Well, pursuing the reactivation of the Ashumet Well, and evaluating the treatment alternatives for combined production from the Ashumet Well and Fresh Pond Well, including permitting and pilot treatment studies and any other costs incidental or related thereto, and to determine how the same shall be raised and by whom

expended. Provided however, that the funds appropriated hereunder shall not be expended until the Town and the United States Air Force execute an agreement for reimbursement for all costs of the permitting and pilot treatment studies related to the wells being located within the PFAS plume. Or do or take any action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):** That the Town transfer the sum of \$300,000 from certified free cash for the purposes of this Article. Said funds to be expended under the jurisdiction of the Town Manager.

**EXPLANATION:** This article provides funding for the purpose of evaluating locations for treatment of the raw water from the Ashumet Well and the Fresh Pond well, pursuing the reactivation of the Ashumet Well, and evaluating the treatment alternatives for combined production from the Ashumet Well and Fresh Pond Well, including permitting and pilot treatment studies. An agreement with the Air Force Center for Engineering Excellence to reimburse the Town for all costs of such evaluations, studies, and permitting that are directly related to the wells being located within the PFAS plume will be required prior to utilizing this appropriation.

**ARTICLE 29:** To see if the Town will vote to amend the Town’s Position Classification Plan as follows:

	<b>Title</b>	<b>Employee Group</b>	<b>Grade</b>	<b>Wage Rate (FY23)</b>
Delete	Diversity Equity and Inclusion Coordinator	Technical Administrative Management	Grade 8	\$36.06 - \$47.77
Add	Diversity Equity and Inclusion Officer	Technical Administrative Management	Grade 9	\$40.27 - \$52.56
Add	Sustainability Coordinator	Technical Administrative Management	Grade 8	\$36.06 - \$47.77

Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Finance Committee):**

**EXPLANATION:**

**ARTICLE 30:** To see if the Town will vote to amend the Code of Falmouth Section 156-17, Applicant’s submission to fingerprinting by Police Department required, by deleting the words in section 156-17(A)(1) “Manager of alcoholic beverage license.” and inserting a new section (B) as follows: “Any new applicant for a manager of an alcoholic beverage license shall submit a full set of fingerprints taken by the Falmouth Police Department as in section A above. Managers are then required to resubmit fingerprints every five years from the anniversary of the last submission. Submittal of yearly fingerprints with annual license renewal applications is not required.”, and renumbering the remaining sections. The proposed amended bylaw Section 156-17 shall read as follows, with the new language in **bold**:

§ 156-17 Applicant's submission to fingerprinting by Police Department required.

A. Any applicant for a license to engage in any of the following occupational activities within the Town shall submit a full set of fingerprints taken by the Falmouth Police Department within ten (10) days of the date of the application for a license for the purpose of conducting a state and national criminal record background check to determine the suitability of the applicant for the license:

- (1) Hawker and peddler.
- (2) Owner or operator of public conveyance.
- (3) Dealer of secondhand articles.
- (4) Ice cream truck vendor.

**B. Any new applicant for a manager of an alcoholic beverage license shall submit a full set of fingerprints taken by the Falmouth Police Department as in section A above. Managers are then required to resubmit fingerprints every five years from the anniversary of the last submission. Submittal of yearly fingerprints with annual license renewal applications is not required.**

C. At the time of fingerprinting, the Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's FBI criminal history records.

Or do or take any action on the matter. On request of the Select Board.

**RECOMMENDATION (Select Board):**

**EXPLANATION:** This article proposes to amend the bylaw pertaining to civil fingerprinting by the police department. Currently, all license holders listed in the bylaw are required to submit fingerprints to the police department on an annual basis. In order to conduct fingerprinting review in an efficient manner while still maintaining a high level of public safety protection, it is proposed that managers of establishments that sell alcohol be required to submit fingerprints every five years instead of annually.

**ARTICLE 31:** To see if the Town will vote to amend the Code of Falmouth Section 280-12(B), Vehicles for Hire Permit, by deleting the words “a vehicle for hire license holder shall purchase a combined coverage of property and liability insurance in the amount of one million dollars (\$1,000,000.)” and adding in their place “the Town Manager may require additional insurance in amounts consistent with industry standards”. The proposed amended bylaw Section 280-12(B) shall read as follows with the new language in **bold**:

§ 280-12(B). In addition to insurance coverage mandated by Massachusetts General Laws, **the Town Manager may require additional insurance in amounts consistent with industry standards.**

Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Select Board):**

**EXPLANATION:** This article proposes to amend the bylaw pertaining to mandated insurance coverage for vehicles for hire. The insurance limits in the current bylaw exceed industry standards and are difficult to secure. For this reason, it is proposed that the Town Manager be given flexibility to set insurance requirements to coincide with industry limits.

**ARTICLE 32:** To see if the Town will vote to amend the Code of Falmouth Sections 180-53(B) and (C), Determination of wastewater flow in sewer service areas, as follows: in Section (B) by deleting the words “as of January 1, 2014” and inserting in their place “for treatment at the Blacksmith Shop Road Wastewater Treatment Plant”; by deleting Section (B)(1) in its entirety and replacing it with the following Section (B)(1): “Areas sewered prior to the Town’s 2013 Comprehensive Wastewater Management Plan: 450,000 gallons per day (excluding the Service Areas listed below).”; in Section (B)(2) by deleting the words “subject to approved CWMP”; by adding the following new Section (B)(3): “Teaticket-Acapesket Service Area: 360,000

gallons per day.”; in Section (C) by deleting the letter “s” from the second word of the section; further in Section (C) by deleting the words “environmental impact reports for the 2001 West Falmouth Harbor Facilities” and inserting in their place “a comprehensive wastewater management plan”. The proposed amended bylaw Sections 180-53(B) and (C) shall read as follows, with the new language in **bold**:

**B.** The flow allocations for present and future sewer service areas **for treatment at the Blacksmith Shop Road Wastewater Treatment Plant** are as follows:

**(1) Areas sewered prior to the Town’s 2013 Comprehensive Wastewater Management Plan: 450,000 gallons per day (excluding the Service Areas listed below).**

**(2) Little Pond Sewer Service Area: 260,000 gallons per day.**

**(3) Teaticket-Acapesket Service Area: 360,000 gallons per day.**

**C.** These flow allocations will be adjusted if additional flow or modifications to sewer service areas are made through (1) approved comprehensive wastewater management plans, (2) approved notice of project change to **a comprehensive wastewater management plan**, or (3) approval from MA Department of Environmental Protection.

For reference, the following represents the deletions and insertions of the proposed amended bylaw:

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

**B.** The flow allocations for present and future sewer service areas for treatment at the Blacksmith Shop Road Wastewater Treatment Plant as of January 1, 2014, are as follows:

(1) Blacksmith Shop Road Wastewater Treatment Plant: 570,000 gallons per day (excluding Little Pond Sewer Service Area). Areas sewered prior to the Town’s 2013 Comprehensive Wastewater Management Plan: 450,000 gallons per day (excluding the Service Areas listed below).

(2) Little Pond Sewer Service Area: 260,000 gallons per day (subject to approved CWMP).

(3) Teaticket-Acapesket Service Area: 360,000 gallons per day.

**C.** These flows allocations will be adjusted if additional flow or modifications to sewer service areas are made through (1) approved comprehensive wastewater management plans, (2) approved notice of project change to a comprehensive wastewater management plan ~~environmental impact reports for the 2001 West Falmouth Harbor Facilities,~~ or (3) approval from MA Department of Environmental Protection.

Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Select Board):**

**EXPLANATION:**

**ARTICLE 33:** To see if the Town will vote to delete Chapter 83, Sections 1 and 3 through 12, Stable Regulations, and renumber the remaining section accordingly. Provided however, that this repeal shall take effect on January 1, 2024, all as set forth below.

The following sections of the existing bylaw to be deleted:

*§ 83-1 License required for use.*

Under the authority of MGL c. 111, § 155, no person shall erect, occupy or use for a stable any building or land for the housing of horses and/or ponies in the Town of Falmouth unless such use is authorized and licensed by the Board of Health.

*§ 83-3 License required for construction.*

No stable may be constructed within the Town of Falmouth unless a stable license is first obtained from the Board of Health. The construction of stables shall be in conformity with the Falmouth Building Code.

*§ 83-4 General requirements.*

Stables will conform to the following:

- A. There shall be at least two (2) windows in every stable.
- B. There shall be adequate ventilation in every stable.
- C. Each stall shall be of adequate size so that any horse and/or pony shall have room to comfortably lie down or stand up.
- D. There shall be adequate drainage, either natural or artificial, for urine or waste matter in every horse or pony stall.
- E. All flooring in any stable shall be acceptable to the Board of Health and meet with the acceptance of the Massachusetts Society for the Prevention of Cruelty to Animals (M.S.P.C.A.) upon inspection by either party.

*§ 83-5 Fencing.*

Land on which horses or ponies are pastured shall be fenced in such a manner so as to prevent any damage to abutting property, trees or shrubbery.

*§ 83-6 Location restrictions.*

No person, company or corporation shall erect, occupy or use a building for a livery or horse or pony stable for the keeping of horses or ponies unless such stable or building is more than two hundred (200) feet from a church or school building and is more than fifty (50) feet from a building that is used as a dwelling or home.

*§ 83-7 Cleaning of waste matter; disposition.*

Owners of stables housing horses or ponies must clean the manure from the stable at least once a day. Commensurate with the area in which horses and/or ponies are pastured, waste matter shall be disposed of periodically at the discretion of the Board of Health.

*§ 83-8 Pasturing restrictions.*

No horse or pony shall be allowed to be pastured on any land unless said area is fifty (50) feet from a home or dwelling.

*§ 83-9 Proper shelter required.*

Any owner or keeper of a horse or pony must provide stabling facilities for same. No horse or pony shall be allowed to remain out of doors at all times without having access to proper shelter.

*§ 83-10 Slaughtering license required.*

Any person, company or corporation engaged in or desiring to engage in the business of slaughtering horses for the purpose of rendering them shall apply to the Board of Health for a license as required by the MGL c. 111, § 154.

*§ 83-11 Decisions on health problems.*

The Falmouth Board of Health and the M.S.P.C.A. reserve the right to make any decision on situations or problems that arise in regard to health.

*§ 83-12 Violations and penalties.*

Under MGL c. 111, § 157, anyone who violates the provisions of these regulations shall be punished by a fine of five dollars (\$5.) for each day such violation continues. The Falmouth Board of Health also reserves the right to suspend or revoke licenses previously issued if continued violations of these regulations occur.

The new bylaw will read as follows:

*§ 83-1 License fee.*

The license fee shall be five dollars (\$5.) for each horse and/or pony, effective July 1, of each calendar year.

Or do or take any other action on the matter. On petition of the Board of Health.

**RECOMMENDATION (Select Board):**

**EXPLANATION:** The current Stable bylaws were adopted at STM 5-11-1971, Art 7. The Board of Health is authorized to promulgate stable regulations by M.G.L. c. 111 § 31 and M.G.L. c. 111 § 155. By conforming to the statutes, the Board of Health will be able modernize these regulations and can react in real time to changes in the modifications to the law. Under the General Laws, Town Meeting will continue to set the fee for stable licenses, so this section of the bylaw will remain.

**ARTICLE 34:** To see if the Town will vote to accept the provisions of M.G.L. c. 41 Section 110A, to authorize the Town Clerk's office to remain closed on all Saturdays and to treat Saturdays as a legal holiday for purposes of calculating the time frame for filing matters in that office. Or do or take any other action on the matter. On request of the Town Clerk.

**RECOMMENDATION (Select Board):**

**EXPLANATION:** This would eliminate the cost of overtime for staff to keep the open the office. Very few people, if any, have taken advantage of the Clerk's office being open on Saturday during the last several elections. There are many other avenues, by mail, online or at the RMV, for people to register to vote prior to an election. The deadline would be moved to Friday or day prior to a holiday.

**ARTICLE 35:** To see if the Town will vote to authorize the Select Board to grant certain easements to NStar Electric Company dba Eversource Energy in connection with its proposed additional underground power supply cables to Martha's Vineyard on, in, over, under and across certain Town property, including but not limited to:

1. The Municipal parking lot located at #0 and #66 Depot Avenue; and

further authorize the Select Board to assent to the grant of a similar easement by MassDOT in any state-owned portions of the same location; said easements to be for the purpose of the installation and maintenance of underground power supply cables for reliability for Martha's Vineyard and Falmouth upon such terms and conditions as the Select Board deems reasonable and proper.

Or do or take any other action on the matter. On request of the Select Board.

**RECOMMENDATION (Select Board):**

**EXPLANATION:**

**ARTICLE 36:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund for open space preservation and rehabilitation purposes a sum of money for the Upper Coonamessett Restoration project on Town-owned property located at 170 Hatchville Road and 0 Thomas B. Landers Road; to determine how the same shall be raised and by whom expended. Or do or take any action on the matter. On request of the Community Preservation Committee.

**RECOMMENDATION (Community Preservation Committee):** That the Town vote to appropriate the sum of \$200,000 from the Undesignated Fund Balance to restore the Upper Coonamessett River located at 170 Hatchville Road and 0 Thomas B. Landers Road (Parcel IDs 17 01 019 000 & 21 06 005G 000); to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**EXPLANATION:** The project will occur on town-owned land in the Upper Coonamessett watershed and will be led by the Conservation Commission with support from the Department of Public Works, Engineering Division. The project will restore retired cranberry bogs to more naturally functioning streams and wetlands for the purpose of improving water quality as well as ecosystem form and function. CP Funds will be used for design, permitting, bid support, construction oversight, and construction to support restoration work. The total project cost is \$2,656,500 of which \$2,456,500 is funded by state and federal grants and in-kind services. CP Fund project request is 7% of the total project cost.

**ARTICLE 37:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund for open space rehabilitation and restoration purposes a sum of money for the Little Pond Conservation Area Public Access Improvement project located on Town-owned property at 89 Spring Bars Road; to determine how the same shall be raised and by whom expended. Or do or take any action on the matter. On request of the Community Preservation Committee.

**RECOMMENDATION (Community Preservation Committee):** That the Town vote to appropriate the sum of \$790,720 from FY 2024 Community Preservation Estimated Revenues for public access improvements and restoration of open space at the Little Pond Conservation Area located at 89 Spring Bars Road; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**EXPLANATION:** The Town purchased Little Pond Conservation Area (9.6 acres) in 2011 as part of a larger 21-acre parcel acquisition for housing, recreation, and open space. In 2013, the CPA funded the Conservation Commission's master planning for the 9.6-acre open space parcel. In 2020, the CPA funded Phase I site preparation, mobilization, and removal of invasive species. This proposed Phase II includes public access improvements for passive recreational use and restoration of open space with parking, trails, benches, kiosk, interpretive signage, and native plantings to restore the buffer and water quality at Little Pond, a state-designated coastal pond of critical environmental concern as well as a priority estuary. Little Pond Conservation Area is protected with a Conservation Easement.

**ARTICLE 38:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund for historic rehabilitation purposes a sum of money to make exterior building improvements to the historic Edward Marks Building located on Town-owned property at 744 Main Street; to determine how the same shall be raised and by whom expended. Or do or take any action on the matter. On request of the Community Preservation Committee.

**RECOMMENDATION (Community Preservation Committee):** That the Town vote to appropriate the sum of \$577,076 from FY 2024 Community Preservation Estimated Revenues to continue rehabilitating exterior building features of the Edward Marks Building located at 744 Main Street; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**EXPLANATION:** CPA funds were used to develop a Historic Structure Report for the municipally owned Edward Marks Building in 2020 and to rehabilitate the front entry, portico and steps; bulkhead and basement stairs; and foundation repointing and reparging in 2022. The proposed project consists of (1) insulate walls and replace shingles with wooden clapboard on the front and the sides of the building; (2) repair all windows; (3) replace all storm windows with new triple-track storm windows; (4) add wood-louvered shutters on the front and the sides of the building; and (5) paint windows, trim, and front door. Mass. Historic Commission Grant funds will be sought to reduce the CP Fund appropriation. The project will comply with the Secretary of Interior's Standards for the Treatment of Historic Properties as required by the Community Preservation Act.

**ARTICLE 39:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund for historic rehabilitation purposes a sum of money for a ground penetrating radar survey at the Old Burying Ground located on Town-owned property at 0 Cemetery Lane; to determine how the same shall be raised and by whom expended. Or do or take any action on the matter. On request of the Community Preservation Committee.

**RECOMMENDATION (Community Preservation Committee):** That the Town vote to appropriate the sum of \$21,725 from the Undesignated Fund Balance to conduct a ground penetrating radar survey for the Old Burying Ground located at 0 Cemetery Lane; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**EXPLANATION:** In 2022, the CPA funded a gravestone/monument condition assessment report to document the condition of approximately 750 gravestones/monuments and develop a detailed description of preservation procedures, materials, and costs required to restore and preserve the individual gravestones/monuments. The proposed project will fund a ground penetrating radar (GPR) survey to ensure all markers are found prior to any restoration work commencing.

**ARTICLE 40:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money as a grant for historic rehabilitation purposes to the Falmouth Historical Society for the Dr. Francis Wicks House and historical artwork rehabilitation project located at 55 Palmer Avenue; and to authorize the Select Board to enter into a grant agreement upon such terms and conditions as they shall deem appropriate, and further to determine how the same shall be raised and by whom expended. Or do or take any action on the matter. On request of the Community Preservation Committee.

**RECOMMENDATION (Community Preservation Committee):** That the Town vote to appropriate the sum of \$73,505 from FY 2024 Community Preservation Estimated Revenues to fund work necessary for the Falmouth Historical Society to rehabilitate the historic Dr. Francis Wicks House, and historical artwork, located at 55 Palmer Avenue; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**EXPLANATION:** The Dr. Francis Wicks House is owned by the Falmouth Historical Society (FHS). In 2019, the CPA funded the rehabilitation of the rear ell of the Dr. Francis Wicks House and a Historic Structure Report. The proposed work includes the following features in accordance with the Historic

Structure Report: (1) relocate the aboveground electrical service to underground to restore the original exterior and replace the 100-amp electrical panel to 200-amp to support future climate controls; (2) conduct necessary repairs to windows, install custom storm windows, and paint; and (3) conserve 14 portraits and 4 paintings of local historical significance. The total project cost is \$94,540 and the Falmouth Historical Society will provide a 22% cash match (\$21,035) while seeking additional grant funds to support the project. The Dr. Francis Wicks House is protected by a historic preservation restriction and the project will comply with the Secretary of Interior's Standards for the Treatment of Historic Properties as required by the Community Preservation Act.

**ARTICLE 41:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money as a grant for historic rehabilitation purposes to Historic Highfield, Inc. to make exterior building improvements to Highfield Hall located at 56 Highfield Drive; and to authorize the Select Board to enter into a grant agreement upon such terms and conditions as they shall deem appropriate, and further to determine how the same shall be raised and by whom expended. Or do or take any action on the matter. On request of the Community Preservation Committee.

**RECOMMENDATION (Community Preservation Committee):** That the Town vote to appropriate the sum of \$1,108,000 of which \$108,000 is from the Undesignated Fund Balance and \$1,000,000 is from FY 2024 Community Preservation Estimated Revenues to rehabilitate exterior features and conduct water abatement improvements at Highfield Hall, located at 56 Highfield Drive; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**EXPLANATION:** Highfield Hall is municipally owned and leased to Historic Highfield, Inc./Highfield Hall & Gardens. The project will rehabilitate critical exterior features and conduct water abatement work needed for the building's longevity including the windows, roof, chimney flashing, cladding, gutters, downspouts, fascia, trim, doors, decking, and painting. These priorities were identified by an Exterior Envelope Study of Highfield Hall in early 2022. The total project cost is \$1,508,063 of which \$1,108,000 will come from CP funds and \$400,063 (26% match) will be provided by Highfield Hall, Inc. The project will comply with the Secretary of Interior's Standards for the Treatment of Historic Properties as required by the Community Preservation Act.

**ARTICLE 42:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money as a grant to the Falmouth Affordable Housing Fund; to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On the request of the Community Preservation Committee.

**RECOMMENDATION (Community Preservation Committee):** That the Town vote to appropriate or transfer the sum of \$2,500,000 from the Undesignated Fund Balance to the Falmouth Affordable Housing Fund. Funds are to be expended in accordance with the Guidelines for the Falmouth Affordable Housing Fund and the Community Preservation Act, G.L. c.44B; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**EXPLANATION:** This appropriation of Community Preservation funds to the Falmouth Affordable Housing Fund (FAHF) is made for the purpose of acquisition, creation, preservation, and support of community housing as defined by the Community Preservation Act, G.L. c.44B.

**ARTICLE 43:** To see if the Town will vote to appropriate or transfer from the Community Preservation Fund a sum of money to fund the administrative expenses of the Community Preservation Committee; to

determine how the same shall be raised and by whom expended. Or do or take any action on the matter. On request of the Community Preservation Committee.

**RECOMMENDATION (Community Preservation Committee):** That the Town vote to appropriate from FY 2024 Community Preservation Fund Estimated Revenues the sum of \$139,700 to fund Community Preservation Committee administrative expenses; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this article.

**EXPLANATION:** Community Preservation Committee administrative expenses include, but are not limited to, office supplies, salary expenses for administrative staff, professional consultant services, staff development, dues to the Community Preservation Coalition, and fees associated with technical contract services. The Community Preservation Act allows appropriation of 5% of Annual Community Preservation Fund revenues for Community Preservation Committee administrative and operating expenses. The FY 2024 appropriation request is approximately 2.9% of FY 2024 Estimated Revenues.

**PETITION ARTICLE #18 – AMEND TOWN CODE PLASTIC REDUCTION BYLAW**

**(Copy of presentation that the presenter, Philip Gessen, was unable to load during the 2/13/23 Select Board meeting.)**

February 27, 2023

# Plastic Reduction Initiative

Spring 2023

Falmouth Select Board Meeting

# Single-use plastic is a local, national, and global issue

A study published in the journal *Nature Sustainability*, analyzed 12 million pieces of litter collected from oceans and rivers, shorelines, the sea floor, and open waters. **Researchers found that 80% of items were plastic, and nearly half (44%) was related to takeout materials.** Other items included disposable cutlery.

Estimates are that there will be **more plastic than fish in the oceans by 2050** if our behavior does not change.

Plastic kills 1 million sea birds and over 1 million marine mammals each year and comprises **80% of beach trash** on Cape Cod.

*“The economic costs of plastic pollution affecting tourism, fisheries and shipping sectors are estimated to be at least \$8 billion annually.” – 2019 finding*

# Plastic recycling is not a solution

**Most single-use plastic is not recycled.** The plastics industry rarely uses recycled plastics in the vast majority of their products, unlike the glass and metal industries.

The recycling arrows stamped on plastic products and the cities that collect every type of plastic via their recycling programs, lead people to believe that all plastic products are recyclable and being recycled, and **that's simply not true.** In fact, for the small proportion of plastic that is recycled, it is typically turned into only one other product, which will most likely be landfilled at the end of its life.



The life cycle of single-use plastic adversely impacts human and environmental health from production to consumption to disposal. Specific to **take-out containers**, they are made from heat-resistant, flexible plastic derived from petroleum, the majority continue to contain phthalates and bisphenol-A (BPA). Both have been linked to health issues. At disposal, plastic does not biodegrade.

# Plastic affects health and environmental well-being

## **Plastic is a human and environmental health hazard.**

Plastics can contain thousands of possible additives, and manufacturers are not required to disclose what their recipes are. Any plastic can leach, depending on the conditions (light, heat) and what additives it includes. The chemicals in plastic have been tied to cardiovascular disease, reproductive disorders, obesity, and developmental disorders.

**Plastic has been found in the air we breathe, the water we drink and the food we eat. Most recently plastic has been found in human blood, in the placenta, and in lung tissue.**

# Single-use takeout problem

**Takeaway boxes and containers make up a considerable part of municipal solid waste, with nearly 30% of the total generation** as recently as 2018—this percent is projected to be greater given the impact of Covid-19.

**Nearly one-third of greenhouse gas emissions come from takeaway food containers.**

Plastic and Styrofoam takeaway containers are destructive to the environment, filling landfills with their chemicals, including petroleum and natural gas.



# PLANET PLASTIC

# Rationale

Plastic food containers and single-use utensils form a significant portion of the solid waste stream going into landfills. Local landfills are running out of room; our future solid waste may have to be transported hundreds of miles to a landfill at considerable cost. Most plastic food containers are not recyclable, nor are they biodegradable. Once buried in our landfills, they will persist for centuries. If incinerated the toxins in plastic are linked to cancer and threaten our air quality. Appropriate alternative and sustainable products are readily available from the vendors used by local food establishments; cooperative bulk buying arrangements are possible. Thus, elimination of plastic food containers and utensils is in the best interest of the health and welfare of Town inhabitants.

# Proposed by- law

## **Prohibition**

A. Except as provided herein, Food Establishments are prohibited from dispensing Prepared Food to customers in Disposable Food Service containers and utensils made from Plastic.

B. Town Facility Users are prohibited from dispensing Prepared Food to customers in Disposable Food Service containers made from Plastic and providing utensils made from Plastic.

Public and private schools, educational institutions, summer camps, childcare facilities, and other childcare programs approved to participate in USDA Child Nutrition Programs are exempt.

## **Effective Date**

This Bylaw shall take effect on September 1, 2024.

# Proposed by-law (continued)

## **Administration and Enforcement**

This Bylaw is enforced by the Town Manager, or any committee appointed by them. Any Food Establishment or Town Facility User which violates any provision of this Bylaw shall be subject to the following penalties:

- First Offense: Written warning
- 2nd Offense: \$150 fine
- 3rd Offense and Subsequent Offenses: \$300 fine

Any such fines collected shall be payable to the Town of Falmouth. Each day the violation continues constitutes a separate violation. After detection of an initial violation, the designated inspection authority will be required to verify subsequent compliance until compliance with this bylaw is established. All businesses will be routinely inspected until the Town Manager deems the inspection to be no longer be required.

I'm yours for  
the taking.



And  
returning.

January 19, 2023

Share on:  

## Study looks at benefits of reusable take-out food containers

By Denise Spranger  
School for Environment and Sustainability

NOT JUST WASTE-FREE,  
100% PLASTIC-FREE



Thank you!

**PETITION ARTICLE #19 – RESOLUTION TO SUPPORT CHANGE TO STATE FLAG**

**(Copy of presentation that the presenter, Sandra Faiman-Silva, read via telephone at the 2/13/23 Select Board meeting.)**

**Article #19 – Resolution to Support Change to State Flag, Falmouth Town Meeting, April 2023, presentation at Select Board Meeting, February 13, 2023**

I am sponsoring Article 19, a resolution, at Falmouth Town Meeting as part of a statewide campaign to permanently change the MA State flag, seal and motto. You may ask, Why does it need to change and is this the proper venue to deliberate on this subject at all?

The State flag, relatively unchanged since its adoption in 1898, is shown at public gatherings and in public buildings throughout the State, including in this building, yet we seldom have the need or opportunity to ask what it signifies or scrutinize it closely. This Article asks us to do just that: to consider the images on the flag, what they mean, their history, and context. And, we ask, how do the subjects depicted on the flag, Native Americans, feel about those depictions? And how do we, Massachusetts residents, for whom the flag embodies core ideas, values, and beliefs, feel about this flag?

Flags, mottos and seals contain cultural symbols that capture our fundamental values and beliefs, as members of organizations, communities, States and nations. As responsible citizens, we need to know what our flag's symbols and images mean and convey, and ask whether these images are appropriate to us and to our community as a whole. As citizens, we have a responsibility to critically examine our state flag and the images and words it contains, because not only does it belong to us, but it reflects our core values, beliefs and attitudes.

Thirty-eight years after former representative Byron Rushing of Boston, acting in cooperation with the late director of the Massachusetts Commission on Indian Affairs John "Slow Turtle" Peters, a prominent member of the Mashpee Wampanoag Tribe, first introduced legislation to establish a special commission to change the flag and seal of Massachusetts, we are still upholding the imagery – supposed to express the highest ideals of our Commonwealth – of a white hand holding a drawn sword over the head of an Indigenous person. That is our state symbol. "Peace Under the Sword, but Peace with Liberty," reads the Latin motto underneath. This is the symbolism we teach to our grade school children each year when they study the state flag and seal as part of the elementary school core curriculum.

This is the symbolism our elected officials share with all of their constituents on letters and documents, part of the daily working of our state bureaucracy. This is the

imagery we find on the doors of state patrol cars, on the dais of our courtrooms, on bridge abutments and the welcoming road signs standing at the border of each town and city in the Commonwealth.

Flags, public monuments, and symbols have become sources of contention when the symbols and imagery contain what viewed as objectionable by the subjects of these depictions. The swastika has been condemned because of its use in the holocaust. Monuments, flags and other public images related to slavery have become contentious artifacts, as we grapple with the appropriateness of naming spaces and displaying images related to slavery. Harvard University in 2016 retired it's University flag adopted in 1937 which featured the Isaac Royall, Jr. family crest, a prominent University benefactor and slave-owner. Southern states have been pressured to remove confederate flags and monuments to confederate war heroes, because we acknowledge that they are not appropriate to display, honor, or even acknowledge publicly.

We also have questioned using names for athletic teams that stereotype and often demean Native Americans, such as Kansas City Chiefs, Cleveland Indians, and Washington Redskins. These are all exercises in deep, critical analysis of our history, culture, beliefs and values, a process essential to the growth us as individuals, communities, and as a nation.

Massachusetts' debate over the State flag has been on-going for nearly forty years, and now is the time that we must re-draw it. Research has shown that renderings on our State flag—the individual depicted, clothing worn, the sword, and other features--stereotype and demean Native Americans generally and Massachusetts Indians in particular, and some of these offensive tropes are detailed in the Resolution before Town Meeting.

More than 56 cities and Towns in MA have passed similar resolutions, including several towns on Cape Cod. The State Legislature after agreeing last year to change the State flag and seal, established a commission to come up with a suitable replacement flag and seal. The Commission expired in early January and will need to be (and may already have been) re-authorized so it can complete its work. I ask you to vote to recommend endorsing Article 19, so we can finally complete the process begun more than 40 years ago to permanently change our State flag and seal and honor our First Nations communities as they deserve. Thank you!

Sandra Faiman-Silva, Ph.D., Town Meeting Member, Precinct 2, 50 Davis Road, 508-274-1131, sfaiman@aol.com

**OPEN SESSION**

**BUSINESS**

6. Authorize Application for SAFER Grant to Fund Additional Fire Department Personnel **(5 minutes)**

**OPEN SESSION**

**BUSINESS**

7. Confirm name of Hatchville Fire Station **(5 minutes)**

## **OPEN SESSION**

### **CONSENT AGENDA**

#### **1. Licensing**

- a. Application for Special One-Day All Alcohol Liquor License –  
Bands for Badges, Inc. – Cape Cod Fairgrounds – 8/12/23

Date: 2/27/23

**ONE-DAY LIQUOR LICENSE APPLICATION REVIEW FORM**

Applicant: Bands for Badges, Inc.

Event: Bands for Badges

Location: Cape Cod Fairgrounds, 1220 Nathan Ellis Hwy.

Date: Saturday, 8/12/23 Time: 12:00 noon - 10:00 p.m.

License Type:  Wine & Malt Beverages or  All Alcoholic Beverages

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

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Police         | <u>Coordinate with Police Dept. for public safety and detail.</u>            |
| <input checked="" type="checkbox"/> Fire           | <u>Coordinate with Fire Dept. for inspections and detail.</u>                |
| <input checked="" type="checkbox"/> Health         | <u>Contact Health Dept. 30 days in advance for food permits/inspections.</u> |
| <input checked="" type="checkbox"/> Building       | <u>Contact Bldg. Dept. 30 days in advance for tent permit/inspection.</u>    |
| <input checked="" type="checkbox"/> Communications | <u>_____</u>   |
| <input checked="" type="checkbox"/> M.E.S.         | <u>_____</u>   |
| <input checked="" type="checkbox"/> DPW            | <u>_____</u>   |
| <input checked="" type="checkbox"/> Recreation     | <u>_____</u>   |
| <input checked="" type="checkbox"/> Beach          | <u>_____</u>   |
| <input type="checkbox"/> _____                     | <u>_____</u>   |

NOTES: This event was discussed by the Internal Working Group  
for Special Events at its meeting on Tuesday, February 7, 2023.  
The Working Group recommends approval.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



APPLICATION

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

NAME OF APPLICANT: Boyd W. DeMello

ADDRESS OF APPLICANT: P O Box 3102

Waquoit MA 02536  
TOWN STATE ZIP CODE

NAME OF ORGANIZATION: Bands for Badges, Inc.

MAILING ADDRESS: Same as above

TELEPHONE #: [ ] EMAIL: bandsforbadges@gmail.com

LOCATION TO BE LICENSED-ADDRESS: 1220 Nathan S. Ellis Hwy.  
East Falmouth MA 02536  
TOWN STATE ZIP CODE

EVENT TITLE: Bands for Badges Music Festival APPROXIMATE # OF PEOPLE: 2500

DATE(S) OF EVENT: August 12, 2023 HOURS OF EVENT: 12pm-10pm

AUTHORIZED MANAGER OF ESTABLISHMENT EVENT: Boyd DeMello or Timothy G. Smith

TYPE OF LICENSE:

- 1. WINE & MALT  FOR PROFIT
- 2. ALL ALCOHOLIC  NON-PROFIT ORGANIZATIONS ONLY NON-PROFIT

REQUIREMENTS check list:

1. Submit in a separate note or letter a narrative overview of the event including a description of the premises, food service, and security
2. Certificate of non-profit status (If your organization is non-profit)
3. Certificate of liquor liability insurance; 1 MILLION PER OCCURANCE - \$2 MILLION AGGREGATE
4. Certificate of TIPS or other alcohol safety training for all persons handling alcohol
5. Floor plan of area where alcohol will be served, consumed, and securely stored and how this will be separated from public areas (roping, fences, etc.)
6. Temporary Food Permit (Health Department)

1 February 2023  
DATE

[Signature]  
APPLICANT SIGNATURE

FEE: \$25.00 PER DAY  
\$10.00 FILING FEE



1 February 2023

Bands for Badges is currently planning on holding our fourth Bands for Badges Music Festival at the Cape Cod Fairgrounds on August 12, 2023. We are applying to the Special Events Working Group for approval.

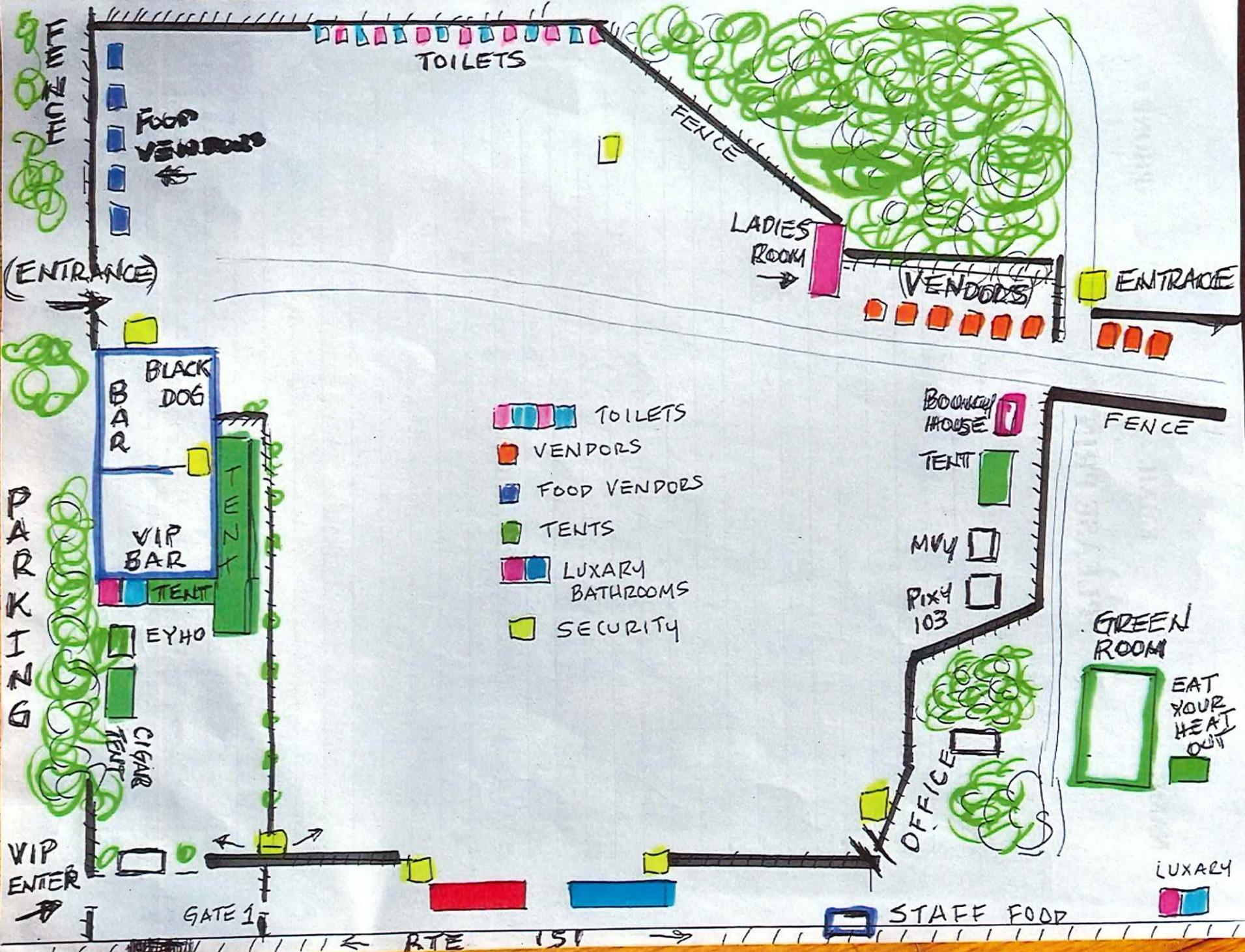
This year plan for the event will see a few changes from past years. Our stage setup is being reconfigured and enlarged to accommodate the band line up better. They will be in the same location just a different size. All amplified music will be directed away from the residential areas adjacent to the fairgrounds as in years past. Otherwise, everything remains the same, we anticipate all parking to be on the fairgrounds side of Nathan S. Ellis Highway. We continue to make upgrades to this event to support our mission statement. Once again, we have received no negative comments on last years event.

We are requesting a one-day event rain or shine. We plan on having safe, positive environment for our patrons to experience some live music.

Respectfully,

Boyd W. DeMello, Clerk

Bands for Badges, Inc



## **OPEN SESSION**

## **CONSENT AGENDA**

### **1. Licensing**

- b. Application for Special One-Day Wine & Malt Liquor License  
– Food Truck Festivals of America LLC – Cape Cod Food Truck  
& Craft Beer Festival – Cape Cod Fairgrounds – 8/5/23

Date: 2/27/23

**ONE-DAY LIQUOR LICENSE APPLICATION REVIEW FORM**

**Applicant:** Food Truck Festivals of America LLC

**Event:** Cape Cod Food Truck & Craft Beer Festival

**Location:** Cape Cod Fairgrounds, 1220 Nathan Ellis Hwy.

**Date:** Saturday, 8/5/23 **Time:** 11:00 a.m. - 5:00 p.m.

**License Type:**  Wine & Malt Beverages or  All Alcoholic Beverages

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

- Police No objections.
- Fire Contact Fire Department to schedule inspections of food truck vendors.
- Health Each individual vendor must apply for food permit 30 days in advance.
- Building No objections.
- Communications \_\_\_\_\_
- M.E.S. No objections.
- DPW No objections.
- Recreation No objections.
- Beach \_\_\_\_\_
- \_\_\_\_\_

**NOTES:** This event was discussed by the Internal Working Group for Special Events at its meeting on Tuesday, February 7, 2023.

The Working Group recommends approval.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



PAID

\$35.00 CK# 1191



APPLICATION



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

NAME OF APPLICANT:

Michelle Buckley

ADDRESS OF APPLICANT:

247 Washington St, Ste 21

Stoughton MA 02072

TOWN

STATE

ZIP CODE

NAME OF ORGANIZATION: Food Truck Festivals of America LLC

MAILING ADDRESS: 247 Washington St, Ste 21, Stoughton MA 02072

TELEPHONE #: 781-956-3832

EMAIL: mish@ftfofamerica.com

LOCATION TO BE LICENSED-ADDRESS: Cape Cod Fairgrounds, 1220 Nathan Ellis Hwy

Falmouth MA 02536

TOWN

STATE

ZIP CODE

EVENT TITLE: Cape Cod Food Truck & Craft Beer Festival APPROXIMATE # OF PEOPLE: 2500

DATE(S) OF EVENT: 08/05/2023 HOURS OF EVENT: 11:00am - 5:00 pm

AUTHORIZED MANAGER OF ESTABLISHMENT EVENT: Wendy Brown

TYPE OF LICENSE:

1. WINE & MALT

FOR PROFIT

2. ALL ALCOHOLIC  NON-PROFIT ORGANIZATIONS ONLY

NON-PROFIT

REQUIREMENTS check list:

1. Submit in a separate note or letter a narrative overview of the event including a description of the premises, food service, and security
2. Certificate of non-profit status (if your organization is non-profit)
3. Certificate of liquor liability insurance; 1 MILLION PER OCCURANCE - \$2 MILLION AGGREGATE
4. Certificate of TIPS or other alcohol safety training for all persons handling alcohol
5. Floor plan of area where alcohol will be served, consumed, and securely stored and how this will be separated from public areas (roping, fences, etc.)
6. Temporary Food Permit (Health Department)

01/19/2023

DATE

*M. Buckley*  
APPLICANT SIGNATURE

FEE: \$25.00 PER DAY

\$10.00 FILING FEE

## **OPEN SESSION**

### **CONSENT AGENDA**

#### **1. Licensing**

- c. Application for Special One-Day All Alcohol Liquor License –  
Belonging to Each Other, Inc. – 3<sup>rd</sup> Claddagh Bowl – Trade  
Center Bowl, 89 Spring Bars Rd. – Saturday, 3/18/23

Date: 2/27/23

**ONE-DAY LIQUOR LICENSE APPLICATION REVIEW FORM**

Applicant: Belonging to Each Other, Inc.

Event: 3rd Claddagh Bowl fundraiser

Location: Trade Center Bowl, 89 Spring Bars Road

Date: Saturday, 3/18/23 Time: 11:00 a.m. - 5:00 p.m.

License Type:  Wine & Malt Beverages or  All Alcoholic Beverages

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

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Police         | <u>No objections.</u>   |
| <input checked="" type="checkbox"/> Fire           | <u>No concerns.</u>   |
| <input checked="" type="checkbox"/> Health         | <u>The food vendor will need to apply for a 2023 food permit.</u> |
| <input checked="" type="checkbox"/> Building       | <u></u>   |
| <input checked="" type="checkbox"/> Communications | <u>Supports the recommendations of Police &amp; Fire.</u>         |
| <input type="checkbox"/> M.E.S.                    | <u></u>   |
| <input checked="" type="checkbox"/> DPW            | <u></u>   |
| <input checked="" type="checkbox"/> Recreation     | <u>All set with this event.</u>                                   |
| <input type="checkbox"/> Beach                     | <u></u>   |
| <input type="checkbox"/>                           | <u></u>   |

NOTES: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**PAID**  
\$10.00 CK# 001479



**APPLICATION**

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

NAME OF APPLICANT:

GINA TORIELLI

ADDRESS OF APPLICANT:

101 TOWN HALL SQ UNIT 2

FALMOUTH MA 02540

TOWN STATE ZIP CODE

NAME OF ORGANIZATION: BELONGING TO EACH OTHER, INC.

MAILING ADDRESS: PO BOX 343, FALMOUTH, MA 02541

TELEPHONE #: 508-444-6360 X5 EMAIL: CAO.BTEO@GMAIL.COM

LOCATION TO BE LICENSED-ADDRESS: TRADE CENTER BOWL 89 SPRING BARS RD

FALMOUTH MA 02540

TOWN STATE ZIP CODE

EVENT TITLE: 3RD CLADDAGH BOWL APPROXIMATE # OF PEOPLE: 150

DATE(S) OF EVENT: 03/18/2023 HOURS OF EVENT: 11AM-5PM

AUTHORIZED MANAGER OF ESTABLISHMENT EVENT:

TYPE OF LICENSE:

1. WINE & MALT

2. ALL ALCOHOLIC

NON-PROFIT ORGANIZATIONS ONLY

FOR PROFIT

NON-PROFIT

REQUIREMENTS check list:

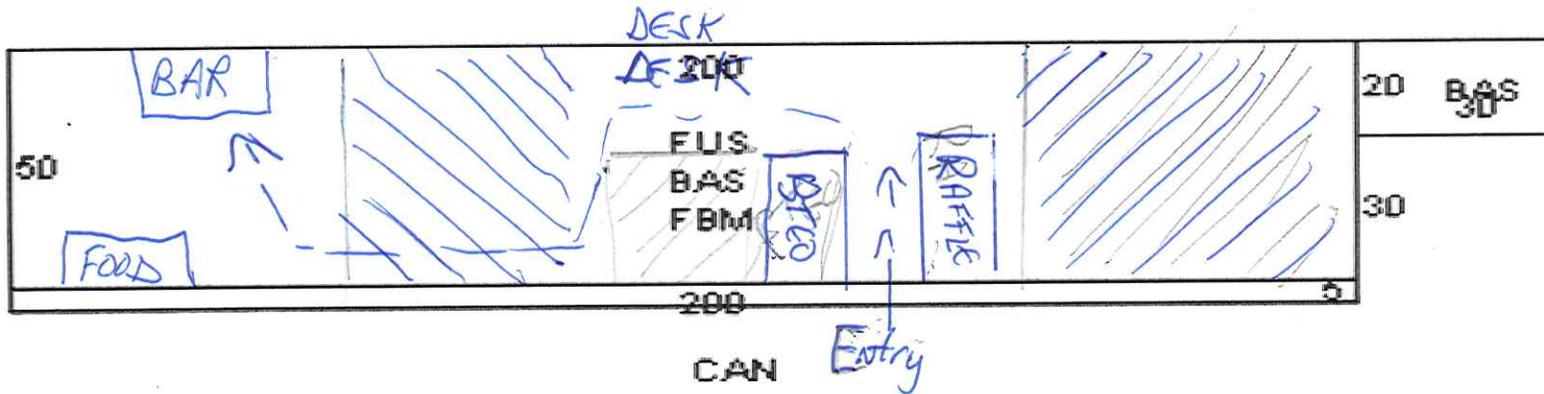
1. Submit in a separate note or letter a narrative overview of the event including a description of the premises, food service, and security
2. Certificate of non-profit status (if your organization is non-profit)
3. Certificate of liquor liability insurance; 1 MILLION PER OCCURANCE - \$2 MILLION AGGREGATE
4. Certificate of TIPS or other alcohol safety training for all persons handling alcohol
5. Floor plan of area where alcohol will be served, consumed, and securely stored and how this will be separated from public areas (roping, fences, etc.)
6. Temporary Food Permit (Health Department)

02/21/2023  
DATE

APPLICANT SIGNATURE

FEE: \$25.00 PER DAY

\$10.00 FILING FEE



Sum Area By Label :

CAN = 1000
FUS = 10000
BAS = 10600
FBM = 10000

TRADE CENTER BOWL – 95 Spring Bars Rd

///// = Bowling lanes

\\\\\\\\ = Pool Tables

E = Entry from outside

BAR = where liquor will be served

FOOD = where food will be served

DESK = where to check in for bowling

BTEO = where BTEO staff and volunteers will collect admission tickets, check IDs and sell drink tickets

Raffle = Where the Raffle will be laid out.



# BELONGING TO EACH OTHER

*helping Falmouth men and women experiencing homelessness*

February 20, 2023

BELONGING TO EACH OTHER

P.O. Box 343

Falmouth, MA 02541

[www.bteofalmouth.com](http://www.bteofalmouth.com)

[bteofalmouth@gmail.com](mailto:bteofalmouth@gmail.com)

**Executive Director**

Gina Torielli

**Board of Directors**

Lynn O'Neill

*Chair*

Rev. Christina Williams

*Vice Chair*

Daniel Persechini

*Treasurer*

Merrill Blum

Dana Mohler-Faria

Ann E. Polachi

**Advisory Board**

Troy B.G. Clarkson

*CFO City of Brockton*

*Falmouth Enterprise*

*Columnist*

Edward A. Dunne

*Falmouth Chief of Police*

Rev. Nell Fields

*Minister of Waquoit*

*Congregational Church*

Elizabeth Folcarelli

Michael Kasparian

*President and CEO Falmouth*

*Chamber of Commerce*

Matt Rocheleau

*Owner*

*The Clam Man Inc.*

David Vieira

*State Representative*

*Falmouth Town Meeting*

*Moderator*

Allan Wilson

*Wilson Consulting*

Jay Zavala

Town of Falmouth Select Board

RE: SPECIAL ONE-DAY LIQUOR LICENSE FOR BELONGING TO EACH OTHER  
EVENT AT TRADE CENTER BOWL,

**Description of Event**

This is the 3<sup>rd</sup> "Annual" Claddagh Bowling Tournament, postponed since March 2020. The event runs from 11am-5pm on Saturday March 18, 2023.

The event consists of 2 sessions of bowling (11-2 and 2-5pm). A copy of the poster for the event is attached. Both adults and children may attend and bowl.

This is a ticketed event, and no one can attend without a ticket. Not more than 85 people will be in attendance at any one time, including workers. Capacity of the venue is \$100. 2 drink tickets are included in the admission, and identifications will be checked before "Adult" beverage coupons are dispensed.

We plan to serve chowder catered by the Quahog Republic Dive Bar, bread from Rein's Bakery, a pasta dish from another licensed caterer, and desserts from Windfall Market. Alcohol will consist of Bloody Mary's and keg beer. Soft beverages and coffee will be served.

Only TIPS certified bartenders will serve alcohol, from a single location well away from the main entrance and the bowling lanes themselves and near the food. Members of the BTEO Board and staff will be in attendance.

Do not hesitate to contact me if you have any questions or suggestions  
248-420-6335.

Gina Torielli

Belonging to Each Other  
**CLADDAGH BOWL**



*Help strike out homelessness!*

Saturday, March 18<sup>th</sup>

Session 1: 11 am—2 pm

Session 2: 2 pm—5 pm

Trade  
Center  
Bowl

FAMILY  
FRIENDLY

SPACE IS LIMITED— SIGN UP TODAY !

\$75.00 per person \$25.00 non bowler

SPONSORSHIPS AVAILABLE

Includes bowling, food and 2 drink tickets

For more information — [www.bteofalmouth.com](http://www.bteofalmouth.com)



Founded in 2015 to provide temporary housing and loving support to  
our homeless neighbors in Falmouth  
during the cold-weather months.

## **OPEN SESSION**

### **CONSENT AGENDA**

#### **1. Licensing**

- d. Application for a Pledge of License of an All Alcohol  
Innholder License – Seacrest Concessionaire, LLC d/b/a  
Seacrest Concessionaire located at 350 Quaker Road, North  
Falmouth

LICENSE APPLICATION REVIEW

Restaurant/Business: Seacrest Concessionaire, LLC

Address: 350 Quaker Road

License Type: \_\_\_\_\_

New or Transfer of License \_\_\_\_\_

or

Change of License Pledge of License

Police \_\_\_\_\_

Fire \_\_\_\_\_

Building \_\_\_\_\_

Health \_\_\_\_\_

Zoning \_\_\_\_\_

Planning \_\_\_\_\_

DPW \_\_\_\_\_

Assessor \_\_\_\_\_

Tax Collector \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NOTES:**

The applicant's attorney, Andrew Upton advised that:

"Ownership of the Hotel Building has changed, but the company that runs the Hotel for the owner and the holder of the Liquor License is not changing. Seacrest Concessionaire, LLC is and will continue to be the Licensee. Therefore, the Licensee will stay the same and the Owners of the Licensee entity have not changed, so no filing is required based on the new owner of the Hotel Building. Because there is a bank loan, we have filed the Pledge Application only."



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

**APPLICATION FOR AMENDMENT-Pledge of Collateral**

**Pledge of License**     **Pledge of Stock**     **Pledge of Inventory**

- Payment Receipt
- Monetary Transmittal Form
- DOR Certificate of Good Standing
- DUA Certificate of Compliance
- Change of Pledge of License, Stock or Inventory Application
- Vote of the Entity
- Pledge documentation
- Promissory note

**1. BUSINESS ENTITY INFORMATION**

Entity Name	Municipality	ABCC License Number
Seacrest Concessionaire, LLC	Falmouth	05941-HT-0390

Please provide a narrative overview of the transaction(s) being applied for. On-premises applicants should also provide a description of the intended theme or concept of the business operation.

Licensee is pledging Liquor License as collateral for a bank loan.

**APPLICATION CONTACT**

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

Name	Title	Email	Phone
Andrew Upton	Attorney	Aupton@ucdlaw.com	617-227-3277

**2. AMENDMENT-Pledge Information**

**Pledge of License**

To whom is the pledge being made:

**Pledge of Inventory**

Leader Bank, N.A.

**Pledge of Stock**

**3. FINANCIAL DISCLOSURE**

**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.
Leader Bank	55,984,000.00	Commercial Loan	<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
			<input type="radio"/> Yes <input type="radio"/> No

**FINANCIAL INFORMATION**

Provide a detailed explanation of the form(s) and source(s) of funding for the cost identified above.

Bank loan to fund renovations and operations.

## APPLICANT'S STATEMENT

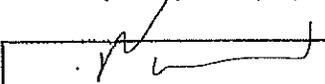
I, Naveen Kakarla the:  sole proprietor;  partner;  corporate principal;  LLC/LLP manager  
Authorized Signatory  
of Seacrest Concessionaire, LLC  
Name of the Entity/Corporation

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:

1/23/2023

Title:

LLC Manager

**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

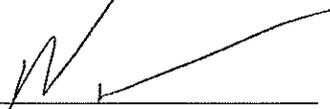
For the following transactions (Check all that apply):

- Pledge of License
- Pledge of Inventory
- Pledge of Stock
- 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."

A true copy attest,



Corporate Officer /LLC Manager Signature

Naveen Kakarla  
(Print Name)

For Corporations ONLY

A true copy attest,

\_\_\_\_\_  
Corporation Clerk's Signature

\_\_\_\_\_  
(Print Name)

## **OPEN SESSION**

### **CONSENT AGENDA**

#### **1. Licensing**

- e. Application for a Common Victualler License – J2 Bagels, Inc.  
d/b/a Cape Cod Bagels, located at 419 Palmer Avenue,  
Falmouth

**LICENSE APPLICATION REVIEW**

Restaurant/Business: J2 Bagels, Inc. d/b/a Cape cod Bagels

Address: 419 Palmer Avenue

License Type: \_\_\_\_\_

New or Transfer of License Common Victualler

or

Change of License \_\_\_\_\_

- Police \_\_\_\_\_
- Fire No objections
- Building No concerns
- Health No Issues
- Zoning No issues
- Planning No physical change proposed, Planning has no concerns
- DPW \_\_\_\_\_
- Assessor \_\_\_\_\_
- Tax Collector \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**NOTES:**

The application was originally scheduled for a hearing on January 9, 2023, but was delayed due to changes in the negotiation to complete the commercial lease agreement.

A Food Service Establishment Permit has been issued to J2 Bagels, Inc.

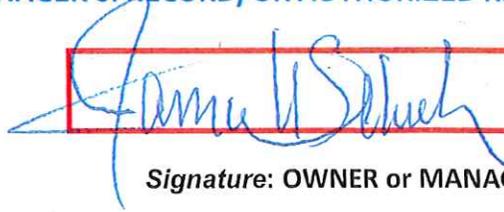


SEATING CAPACITY : 94

APPLICATION MUST BE SIGNED BY OWNER, MANAGER of RECORD, OR AUTHORIZED REPRESENTATIVE

\*\*DATE:

11/17/22

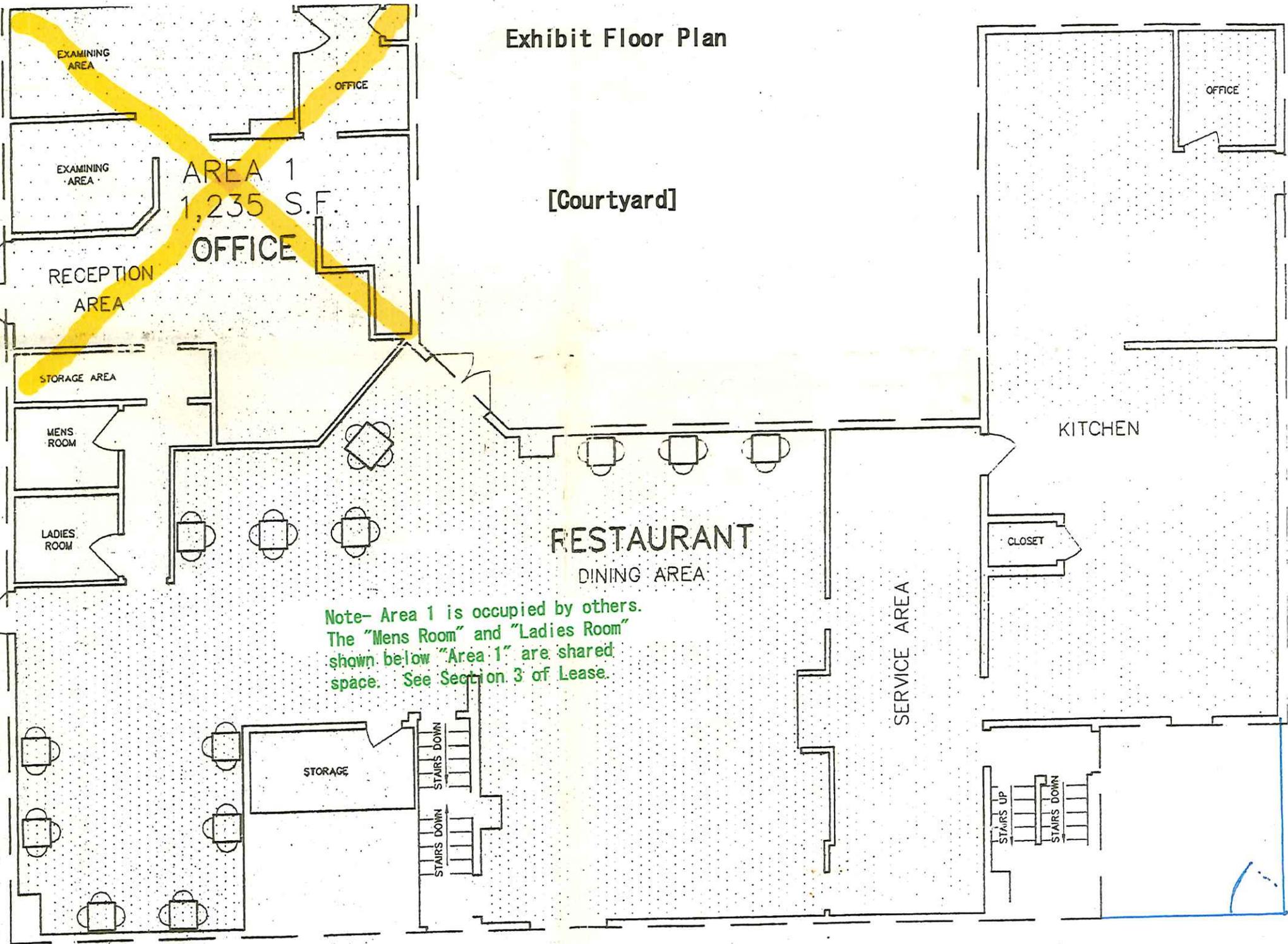


Signature: OWNER or MANAGER of RECORD

**APPLICATION REQUIREMENTS :**

- Food Service Establishment Permit – Health Department
- Filing Fee \$10.00 due with application
- License Fee \$60.00 due upon issue
- Business Structure Documents:
  - a. Copy of Articles of Organization (*if corporation*)
  - b. Copy of LLC Agreement (*if limited liability company*)
  - c. Copy of Partnership Agreement (*if partnership*)
  - d. Copy of Certificate of Doing Business (*if sole proprietorship*)
- Copy of lease or deed
- Copy of special zoning permits, *if any*
- Copy of Floor Plan
- Copy of Menu
- Attend a hearing before the Board of Selectmen at a time and date designated

# Exhibit Floor Plan



Note- Area 1 is occupied by others.  
The "Mens Room" and "Ladies Room"  
shown below "Area 1" are shared  
space. See Section 3 of Lease.

## COMMERCIAL LEASE AGREEMENT

THIS COMMERCIAL LEASE AGREEMENT (“Lease”) dated as of the 7<sup>th</sup> day of March, 2023 (“Effective Date”) by and between Palmer Jones LLC, a Massachusetts limited liability company (hereinafter referred to as “Landlord”) and J2 Bagels, Inc. a Massachusetts corporation doing business as “Cape Cod Bagel” (hereinafter referred to as “Tenant”).

### 1. SUMMARY OF BASIC LEASE TERMS

Landlord	<u>Palmer Jones LLC</u> <u>419 Palmer Avenue, Unit 16</u> <u>Falmouth MA 02540</u>
Tenant	<u>J2 Bagels, Inc.</u> <u>195 Falmouth Road, Unit 16D</u> <u>Mashpee, MA 02649</u>
Property Description	The land with the buildings and improvements thereon, owned by the Landlord, commonly known as and numbered 419 Palmer Avenue, Falmouth, Massachusetts, 02540 (collectively, including any improved or unimprovement areas, the “Building”)
Demised Premises (or Premises)	Approximately: a. 3,924 square feet as follows: i. 3,567 ± square feet of retail, wholesale, and kitchen space; ii. 117± square feet of sheltered space which includes an outdoor walk in cooler; and iii. 240± square feet in shed in the courtyard of the Building. b. 1276± square feet of basement area that includes 3 storage lockers; and c. 1482± square feet of patio dining area in the courtyard of the Building. The Demised Premises is more particularly shown at Exhibit Floor Plan, and is comprised of 5,200± square feet of interior/sheltered space, and 1,482± square feet of patio area.
Tenant’s Permitted Use	Subject to applicable zoning and the terms set forth herein, the Demised Premises shall be used during the Lease Term only for the operation of a restaurant to be known as “Cape Cod Bagel

substantially damaged by fire or other casualty, or be taken by eminent domain, the Licensor may elect to terminate this License.

13. Default. In the event that the Licensee should default under its Lease with the Licensor for the property that remains uncured and for which the lease terminates for 419 Palmer Avenue, Falmouth, Massachusetts, 02540, this License shall be revoked and terminate. If the Licensor makes any expenditures or incurs any obligations for the payment of money in connection therewith, including but not limited to, reasonable attorney's fees in instituting, prosecuting or defending any action or proceedings, such sums paid or obligations insured, with interest at the rate of ten (10) per cent per annum and costs, shall be paid to the Licensor by the Licensee as additional license fee.

14. Notice. Any notice from either party to the other shall be deemed duly served if mailed by registered or certified mail, return receipt requested, postage prepaid, addressed Licensor or Licensee at their addresses first listed above.

15. Entire Agreement. The Licensor and Licensee confirm that this License represents the entire understanding between the parties regarding the Licensed premises.

IN WITNESS WHEREOF, THE LICENSOR AND LICENSEE have hereunto set their hands and common seals as of March 7, 2023.

2/22/2023 | 4:51:03 PM EST

Date

Licensor: GC Bagel Co., Inc.

*Scott A. Fox*  
5A3FE3A9943C429

By: Scott A. Fox, President

*Marilyn Fox*  
5DBBD7E82E08466

By: Marilyn A. Fox, Treasurer

2/22/2023 | 3:08:33 PM EST

Date

Licensee: J2 Bagel, Inc.

*Jamie Schuh*  
1854EC01D4104BB...

By: Jamie Schuh, President and Treasurer

The undersigned Guarantor, for herself and her legal representatives guarantees the prompt payment of all amounts owing by the Licensee under this License and the performance by the Licensee of all terms and conditions of this License. In the event the Licensee fails to perform, satisfy or observe the terms and conditions of this License, then the Guarantor shall promptly and fully perform, satisfy and observe the obligations in place of the Licensee. The Guarantor shall pay, reimburse and indemnify the Licensor for any and all damages, costs, expenses, losses and other liabilities arising or resulting from such failure of the Licensee.

Guarantor:

*Jamie Schuh*  
1854EC01D4104BB...

Jamie Schuh

## **OPEN SESSION**

### **CONSENT AGENDA**

#### **1. Administrative Orders**

- a. Approve Eversource petition to install approximately 39' (feet) of 1" (inch) conduit and cable under town road Westmoreland Drive starting at existing pole 1102/5. This work is necessary to provide electric service to 30 Westmoreland Drive.



# Town of Falmouth

Department of Public Works - Engineering Division

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

Nicholas Croft, Engineering Technician

nicholas.croft@falmouthma.gov

Date: Feb. 23, 2023

To: Board of Selectmen

From: Nicholas Croft, Hearing Officer

**Subject: Eversource – Petition to install 39' of underground conduit and one handhole in Westmoreland Road.**

A petition was submitted by Eversource to install 39' of 1-3" underground conduit and one hand hole in Westmoreland Road to provide service to 30 Westmoreland Road.

The Engineering recommendation is to approve the request as submitted on Plan No. 11144045, W/O No. 11144045, dated January 14, 2023.

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

Thank you,

Nicholas Croft  
Engineering Technician  
DPW Engineering Division

FORM OF ORDER FOR  
UNDERGROUND CABLE AND CONDUIT LOCATIONS  
WO#11144045

SELECT BOARD FOR THE TOWN OF FALMOUTH, MASSACHUSETTS.

Notice having been given and a public hearing held, as provided by law,  
IT IS HEREBY ORDERED: that the NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE  
ENERGY be and it is hereby granted a location for and permission to install and maintain  
underground cables, conduits and manholes, together with such sustaining and protecting  
fixtures as said Company may deem necessary, in, under, along and across the public way or  
ways hereinafter referred to, as requested in petition of said Company dated the 18<sup>th</sup> day of  
January 2023.

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

Cables, conduits, and manholes shall be installed substantially at the point indicated  
upon the plan marked Plan No.11144045 Dated January 14, 2023 filed with said petition. The  
following are the public ways or parts of ways under, along and across which the cables  
above referred to may be installed under this order.

Westmoreland Drive, Falmouth

To install approximately 39' (feet) of conduit and  
cable under town road starting at existing pole  
1102/5.

One (1) 3" PVC conduit

This work is necessary to provide electric service to #30 Westmoreland Drive.

I hereby certify that the foregoing order was adopted at a meeting of the Select Board  
of the Town of Falmouth, Massachusetts held on the 27<sup>th</sup> day of  
February 2023.

Phyllis Downey  
Clerk of Select Board

\_\_\_\_\_, Massachusetts \_\_\_\_\_ 2023.

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

Attest:

\_\_\_\_\_  
Town Clerk

We hereby certify that on February 16 2023, at 3:00 o'clock,  
P. M. at Falmouth Town Hall a public hearing was held on the  
petition of the

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

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

Select Board for the Town of  
Falmouth, Massachusetts

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CERTIFICATE**

I hereby certify that the foregoing is a true copy of a location order and certificate of hearing with notice adopted by the Select Board of the Town of Falmouth, Massachusetts, on the \_\_\_\_\_ day of \_\_\_\_\_ 2023, and recorded with the records of location orders of said Town, Book \_\_\_\_\_, Page \_\_\_\_\_.

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

Attest:

\_\_\_\_\_  
**Town Clerk.**

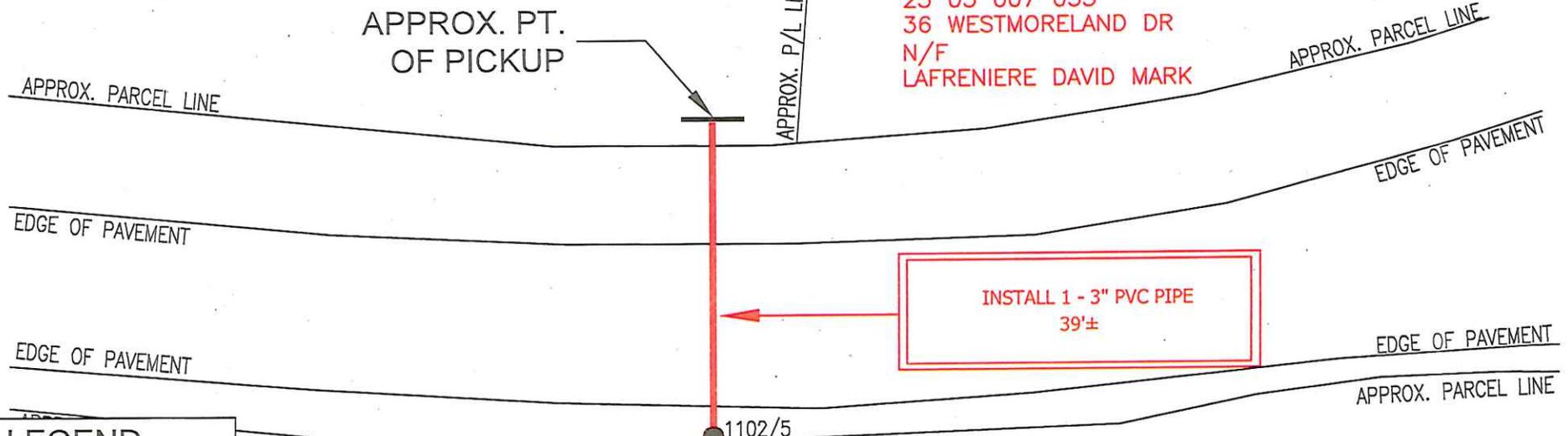
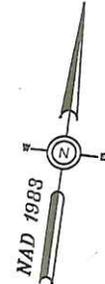
Plan to accompany petition of EVERSOURCE ENERGY  
to install 39'± of conduit from Pole  $\frac{1102}{5}$  to  
customer property line. To provide service to  
30 Westmoreland Drive

23 03 007 004A  
30 WESTMORELAND DR  
N/F  
HOLMES LAUREL G

23 03 007 033  
36 WESTMORELAND DR  
N/F  
LAFRENIERE DAVID MARK

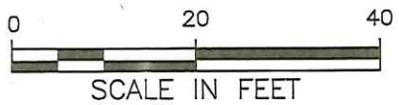
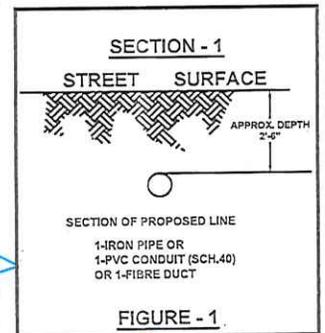
23 03 007 021  
31 WESTMORELAND DR  
N/F  
YOUNG DAVID E  
YOUNG ABIGAIL M

23 03 007 022  
35 WESTMORELAND DR  
N/F  
CHASE PETER D  
CHASE AMY W



**LEGEND**

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



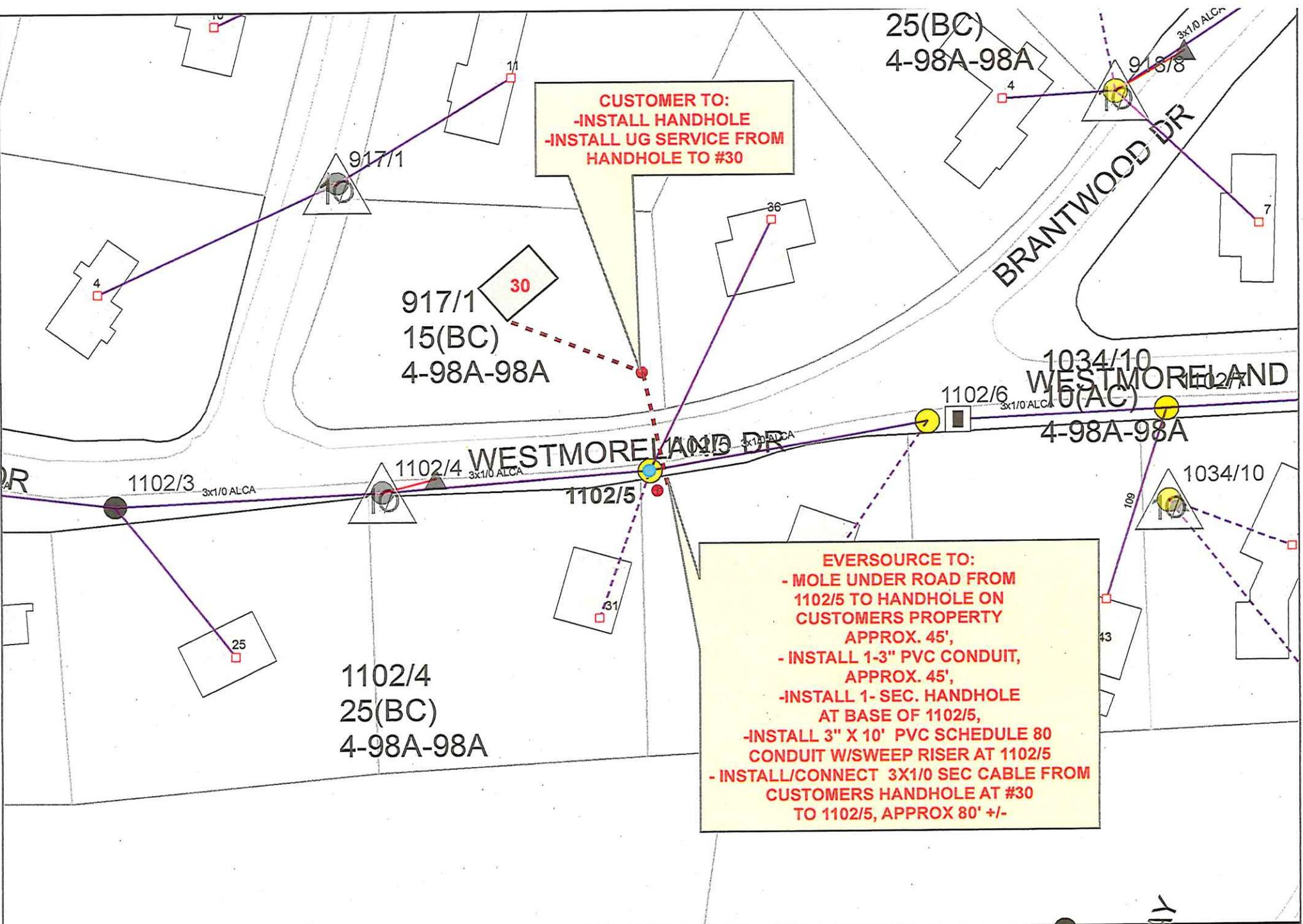
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**MASS. LAW**

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

P#	11144045	<b>NSTAR EVERSOURCE</b> ELECTRIC d/b/a 1165 MASSACHUSETTS AVE. DORCHESTER, MASS. 02125
Ward #		
Work Order #	11144045	Plan of
Surveyed by:	N/A	WESTMORELAND DRIVE
Research by:	JC	FALMOUTH
Plotted by:	BP	Showing
Proposed Structures:		PROPOSED CONDUIT LOCATION
Approved:	T THIBAUT	Scale
P#		1"=20'
		Date
		01/14/2023
		SHEET
		1 of 1



**CUSTOMER TO:**  
 -INSTALL HANDHOLE  
 -INSTALL UG SERVICE FROM  
 HANDHOLE TO #30

**EVERSOURCE TO:**  
 - MOLE UNDER ROAD FROM  
 1102/5 TO HANDHOLE ON  
 CUSTOMERS PROPERTY  
 APPROX. 45',  
 - INSTALL 1-3" PVC CONDUIT,  
 APPROX. 45',  
 -INSTALL 1- SEC. HANDHOLE  
 AT BASE OF 1102/5,  
 -INSTALL 3" X 10' PVC SCHEDULE 80  
 CONDUIT W/SWEEP RISER AT 1102/5  
 - INSTALL/CONNECT 3X1/0 SEC CABLE FROM  
 CUSTOMERS HANDHOLE AT #30  
 TO 1102/5, APPROX 80' +/-

## **OPEN SESSION**

### **CONSENT AGENDA**

#### **1. Administrative Orders**

- b. Approve Eversource petition to install on private property one new pull box to be labeled 10600/010 and to install approximately 130' (feet) of 2-4" (inch) conduit and cable under town road northwesterly starting at new pull box 10600/010. This work is necessary to provide electric service to 267 Clinton Avenue.



# Town of Falmouth

*Department of Public Works - Engineering Division*

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

Nicholas Croft, Engineering Technician

nicholas.croft@falmouthma.gov

Date: Feb. 23, 2023

To: Board of Selectmen

From: Nicholas Croft, Hearing Officer

**Subject: Eversource – Petition to install 130' of underground conduit and one hand hole along Clinton Avenue**

A petition was submitted by Eversource to install 130' of 2-4" underground conduit encased in concrete and one hand hole along Clinton Avenue for service to 267 Clinton Avenue.

The Engineering recommendation is to approve the request as submitted on Plan No. 10761129, W/O No. 10761129, dated January 23, 2023.

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

Thank you,

Nicholas Croft  
Engineering Technician  
DPW Engineering Division

FORM OF ORDER FOR  
UNDERGROUND CABLE AND CONDUIT LOCATIONS  
WO#10761129

SELECT BOARD FOR THE TOWN OF FALMOUTH, MASSACHUSETTS.

Notice having been given and a public hearing held, as provided by law,  
IT IS HEREBY ORDERED: that the NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE  
ENERGY be and it is hereby granted a location for and permission to install and maintain  
underground cables, conduits and manholes, together with such sustaining and protecting  
fixtures as said Company may deem necessary, in, under, along and across the public way or  
ways hereinafter referred to, as requested in petition of said Company dated the 23<sup>rd</sup> day of  
January 2023.

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

Cables, conduits, and manholes shall be installed substantially at the point indicated  
upon the plan marked Plan No.10761129 Dated January 23, 2023 filed with said petition. The  
following are the public ways or parts of ways under, along and across which the cables  
above referred to may be installed under this order.

Clinton Avenue, Falmouth

To install approximately 130' (feet) of conduit and  
cable under town road northwesterly starting at  
new pull box 10600/010.

One (1) 2-4" conduit  
One Pull Box 10600/010

This work is necessary to provide electric service to #267 Clinton Avenue.

I hereby certify that the foregoing order was adopted at a meeting of the Select Board  
of the Town of Falmouth, Massachusetts held on the 27<sup>th</sup> day of  
February 2023.

Paulis A. Downey  
Clerk of Select Board

\_\_\_\_\_, Massachusetts \_\_\_\_\_ 2023.

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

Attest:

\_\_\_\_\_  
Town Clerk

We hereby certify that on February 16 2023, at 3:00 o'clock,  
P. M. at Falmouth Town Hall a public hearing was held on the  
petition of the

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

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

Select Board for the Town of  
Falmouth, Massachusetts

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CERTIFICATE**

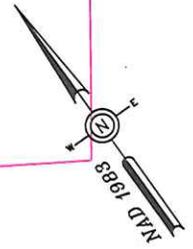
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This certified copy is made under the provisions of Chapter 166 of General Laws and any additions thereto or amendments thereof.

Attest:

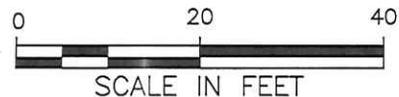
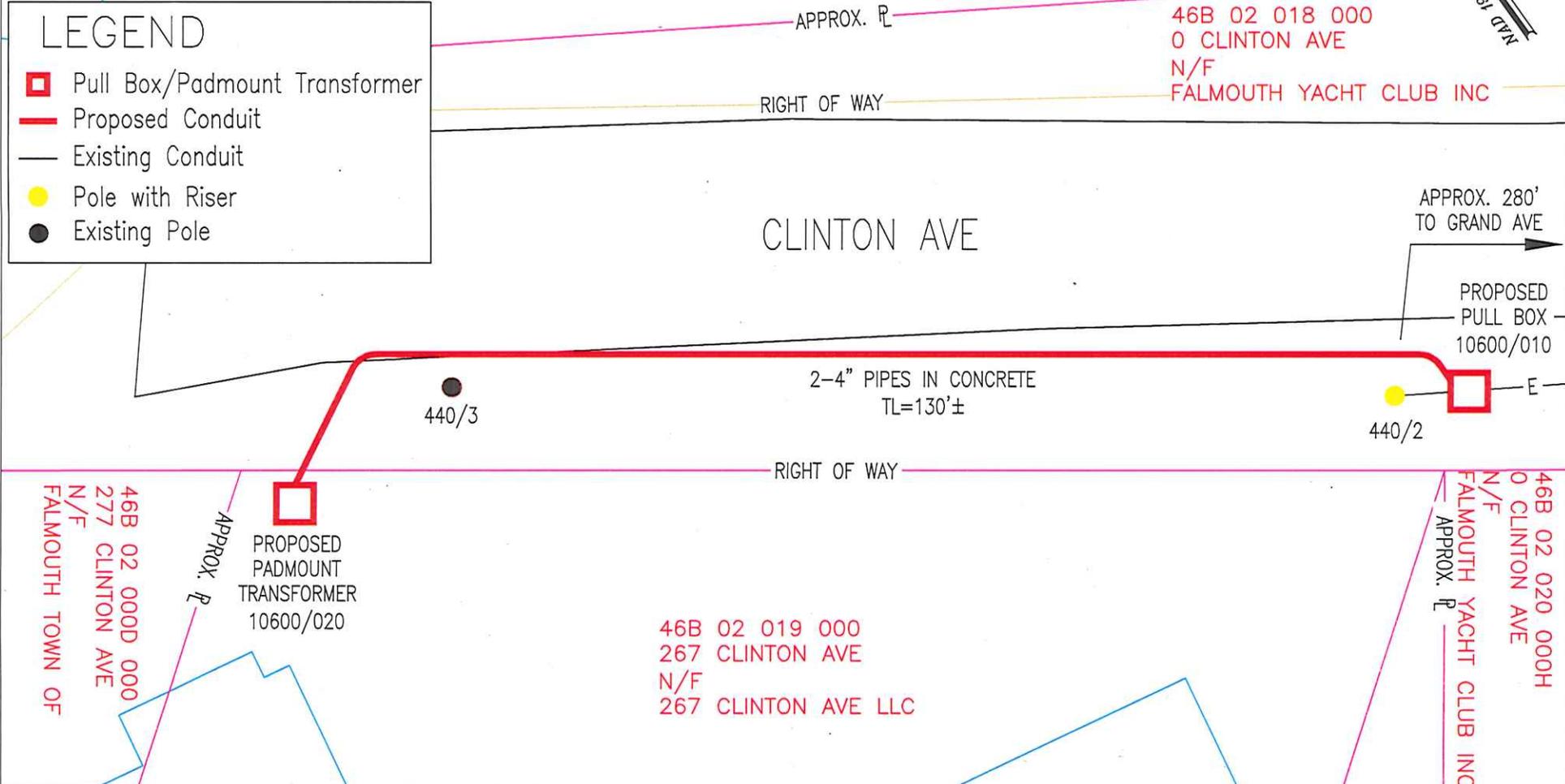
\_\_\_\_\_  
**Town Clerk.**

Plan to accompany petition of EVERSOURCE ENERGY to install 130'± of conduit from pull box 10600/010 to 10600/020 along Clinton Ave.



**LEGEND**

- Pull Box/Padmount Transformer
- Proposed Conduit
- Existing Conduit
- Pole with Riser
- Existing Pole



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**MASS. LAW**

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

C#	<b>NSTAR EVERSOURCE</b> ELECTRIC d/b/a 1165 MASSACHUSETTS AVE. DORCHESTER, MASS. 02125	
Ward #		
Work Order # 10761129	Plan of CLINTON AVE, FALMOUTH	
Surveyed by: N/A	Showing PROPOSED PULL BOX AND CONDUIT LOCATION	
Research by: N/A	Scale 1"=20' Date JANUARY 23, 2023	
Plotted by: TL	SHEET 1 of 1	
Proposed Structures: TL		
Approved: T THIBAUT		
P#		

## **OPEN SESSION**

### **CONSENT AGENDA**

#### **1. Administrative Orders**

- c. Approve request to spend over \$500 from the Fire Rescue Department donation account for the purchase of Challenge Coins



**FALMOUTH FIRE RESCUE DEPARTMENT**  
**ADMINISTRATIVE MEMO**

**To: Select Board Members**  
**From: Timothy R. Smith, Fire Chief**  
**Subject: Fire Rescue Donation Account Expenditure**  
**Date: February 14, 2023**

We respectfully request approval to spend over \$500 out of the Fire Rescue Department Donation Account for the purchase of Challenge Coins.

First responder services have a history of using challenge coins to honor service. Challenge Coins are a physical symbol of appreciation and recognition of a job well done or exemplary service. Challenge coins are also used to award team members who perform their duties extremely well. Giving a coin as a reward for excellent performance builds pride and morale. Receiving one is a great honor and team members work hard to get them. A challenge coin can be presented to recognize a person for a special achievement. They build close-knit, lasting bonds between people who receive them and represent unity.

## **OPEN SESSION**

### **CONSENT AGENDA**

#### **1. Administrative Orders**

- d. Vote to approve request from The 300 Committee for a Conservation Restriction for the Ed Brown-Leger 3.72-acre property at 0 Boxberry Hill Road

## Diane Davidson

---

**From:** jwhritenour 300committee.org <jwhritenour@300committee.org>  
**Sent:** Thursday, February 9, 2023 9:38 AM  
**To:** Diane Davidson  
**Cc:** Peter Johnson-Staub  
**Subject:** Brown Leger Conservation Restriction for Select Board approval  
**Attachments:** 16798 Falmouth clean copy ok for local signatures.docx

Dear Diane and Peter,

The 300 Committee is submitting the attached Conservation Restriction (CR) for the Brown Leger property on Boxberry Hill Road for Select Board approval. This CR was approved by the Select Board in November 2022. The State legal review team required some changes to the document in January 2023. The attached final CR document was approved by the State for local signatures. T3C's Board reviewed the attached and voted to affirm their approval at their February 7<sup>th</sup> meeting.

Please include this on the next available agenda for Select Board approval.

Thank you!

Jessica

Jessica K. Whritenour, AICP  
Executive Director  
The 300 Committee Land Trust  
157 Locust Street  
Falmouth, MA 02540  
p: 508-540-0876  
f: 508-457-6406  
e: jwhritenour@300committee.org

*Brown-Leger Conservation Restriction  
East Falmouth, MA*

**GRANTOR: Edward J. Brown-Leger**

**GRANTEE: The 300 Committee Land Trust, Inc.**

**ADDRESS OF PREMISES: 0 Boxberry Hill Road, East Falmouth, MA 02536**

**FOR GRANTOR'S TITLE SEE:** Land Court Certificate#: 81618, and Barnstable County Registry of Deeds Book 7629, Page 338, Book 3090, Page 314, Book 3090, Page 316, and Book 2617, Page 60.

**FOR GRANTOR'S PLAN SEE:** Barnstable Registry of Deeds Plan Book 482 Page 19; Land Court Plan 8838V and Land Court Plan 12349-8 .

**GRANT OF CONSERVATION RESTRICTION**

**I. STATEMENT OF GRANT**

**Edward J. Brown-Leger**, Surviving Tenant by the Entirety, 398 Boxberry Hill Road, East Falmouth, Barnstable County, Massachusetts 02536, being the sole surviving owner of the Premises as defined herein, for my successors and assigns ("Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grant, with QUITCLAIM COVENANTS, to **THE 300 COMMITTEE LAND TRUST, INC.**, a Massachusetts charitable corporation, having an office and mailing address at 157 Locust Street, Falmouth, Barnstable County, Massachusetts, 02540, its permitted successors and assigns ("Grantee"), for nominal consideration as a gift, IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Conservation Restriction on land located in Falmouth, Barnstable County, Commonwealth of Massachusetts containing a 3.72-acre± parcel of land ("Premises"), which Premises is more particularly described in Exhibit A and shown in the attached sketch plan, being a reduced copy of a survey plan, in Exhibit B, both of which are incorporated herein and attached hereto.

**II. PURPOSES:**

*Brown-Leger Conservation Restriction  
East Falmouth, MA*

This Conservation Restriction is defined in and authorized by Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purposes of this Conservation Restriction (“Purposes”) are to ensure that the Premises will be maintained in perpetuity in its natural, scenic, or open condition, and to prevent any use or change that would materially impair the Conservation Values (as defined below).

**Conservation Land Tax Credit.** The Conservation Restriction was acquired utilizing, in part, the Conservation Land Tax Credit Program (CLTC#0503) authorized under the Chapter 509 Acts of 2008 Sections 1-4 as amended by Chapter 409 Acts of 2010 Sections 4-13 of the Massachusetts General Court.

**The Conservation Values protected by this Conservation Restriction include the following:**

- Open Space Protection. The Premises contributes to the protection of the scenic and natural character of East Falmouth and the protection of the Premises will enhance the open-space value of these and nearby lands. The Premises is proximal to the Frances A. Crane Wildlife Management Area (over 1,800 acres of open space), Braeburn Farms Conservation Area, and to a significant expanse of additional publicly-owned property.
- Working Farmland and Forest. This Conservation Restriction will ensure that the Premises will be permanently available for agriculture activities that are consistent with the protection of conservation values present on the Premises.
- Protection of Wildlife Habitat. The Premises falls entirely within a Massachusetts Natural Heritage & Endangered Species Program- (“NHESP”) designated Priority Habitat of Rare Species as well as entirely within an NHESP-designated Estimated Habitat of Rare Wildlife. Moreover, the Premises falls entirely within NHESP BioMap2-designated Critical Natural Landscape, containing the Landscape Block Core Component. BioMap2, published in 2010, was designed to guide strategic biodiversity conservation in Massachusetts over the next decade by focusing land protection and stewardship on the areas that are most critical for ensuring the long-term persistence of rare and other native species and their habitats, exemplary natural communities, and a diversity of ecosystems. BioMap2 is also designed to include the habitats and species of conservation concern identified in the State Wildlife Action Plan. Therefore, the protection of the Premises aligns with NHESP’s wildlife and habitat protection objectives and would ensure perpetual protection for each of these state-recognized habitats.
- Water Supply Protection. The Premises falls approximately 100% within a Zone II Area of Contribution to a Public Water Supply. Therefore, permanent protection from further human development of the Premises with this Conservation Restriction will assist in maintaining public water supply quality in area of the Premises.
- Soils and Soil Health. The Premises includes a majority of Prime Forest Land of Statewide Importance as identified by the USDA Natural Resources Conservation Service. The protection of the Premises will promote healthy soils and healthy soils practices as such terms are defined in Chapter 358 of the Acts of 2020, which added definitions of these terms to Section 7A of Chapter 128 of the Massachusetts General Laws.

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- Wetlands. The Premises contains wooded deciduous wetlands protected under the Massachusetts Wetlands Protection Act. Wetlands contribute to flood control, prevention of pollution, reduced storm damage, and protection of public water supplies (Coonamessett Pond).
- Climate Change Resiliency. The Premises is identified as an area of average Terrestrial Resilience according to The Nature Conservancy's (TNC) Resilient Land Mapping Tool, including slightly above average Landscape Diversity and average Local Connectedness. TNC's Resilient Land Mapping Tool was developed in order to map 'climate-resilient' sites that are 'more likely to sustain native plants, animals, and natural processes into the future.' The protection of these climate resilient sites is an important step in both reducing human and ecosystem vulnerability to climate change and adapting to changing conditions.
- Consistency with Clearly Delineated Barnstable County Conservation Policy. Protection of the Premises will assist in achieving Barnstable County conservation goals. In July 1991, the Barnstable County Assembly of Delegates, pursuant to the Cape Cod Commission Act (Chapter 716 of the Acts of 1989), adopted a *Regional Policy Plan*, amended in 1996, 2002 2009, and 2012, which provided, *inter alia* (references are to the 2012 Plan):
  - "To preserve and enhance rural land uses, including agriculture, that are environmentally compatible with the Cape's natural resources in order to maintain opportunities to enjoy the traditional occupations, economic diversity, and scenic resources associated with rural lands, and to support activities that achieve greater food independence for Cape Cod" (Land Use Goal LU3, p.18);
  - "Open space has helped define Cape Cod's heritage and economy. Open space, and the rural character it imparts, is one of the region's most valuable assets. Marshes, beaches, farms, and woodlands contribute directly to key industries on Cape Cod, attracting tourists and providing areas for farming and cranberry growing, hunting, fishing, and swimming" (Open Space and Recreation introduction, p. 62);
  - Investigate "programs for the Cape to ensure protection of the most sensitive resources, as an incentive for protecting working agricultural lands, and to provide contiguous open space" (Open Space and Recreation Goal OS1-C3, p. 64);
  - "The Cape Cod Commission will continue to inventory the region's distinctive cultural landscapes, including historic agricultural lands, and will make recommendations to preserve these significant resources through land protection, preservation or conservation restrictions, educational efforts to increase public awareness, and other means" (Heritage Preservation and Community Character Goal HPCC1-C1, p. 88);
  - Regional Rural Lands Protection Tools: "The Commission will investigate the use of land use protection tools, including DCPCs and TDR, as well as conservation restrictions, toward the goal of protecting significant soils, natural resources, or working agricultural landscapes" (LU3-C2, p. 18);
  - Businesses such as high technology, clean, light manufacturing, and resource-based industries (e.g., shellfishing, ecotourism, farming) can foster economic

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development that is dependent upon the preservation of open space and protection of natural resources (p. 18); and,

- Land Use Goal 1.3.2: Development unrelated to agricultural operations shall be designed so as to avoid or minimize development on lands capable of sustained agricultural production as evidenced by soils, recent agricultural use, and/or surrounding agricultural use (p. 25).

Each of these objectives will be fulfilled with this Conservation Restriction because it will ensure that the Premises value as a farming and conservation resource is maintained in perpetuity. This Conservation Restriction will ensure that the Premises remains protected open space that is available for agricultural activities that are consistent with preserving its conservation values.

- Consistency with Clearly Delineated Town of Falmouth Conservation Policy. Protection of the Premises will further the Town of Falmouth's documented goals regarding conservation of land. In fact, the use of the Premises for farming comports with zoning, as the Premises falls within an Agricultural District. Additionally, in 2014, the Town of Falmouth outlined its open space and recreation goals in its updated *Open Space and Recreation Plan*, identifying goals, policies, and actions to guide conservation efforts, among them the to "acquire 30% of Falmouth's total land area as high quality, permanently protected open space" (Goal 1, p. 77). Further, permanently protecting the Premises with this Conservation Restriction also comports with the Town of Falmouth's goals and policies for growth in the next 50 years as outlined by the Town Planning Board's 2016 *Local Comprehensive Plan*. The Planning Board established goals to guide management of open space and farmland in Falmouth, including: "to protect the things about Falmouth to be treasured and kept, such as our natural resources and heritage" (p.1). . . . and to protect "remaining farmlands [which] are critical to our community's resiliency and open space network" (p. 3).

In 1991, the Town of Falmouth adopted a *Conservation Restriction Policy*, consisting of policies and guidelines approved by the Board of Selectmen, Assessors and Conservation Commission (updated and reaffirmed in 2001), which encourages the use of conservation restrictions in perpetuity as a means of "preserving open space . . . and providing scenic enjoyment . . . ." and:

- to ensure that land remains available for farming;
- to permanently protect open space;
- to limit or prevent construction on land of natural resource value; and,
- to add to existing restricted land which is contiguous to the land proposed to be restricted.

Implementing this Conservation Restriction will assist in achieving each of the objectives listed above because it will add to the protected open space network in Falmouth, it will be permanently available for agricultural uses, and its valuable scenic and rural character will be preserved.

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- Consistency with Clearly Delineated Federal Conservation Policy. Protection of the Premises meets the definition of “conservation purposes” as defined in 26 CFR 1.170A-14(d)(1), because its conservation would: promote protection of neighboring state-recognized habitats as well as the ecosystem contained on and contiguous to the Premises; preserve open space and maintain the scenic and rural character of the farm for enjoyment by the public.
- Consistency with Clearly Delineated State Conservation Policy. The Premises possesses significant open space, natural, aesthetic, ecological, plant and wildlife habitat, solid and water resource quality, watershed, and scenic values (collectively “Conservation Values”) of great importance to the Grantee and the people of Falmouth and the Commonwealth of Massachusetts.
- Historical Purposes. This Conservation Restriction will ensure that the Premises not only remains protected open space, but that the Premises will be available for Agricultural Activities as defined herein which are consistent with maintaining its conservation value.

### **III. PROHIBITED and PERMITTED ACTS AND USES**

#### **A. Prohibited Acts and Uses**

The Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Premises:

1. Structures and Improvements. Constructing, placing, or allowing to remain any temporary or permanent structure including without limitation any building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, graveled area, roads, sign, gate, billboard or other advertising, antenna, utilities or other structures, utility pole, tower, wind turbine, solar panel, , conduit, line, septic or wastewater disposal system, storage tank, or dam;
2. Extractive Activities/Uses. Mining, excavating, dredging, withdrawing, or removing soil, loam, peat, gravel, sand, rock, surface water, ground water, or other mineral substance or natural deposit, or otherwise altering the topography of the Premises;
3. Disposal/Storage. Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings, liquid or solid waste or other substance or material whatsoever;
4. Adverse Impacts to Vegetation. Cutting, removing, or destroying trees, shrubs, grasses or other vegetation;
5. Adverse Impacts to Water, Soil, and Other Features. Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, natural habitat, archaeological conservation, or ecosystem function;

6. Introduction of Invasive Species. Planting or introducing any species identified as invasive by the Massachusetts Invasive Plant Advisory Group or identified as invasive in such recognized inventories as the Massachusetts Introduced Pests Outreach Project, the Northeast Aquatic Nuisance Species Panel, or other such inventories, and any successor list as mutually agreed to by Grantor and Grantee;
7. Motor Vehicles. Using, parking, or storing motorized vehicles, including motorcycles, mopeds, all-terrain vehicles, off-highway vehicles, motorboats or other motorized watercraft, snowmobiles, launching or landing aircraft, or any other motorized vehicles, acknowledging that vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) may have a legal right to enter the Premises;
8. Subdivision. Subdividing or conveying a part or portion of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted), it being the Grantor's and Grantee's intention to maintain the entire Premises under unified ownership;
9. Use of Premises for Developing Other Land. Using the Premises towards building or development requirements on this or any other parcel;
10. Adverse Impacts to Stone Walls, Boundary Markers. Disrupting, removing, or destroying stone walls, granite fence posts, or any other boundary markers;
11. Residential, Commercial, or Industrial Uses. Using the Premises for residential, industrial, or for more than *de minimis* commercial recreation purposes;
12. Inconsistent Uses. Using the Premises for Purposes that are inconsistent with the Purposes or that would materially impair the Conservation Values.

**B. Permitted Acts and Uses**

Notwithstanding the Prohibited Acts and Uses described in Paragraph III.A, the Grantor may conduct or permit the following acts and uses on the Premises, provided they do not materially impair the Purposes and/or Conservation Values. In conducting any Permitted Act and Use, Grantor shall minimize impacts to the Conservation Values to ensure any such impairment thereto is not material.

1. Vegetation Management. Maintaining vegetation, including pruning, trimming, cutting, and mowing, and removing brush, all to prevent, control, and manage hazards, disease, insect or fire damage, and/or in order to maintain the condition of the Premises as documented in the Baseline Report (see Paragraph XV), including maintaining meadows and pasture for animals, clearance of historic paths and trails, clearance immediately around fences, and maintenance of horticultural tree specimens.;

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2. Non-native, Nuisance, or Invasive species. Removing non-native, nuisance, or invasive species, interplanting native species, and controlling species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
3. Composting. Stockpiling and composting stumps, trees, brush, limbs, and similar biodegradable materials originating on the Premises, provided that such stockpiling and composting is in locations where the presence of such activities will not impair the Conservation Values of this Conservation Restriction. No such activities will take place closer than one hundred (100) feet from any wetland, waterbody or stream. All exercise of this Permitted Use shall take into account sensitive areas and avoid harm to nesting species during nesting season;
4. Natural Habitat and Ecosystem Improvement. With prior written approval of the Grantee, conducting measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, ecosystem function, or rare or endangered species including planting native trees, shrubs, and other vegetation;
5. Archaeological Investigations. Conducting archaeological activities, including without limitation archaeological research, surveys, excavation and artifact retrieval, but only in accordance with an archaeological field investigation plan, which plan shall also address restoration following completion of the archaeological investigation, prepared by or on behalf of the Grantor and approved in advance of such activity, in writing, by the Massachusetts Historical Commission State Archaeologist (or appropriate successor official) and by the Grantee. A copy of the results of any such investigation on the Premises is to be provided to the Grantee;
6. Signs. Constructing, installing, maintaining, and replacing signs and informational kiosks with respect to the Permitted Acts and Uses, the Purposes, the Conservation Values, trespass, public access, identity and address of the Grantor, sale of the Premises, the Grantee's interest in the Premises, boundary and trail markings, any gift, grant, or other applicable source of support for the conservation of the Premises. Any signs or informational kiosks shall be positioned so as to not impede the public view of the land;
7. Trails. Maintaining and constructing trails as follows:
  - a. Trail Maintenance. Conducting routine maintenance of trails, which may include widening the "Way as Shown on L.C. 8838<sup>A</sup>", as shown on Exhibit B, up to twenty (20) feet in width overall, with a treadway up to ten (10) feet in width; and routine maintenance of other trails which may include widening trail corridors up to five (5) feet in width overall.
  - b. New Trails. With prior written approval of the Grantee, constructing new trails or relocating existing trails, provided that any construction or relocation results in trails that conform with the five (5) feet overall width limitations above.
  - c. Trail Features. With prior written approval of the Grantee, constructing bog bridging, boardwalks, footbridges, railings, steps, culverts, benching, cribbing,

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contouring, or other such features, together with the use of motorized equipment to construct such features;

8. Motorized Vehicles. Using motorized vehicles by persons with mobility impairments, or as necessary for engaging in Agricultural Activities as permitted herein, and for mowing the historic pathway across the Premises to the cul-de-sac;
9. Outdoor Passive Recreational and Educational Activities. Horseback riding, hiking and other non-motorized outdoor recreational activities that do not materially alter the landscape, do not degrade environmental quality, and do not involve more than minimal use for commercial recreational activities;
10. Solar Arrays. Ability to access, repair and maintain a solar panel array as it exists on Premises and as described in Paragraph III.C Special Use Area and the Baseline Report. The solar panel array shall be solely associated with electrical use at the residential premises at 398 Boxberry Hill Road. The solar panel array and associated connecting underground connection may be maintained and replaced *in situ*, but not enlarged beyond 350 square feet in area or moved from its current location as indicated as "Solar Panel Array" on the sketch plan in Exhibit B.
11. Right-of-Way. The Conservation Restriction shall not interfere with Grantor's use or maintenance of pre-existing easements.
12. Agricultural Activities. The Grantor reserves the right to conduct Agricultural Activities only within the Special Use Area as defined in Section III.C.
  - a. Permitted Activities. "Agricultural Activities" are collectively defined as "Animal Husbandry" and "Horticulture," defined below:
    - i. Animal Husbandry. Raising animals, including but not limited to dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, and bees, for the purpose of using, consuming, or selling such animals or a product derived from such animals in the regular course of business; or when primarily and directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such animals and preparing them or the products derived therefrom for use, consumption, or market.
    - ii. Horticulture. Raising fruits, vegetables, berries, nuts, and other foods for human consumption, feed for animals, flowers, trees, nursery or greenhouse products, and ornamental plants and shrubs, but not plant species deemed to be invasive or otherwise detrimental to the native plant and animal community, such as those listed in the "Massachusetts Prohibited Plant List", which is maintained and updated by the Massachusetts Department of Agricultural Resources, all for the purpose of selling such products in the regular course of business; or when primarily and directly used in raising forest products under a Forest Stewardship Plan designed to improve the quantity and quality of a continuous crop for the purpose of using, consuming, or selling

these products in the regular course of business; or when primarily and directly used in a related manner which is incidental to those uses and represents a customary and necessary use in raising such products and preparing them for use, consumption, or market.

- b. Requirement to Follow Best Agricultural Practices. Agricultural Activities shall be conducted in a manner consistent with generally accepted best management practices for sustainable farming as those practices may be identified from time to time by appropriate governmental or educational institutions such as the USDA Natural Resources Conservation Service (NRCS), UMass Extension, Northeast Organic Farming Association (NOFA), Massachusetts Department of Agricultural Resources, and the like, (collectively, “Best Agricultural Practices”) and in a manner that promotes healthy soils and healthy soil practices, as such terms are defined in Chapter 358 of the Acts of 2020, which added definitions of these terms to Section 7A of Chapter 128 of the Massachusetts General Laws (“Healthy Soils and Practices”), and in a manner that does not hinder the ability of future generations to engage in Agricultural Activities on the Premises;
- c. Requirement for a Farm Conservation Plan. Agricultural Activities shall require a farm conservation plan, such as an NRCS Conservation Plan (“Farm Conservation Plan”), prepared for the Premises, and approved in writing by the Grantee. The Farm Conservation Plan shall be developed in accordance with generally-accepted Best Agricultural Practices, and shall, at a minimum, address the following:
  - i. establish wetland buffers and/or filter strips to prevent adverse impacts to the water quality of existing wetlands and waterways;
  - ii. in the event animal husbandry activities are proposed, establish and govern the type and number of each type of animal unit permitted on the Premises, and analyze the pasturage potential of the Premises and establish and govern the cycling of pasturage, and any other measures necessary to ensure the carrying capacity of the Premises is not exceeded in order to protect water quality, prevent soil erosion, and otherwise protect the Conservation Values; and
  - iii. describe how Agricultural Activities will maximize soil and water conservation, and promote Healthy Soils and Practices.
- d. Agricultural Structures and Improvements. Constructing and maintaining structures and improvements to conduct Agricultural Activities, including:
  - i. the installation of sight-pervious fencing or other similar infrastructure to manage livestock or protect agricultural resources;
  - ii. the installation, use, and maintenance of an irrigation system that serves only the Premises;
  - iii. with the Grantee’s approval, the construction, use, maintenance, repair, relocation, and replacement of minor and temporary structures, without cement, subsurface, or other permanent foundations that result

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in the excavation or disturbance of the soil, only to the extent necessary, effective, and efficient to engage in Agricultural Activities provided that said structures shall, in aggregate, not cover an area greater than two thousand (2,000) square feet.

- iv. the removal of trees, saplings, shrubs, stumps, and roots preliminary to and including the preparation of surface topography and soils for the purposes of accommodating and instituting Agricultural Activities as described above (hereinafter "Land Conversion"), provided that any such Land Conversion does not convert any land classified as wetlands by the Massachusetts Department of Environmental Protection ("MassDEP") or the US Fish and Wildlife Service, or any land classified as Priority Habitat of Rare Species by the Massachusetts Natural Heritage and Endangered Species Program, and further provided that any such Land Conversion in excess of one (1) acre over any given five (5) year period is described in the Farm Conservation Plan (as described herein);

**C. Special Use Area.**

The Grantor reserves the right to conduct or permit the following activities and uses only within the areas shown on the Plan in Exhibit B as "Agricultural Use Area" and "Barn Yard Area" in addition to the Permitted Acts and Uses described in Paragraph III.B, and otherwise subject to this Conservation Restriction:

1. Agricultural Use Area

- a. Agricultural Activities as described in Section III. B. 11.
- b. Constructing, using, maintaining, repairing, improving, or replacing, the existing driveway, solar panel array and associated underground connection, and fencing ("Improvements") but not to locate such Improvements outside of the Agricultural Area, and further provided that any of these Improvements serves only the single family dwelling located at 398 Boxberry Hill Road, Falmouth.

2. Barn Yard Area

- a. Agricultural Activities as described in Section III. B. 11.
- b. Constructing, using, maintaining, repairing, improving, or replacing, the existing barnyard and associated fencing ("Improvements") but not to locate such Improvements outside of the Agricultural Area, and further provided that any of these Improvements serves only the single family dwelling located at 398 Boxberry Hill Road, Falmouth or Agricultural Activities in the Agricultural Use Area.

**D. Site Restoration**

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Upon completion of any Permitted Acts and Uses, any disturbed areas shall be restored substantially to the conditions that existed prior to said activities, including with respect to soil material, grade, and vegetated ground cover.

**E. Compliance with Permits, Regulations, Laws**

The exercise of any Permitted Acts and Uses under Paragraph III.B shall be in compliance with all applicable federal, state and local laws, rules, regulations, zoning, and permits, and with the Constitution of the Commonwealth of Massachusetts. The inclusion of any Reserved Right requiring a permit, license or other approval from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit, license, or other approval should be issued.

**F. Notice and Approval**

1. Notifying Grantee. Whenever notice to or approval by Grantee is required, Grantor shall notify or request approval from Grantee, by a method requiring proof of receipt, in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question, unless a different time period is specified herein. The notice shall:
  - a. Describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity;
  - b. Describe how the proposed activity complies with the terms and conditions of this Conservation Restriction, and will not materially impair the Purposes and/or Conservation Values;
  - c. Identify all permits, licenses, or approvals required for the proposed activity, and the status of any such permits, licenses, or approvals.
  - d. Describe any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the Purposes and Conservation Values.
2. Grantee Review. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within sixty (60) days of receipt of Grantor's request. Grantee's approval shall only be granted upon a showing that the proposed activity will minimize impacts to the Conservation Values and will not materially impair the Purposes and/or Conservation Values. Grantee may require Grantor to secure expert review and evaluation of a proposed activity by a mutually agreed upon party.
3. Resubmittal. Grantee's failure to respond within sixty (60) days of receipt shall not constitute approval of the request. Grantor may subsequently submit the same or a similar request for approval.

**IV. INSPECTION AND ENFORCEMENT**

**A. Entry onto the Premises**

The Grantor hereby grants to the Grantee, and its duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction.

**B. Legal and Injunctive Relief**

1. Enforcement. The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain compensatory relief, including without limitation, compensation for interim losses (i.e., ecological and public use service losses that occur from the date of the violation until the date of restoration) and equitable relief against any violations, including, without limitation, injunctive relief and relief requiring restoration of the Premises to its condition prior to the time of the injury (it being agreed that the Grantee will have no adequate remedy at law in case of an injunction). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for the enforcement of this Conservation Restriction.
2. Notice and Cure. In the event the Grantee determines that a violation of this Conservation Restriction has occurred and intends to exercise any of the rights described herein, the Grantee shall, before exercising any such rights, notify the Grantor in writing of the violation. The Grantor shall have thirty (30) days from receipt of the written notice to halt the violation and remedy any damage caused by it, after which time Grantee may take further action, including instituting legal proceedings and entering the Premises to take reasonable measures to remedy, abate or correct such violation, without further notice. Provided, however, that this requirement of deferment of action for thirty (30) days applies only if Grantor immediately ceases the violation and Grantee determines that there is no ongoing violation. In instances where a violation may also constitute a violation of local, state, or federal law, the Grantee may notify the proper authorities of such violation.
3. Reimbursement of Costs and Expenses of Enforcement. Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including counsel fees) incurred by the Grantee in enforcing this Conservation Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey by a Massachusetts licensed professional land surveyor and to have the boundaries permanently marked.

**C. Non-Waiver**

Enforcement of the terms of this Conservation Restriction shall be at the sole discretion of Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation

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Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

**D. Disclaimer of Liability**

By acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

**E. Acts Beyond the Grantor's Control**

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any actions against the Grantor for any injury to or change in the Premises resulting from natural causes beyond the Grantor's control, including but not limited to fire, flood, weather, climate-related impacts, and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. In the event of any such occurrence, the Grantor and Grantee will cooperate in the restoration of the Premises, if desirable and feasible.

**V. PUBLIC ACCESS**

This Conservation Restriction does not grant any right of access to the general public and the Grantor retains its rights to prohibit access to the Premises by the general public.

**VI. TERMINATION/RELEASE/EXTINGUISHMENT**

**A. Procedure**

If circumstances arise in the future that render the Purposes impossible to accomplish, this Conservation Restriction can only be terminated, released, or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, or successor official ("Secretary"), and any other approvals as may be required by Section 32 of Chapter 184 of the Massachusetts General Laws.

**B. Grantor's and Grantee's Right to Recover Proceeds**

If any change in conditions ever gives rise to termination, release, or extinguishment of this Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Paragraph VI.C, subject, however, to any applicable law which expressly provides for a different disposition of the proceeds, and after complying with the terms of any gift, grant, or funding requirements. The Grantee shall use its share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

**C. Grantee's Receipt of Property Right**

Grantor and Grantee agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction, determined at the time of the conveyance, bears to the value of the unrestricted Premises. The proportionate value of the Grantee's property right as of the Effective Date (see Paragraph XII) was determined to be 66 %. Such proportionate value of the Grantee's property right shall remain constant.

**D. Cooperation Regarding Public Action**

Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in accordance with Paragraph VI.B and Paragraph VI.C. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

**VII. DURATION and ASSIGNABILITY**

**A. Running of the Burden**

The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

**B. Execution of Instruments**

The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction. The Grantor, on behalf of itself and its successors and assigns, appoints the Grantee its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.

**C. Running of the Benefit**

The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, except when all of the following conditions are met:

1. the Grantee requires that the Purposes continue to be carried out;
2. the assignee is not an owner of the fee in the Premises;

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3. the assignee, at the time of the assignment, qualifies under and 26.U.S.C. 170(h), and applicable regulations thereunder, if applicable, and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the Massachusetts General Laws; and
4. the assignment complies with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

## **VIII. SUBSEQUENT TRANSFERS**

### **A. Procedure for Transfer**

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold interest and to notify the Grantee not less than twenty (20) days prior to the effective date of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. If the Grantor fails to reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, then the Grantee may record it in the Barnstable County Registry of Deeds, and at the Grantor's expense, a notice of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

### **B. Grantor's Liability**

The Grantor shall not be liable for violations occurring after their ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

## **IX. ESTOPPEL CERTIFICATES**

Upon request by the Grantor, the Grantee shall, within thirty (30) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance or non-compliance with any obligation of the Grantor contained in this Conservation Restriction.

## **X. NON MERGER**

The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantee agrees that it will not take title, to any part of the Premises without having first assigned this Conservation Restriction following the terms set forth in Paragraph VII.C to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

## **XI. AMENDMENT**

### **A. Limitations on Amendment**

Grantor and Grantee may amend this Conservation Restriction only to correct an error or oversight, clarify an ambiguity, maintain or enhance the overall protection of the Conservation Values, or add real property to the Premises, provided that no amendment shall:

1. affect this Conservation Restriction's perpetual duration;
2. be inconsistent with or materially impair the Purposes;
3. affect the qualification of this Conservation Restriction as a "qualified conservation contribution" or "interest in land" under any applicable laws, including 26 U.S.C. Section 170(h), and related regulations;
4. affect the status of Grantee as a "qualified organization" or "eligible donee" under any applicable laws, including 26 U.S.C. Section 170(h) and related regulations, and Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws; or
5. create an impermissible private benefit or private inurement in violation of federal tax law, as determined by an appraisal, conducted by an appraiser selected by the Grantee, of the economic impact of the proposed amendment; or
6. alter or remove the provisions described in Paragraph VI (Termination /Release/Extinguishment); or
7. cause the provisions of this Paragraph XI to be less restrictive; or
8. cause the provisions described in Paragraph VII.C (Running of the Benefit) to be less restrictive

### **B. Amendment Approvals and Recording**

No amendment shall be effective unless documented in a notarized writing executed by Grantee and Grantor, approved by the Town of Falmouth and by the Secretary in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, and recorded in the Barnstable County Registry of Deeds.

## **XII. EFFECTIVE DATE**

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the Massachusetts General Laws have been obtained, and it has been recorded in the Barnstable County Registry of Deeds.

## **XIII. NOTICES**

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: Edward Brown-Leger

*Brown-Leger Conservation Restriction  
East Falmouth, MA*

398 Boxberry Hill Road  
East Falmouth, MA 02536-4124

To Grantee: The 300 Committee Land Trust, Inc.  
157 Locust Street  
Falmouth, MA 02540

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties.

#### **XIV. GENERAL PROVISIONS**

##### **A. Controlling Law**

The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

##### **B. Liberal Construction**

Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in order to effect the Purposes and the policy and purposes of Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the Purposes that would render the provision valid shall be favored over any interpretation that would render it invalid.

##### **C. Severability**

If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction shall not be affected thereby.

##### **D. Entire Agreement**

This instrument sets forth the entire agreement of the Grantor and Grantee with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein.

#### **XV. BASELINE DOCUMENTATION REPORT**

The Conservation Values, as well as the natural features, current uses of, and existing improvements on the Premises, such as, but not limited to, trails, woods roads, structures, meadows or other cleared areas, agricultural areas, and scenic views, as applicable, are described in a Baseline Documentation Report ("Baseline Report") prepared by Grantee with the cooperation of the Grantor, consisting of maps, photographs, and other documents and on file with the Grantee and included by reference herein. The Baseline Report (i) is acknowledged by Grantor and Grantee

*Brown-Leger Conservation Restriction  
East Falmouth, MA*

to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein, and (iv) may be supplemented as conditions on the Premise change as allowed over time. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant in addition to the Baseline Report.

**XVI. MISCELLANEOUS**

**A. Pre-existing Public Rights**

Approval of this Conservation Restriction pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws by any municipal officials and by the Secretary, is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

**B. Release of Homestead**

The Grantor hereby agrees to waive, subordinate, and release any and all Homestead rights pursuant to Chapter 188 of the Massachusetts General Laws it may have in favor of this Conservation Restriction with respect to any portion of the Premises affected by this Conservation Restriction, and hereby agrees to execute, deliver and/or record any and all instruments necessary to effectuate such waiver, subordination and release. In all other respects, the Grantor reserves and retains any and all Homestead rights, subject to this Conservation Restriction, pursuant to Section 10(e) of Chapter 188 of the Massachusetts General Laws.

**C. Subordination**

The Grantor shall record at the Barnstable County Registry of Deeds simultaneously with this Conservation Restriction all documents necessary to subordinate any mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

**D. Executory Limitation**

If Grantee shall cease to exist or to be qualified to hold conservation restrictions pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, or to be qualified organization under 26 U.S.C. 170(h), and applicable regulations thereunder, if applicable, and a prior assignment is not made pursuant to Paragraph VII, then Grantee's rights and obligations under this Conservation Restriction shall vest in such organization as a court of competent jurisdiction shall direct pursuant to the applicable Massachusetts law and with due regard to the requirements for an assignment pursuant to Paragraph VII.

**E. Prior Encumbrances**

*Brown-Leger Conservation Restriction*  
*East Falmouth, MA*

This Conservation Restriction shall be in addition to and not in substitution of any other restrictions or easements of record affecting the Premises.

**F.** The following signature pages are included in this Grant:

Grantor – Edward Brown-Leger

Grantee Acceptance – The 300 Committee Land Trust, Inc.

Approval by Select Board

Approval of the Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts.

**G.** The following exhibits are attached and incorporated herein:

Exhibit A: Legal Description of Premises

Exhibit B: Sketch Plan (Sketch Plan of Premises)

Exhibit C: Sketch Plan of “Agricultural Use Area”

Exhibit D: Sketch Plan of “Barn Yard Area”

*Brown-Leger Conservation Restriction  
East Falmouth, MA*

WITNESS my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2023,

\_\_\_\_\_  
Edward Brown-Leger

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned notary public, personally appeared Edward Brown-Leger, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

**ACCEPTANCE OF GRANT**

The foregoing Conservation Restriction from Edward Brown-Leger was accepted by The 300 Committee Land Trust, Inc. this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

By: \_\_\_\_\_  
Anne-Marie Runfola

Its: President, duly authorized

By: \_\_\_\_\_  
Richard Dotson

Its: Treasurer, duly authorized

**COMMONWEALTH OF MASSACHUSETTS**

Barnstable, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned notary public, personally appeared Anne-Marie Runfola, President, The 300 Committee Land Trust, Inc., and Richard Dotson, Treasurer, The 300 Committee Land Trust, Inc., and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

**APPROVAL OF TOWN OF FALMOUTH SELECT BOARD**

We the undersigned, being a majority of the Select Board of the Town of Falmouth, hereby certify that at a public meeting duly held on \_\_\_\_\_, 2023, the Select Board voted to approve the foregoing Conservation Restriction from Edward Brown-Leger to The 300 Committee Land Trust, Inc. in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

TOWN OF FALMOUTH SELECT BOARD

\_\_\_\_\_  
Nancy R. Taylor, Chair

\_\_\_\_\_  
Onjalé Scott Price, Vice Chair

\_\_\_\_\_  
Samuel H. Patterson

\_\_\_\_\_  
Douglas C. Brown

\_\_\_\_\_  
Edwin P. Zylinski II

**COMMONWEALTH OF MASSACHUSETTS**

Barnstable, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned notary public, personally appeared Nancy R. Taylor, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

*Brown-Leger Conservation Restriction  
East Falmouth, MA*

**APPROVAL OF SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS OF  
THE COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby approves the foregoing Conservation Restriction from Edward Brown-Leger to The 300 Committee Land Trust, Inc. in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Bethany A. Card  
Secretary of Energy and Environmental Affairs

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned notary public, personally appeared Bethany A. Card, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

**EXHIBIT A**

Legal Description of the Premises

Being tract of registered and unregistered land situated in Falmouth (East Falmouth) Massachusetts, with a total acreage of 3.72±, shown on the Town of Falmouth Assessors Map 10 Section 03 Parcel 10 Lot 002, and described as follows:

Being Lot 2 shown on sheet 3 of 3 of the plan entitled, "*Plan of Land in "Hatchville", Falmouth, Mass. for Loch Spruce Realty Trust Being a Resubdivision L.C#12349*", dated 5/1/1991 (Rev 6/19/1991), by Wm. M. Warwick & Assoc., Inc., 213 Old Main Road, Box 801, North Falmouth, Mass, 02556, and recorded in Barnstable County Registry of Deeds in Plan Book 482, Page 19 ("Plan of Record"); more particularly described as follows:

Registered Land (0.98 acres±)

Being Lot 194 shown on the above referred to Plan Book 482, Page 19, also shown as Lot 194 on Land Court Plan 8838V, and formerly as a portion of Lot 53 on Land Court Plan 8838L.

For Grantor's title see Deed in the Barnstable Registry District of the Land Court Certificate#: 81618, Document#: 265426.

AND,

Being Lot 180 shown on the above referred to Plan Book 482, Page 19, also shown on Land Court Plan 12349-8, said Lot 180 comprising Lot 146 shown on Land Court Plan 12349-1, excluding the fee in Loch Spruce Lane shown on said plan, and Lot 53 shown on Land Court plan 8838-L.

For Grantor's title see Deed in the Barnstable County Registry of Deeds in Book 7629, Page 338.

AND,

Being Lot 179 shown on the above referred to Plan Book 482, Page 19, also shown on Land Court Plan 12349-8. Lot 179 comprising Lot 144 and Lot 145 shown on Land Court Plan 12349-1.

For Grantor's title see Deed in the Barnstable Registry District of the Land Court Certificate#: 81618, Document#: 265424.

Unregistered Land (2.74 acres±)

Being the unregistered portion of Lot 2 as shown on the above referred to Plan Book 482, Page 19.

For Grantor's title see Deeds in the Barnstable County Registry of Deeds in Book 3090, Page 314 and Book 3090, Page 316, and Book 2617, Page 60.

The street address for all parcels is 0 Boxberry Hill Road, (East) Falmouth, MA 02536.

*Brown-Leger Conservation Restriction  
East Falmouth, MA*

Within the Premises, there are two Special Use Areas, within which there are allowed uses, as described in Section III.C, that are not permitted in other portions of the Premises:

1. Agricultural Use Area:

Beginning at a concrete bound located at the southeastern corner of Lot 1 of the Plan of Record; thence, running

Southeasterly a distance of one hundred and thirty and 00/100 feet (130.00') along a line bearing N 73°49'37"W to a point; thence, turning and running

Northeasterly along a line that is perpendicular to said line bearing N 73°49'37"W, a distance of two hundred and sixty five and 00/100 feet (265.00'), more or less, to a point on the western sideline of an unnamed way, shown as Parcel A on the Plan of Record; thence, turning and running

Northwesterly, Northerly and Northwesterly along the curved line shown as the western sideline of the unnamed way shown as Parcel A on the Plan of Record to its intersection with the southern sideline of Boxberry Hill Road as shown on the Plan of Record; thence, turning and running

Southwesterly along a line bearing S 67°34'40"W a distance of ninety-eight and 88/100 (98.88') to a point on the southern sideline of said Boxberry Hill Road; thence, running

Westerly along a line bearing S 87°40'44"W a distance of fifty-one and 12/100 (51.12') to a point on the southern sideline of said Boxberry Hill Road, also shown as the western corner of Parcel C on the Plan of Record; thence turning and running

Southeasterly along a line bearing S61°25'50"E, a distance of one hundred six and 11/100 (106.11') to a point in the southern corner of Parcel C on the Plan of Record; thence turning and running

Southerly along a line bearing S06°16'56"W, a distance of one hundred seventy-six and 45/100 (176.45') to a concrete bound on the western sideline of Lot 2 on the Plan of Record; thence running

Southwesterly along a line bearing S18°35'49"W, a distance of one hundred twenty-four and 23/100 (124.23') to the concrete bound at the point of beginning.

2. Barnyard Area:

Beginning at a concrete bound located at the southeastern corner of Lot 1 of the Plan of Record; thence, running

Southwesterly along a line to a point on the western sideline of Lot 194 on Land Court Plan 8838V, said point located fifty (50') feet south of a concrete bound located at the northwestern corner of said Lot 194; thence, running

Northerly along the western sideline of said Lot 194 along a line bearing S 03°32'05"E, a distance of fifty (50') feet to the concrete bound located at the northwestern corner of said Lot 194; thence, running

Southeasterly along a line bearing N 73°49'37"W a distance of fifty and 43/100 (50.43') feet to the point of beginning.

Brown-Leger Conservation Restriction  
East Falmouth, MA

EXHIBIT B

Sketch Plan of Premises

For official full size plan see Barnstable Registry of Deeds Plan Book 482 Page 19.

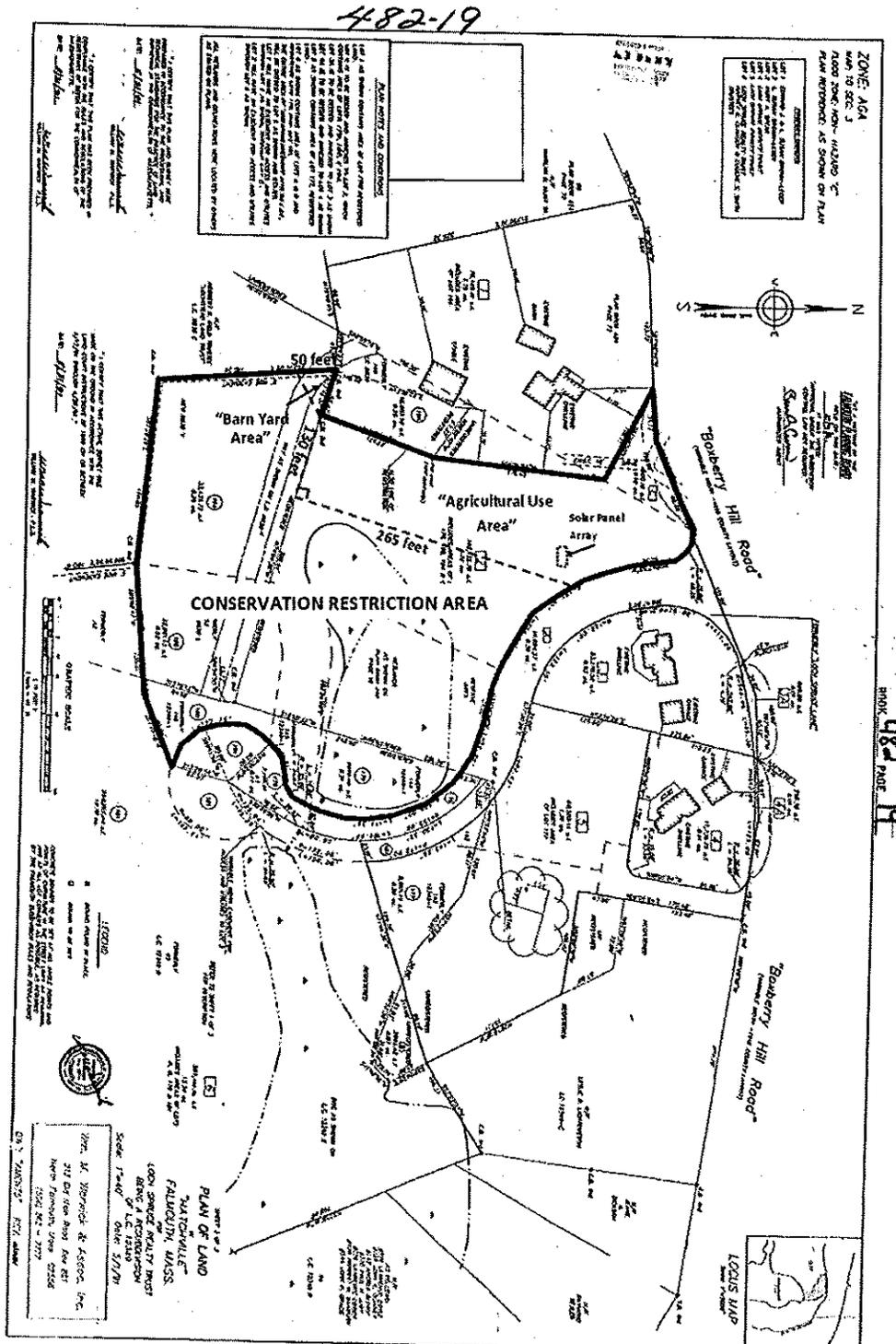


EXHIBIT C

Sketch Plan of "Agricultural Use Area"

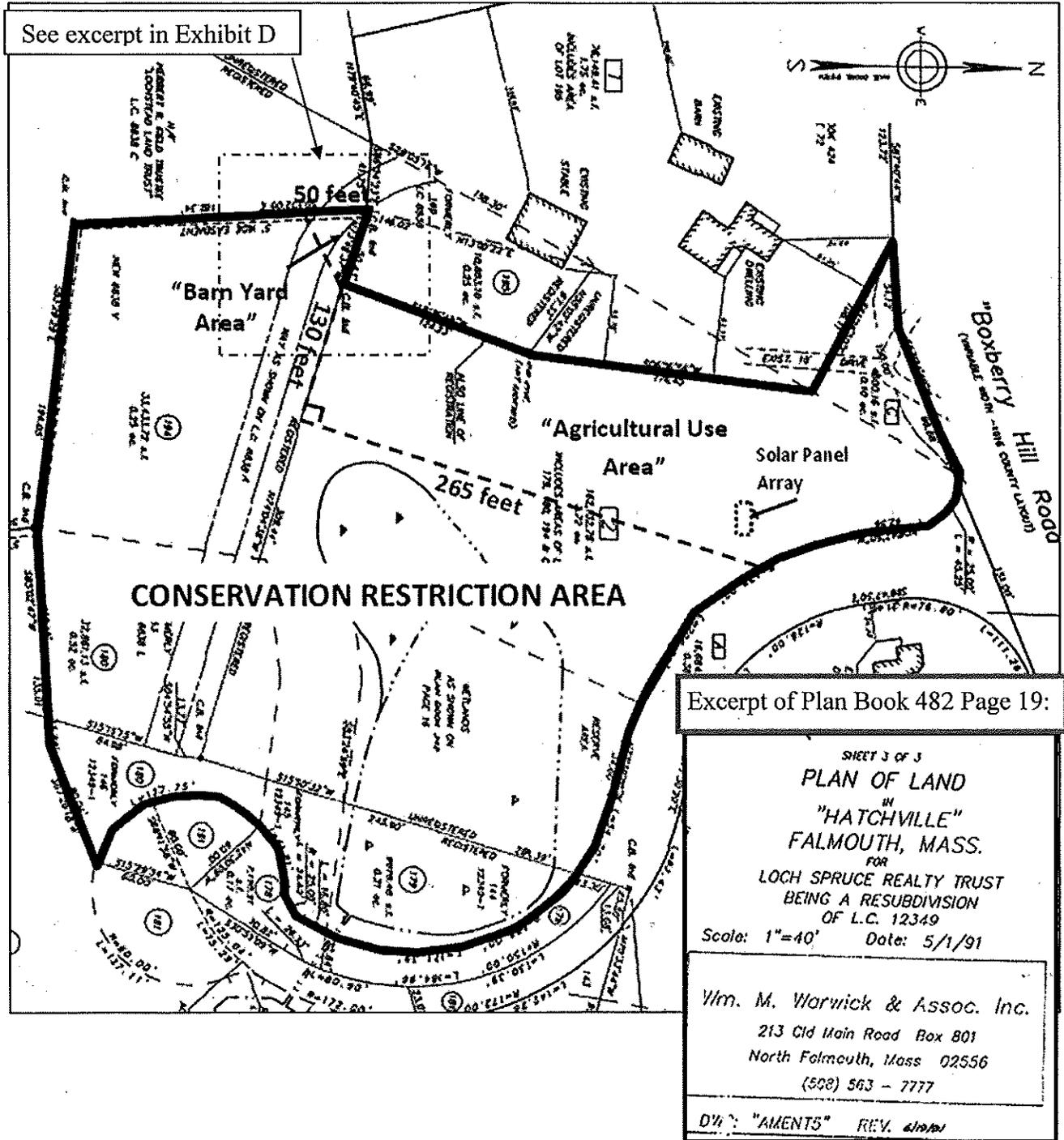
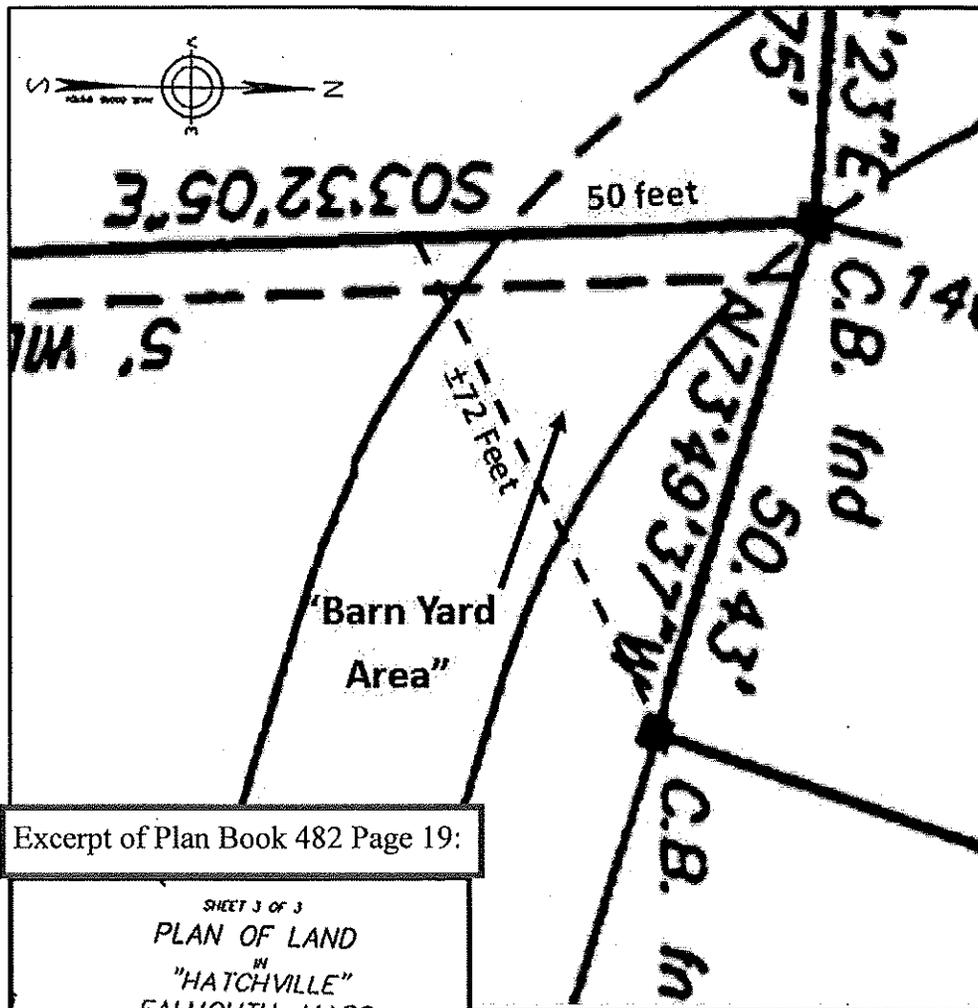


EXHIBIT D

Sketch Plan of "Barn Yard Area"



Excerpt of Plan Book 482 Page 19:

SHEET 3 OF 3  
PLAN OF LAND  
IN  
"HATCHVILLE"  
FALMOUTH, MASS.  
FOR  
LOCH SPRUCE REALTY TRUST  
BEING A RESUBDIVISION  
OF L.C. 12349  
Scale: 1"=40' Date: 5/1/91

Wm. M. Warwick & Assoc. Inc.  
213 Old Main Road Box 801  
North Falmouth, Mass 02556  
(508) 563 -- 7777

D/W: "AMENTS" REV. 4/19/91

## **OPEN SESSION**

### **CONSENT AGENDA**

#### **1. Administrative Orders**

- e. Approve request from Falmouth Housing Trust, Inc. for a Waiver of the Building Permit Fees for the Sam Turner Road (Esker Place Modification) Affordable Housing Project



January 10, 2023

**Board of Directors**

Addie Drolette, *President*  
Kevin McCarthy, *Vice President*  
Savannah Fabbio, *Treasurer*  
Susan Roman, *Asst. Treasurer*  
Joan Bates, *Secretary/Clerk*  
Joanne O'Sullivan, *Immediate Past President*  
Marie C. Bigelow  
Troy B. G. Clarkson  
David Garrison  
Sudie Gifford  
Tom Manchester  
Edwin Monteiro  
Tammy Rausch  
David Sutkowy

**Executive Director**

Karen L. Bissonnette, *CFRE*

Falmouth Housing Trust  
P.O. Box 465  
Falmouth, MA 02541  
Tel. (508) 540-2370  
FalmouthHousingTrust.org  
Tax ID: 04-2936558

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

Dear Peter,

On January 5, 2023, the Falmouth Zoning Board of Appeals approved a modification of a Comprehensive Permit issued in 1990 at Esker Place which enables Falmouth Housing Trust to build 4 new homes on land that we already own.

Consequently, we are moving forward and will be applying for building permits very soon.

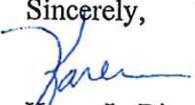
I am asking that all Town fees associated with permitting and development of these houses be waived in accordance with the Select Board Fee Waiver Policy adopted February 11, 2016.

As required by the policy I have included a budget for the project. Falmouth Housing Trust will be taking a 2.3% development fee which is far less than the 20% which is allowed. Also, it is budgeted that Falmouth Housing Trust will be raising, through philanthropy, more than \$200,000 for this project.

As you know, Falmouth Housing Trust is a non-profit 501(c) 3 whose sole intention is to build and maintain workforce housing for moderate income individuals and families who are essential to our community.

Thank you for your consideration and your support. Please contact me should you have any questions.

Sincerely,

  
Karen L. Bissonnette  
Executive Director

**Falmouth Housing Trust, Inc.**  
**Sam Turner Road (Esker Place Modification)**  
**4 Single Family Homes**

<b>Sources of Revenue</b>		
Town of Falmouth	\$	520,000.00
Philanthropy	\$	210,000.00
Sale of 4 Homes (\$235,000, 80% AMI 3 bedroom)	\$	940,000.00
<b>Total Sources of Revenue</b>	<b>\$</b>	<b>1,670,000.00</b>
<b>Building Costs</b>		
Hard Costs (\$280,000 x 3)	\$	1,120,000.00
Site Costs	\$	175,000.00
Contingency	\$	64,750.00
Builders Profit (10%)	\$	112,000.00
<b>Total Building Costs</b>	<b>\$</b>	<b>1,471,750.00</b>
<b>Soft Costs</b>		
Accounting	\$	7,500.00
Affirmative Marketing & Lottery	\$	29,000.00
Architectural/Design	\$	5,000.00
Construction Interest	\$	11,000.00
Construction Manager	\$	20,000.00
Engineering	\$	30,000.00
Insurance	\$	9,000.00
Monitoring Fees	\$	8,000.00
State Fees	\$	2,500.00
Legal	\$	15,000.00
Permits	\$	2,500.00
Utilities	\$	1,500.00
Utility Service Set-up Fee (\$750 per Unit)	\$	3,000.00
Water Taps (\$1,775 per Unit)	\$	7,100.00
Contingency	\$	7,150.00
<b>Total Soft Costs</b>	<b>\$</b>	<b>158,250.00</b>
<b>Developers Overhead</b>	<b>\$</b>	<b>40,000.00</b>
<b>Total Project Costs</b>	<b>\$</b>	<b>1,670,000.00</b>
<b>Net Profit</b>	<b>\$</b>	<b>-</b>

# FALMOUTH AFFORDABLE HOUSING FUND

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

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

## AFFORDABLE HOUSING FUND APPLICATION Calendar Year 2023

### General Information

Project Name: Sam Turner Road (Modification of Esker Place/Longshank Project from 1990s)

Project Location and Parcel ID#: Sam Turner Road 11 01 016 000A

Type of Project: 4 single family affordable deed restricted homes

Applicant(s) name/ Organization: Falmouth Housing Trust, Inc.

Contact Person: Karen Bissonnette, Executive Director

Mailing Address: P.O. Box 465, Falmouth, MA 02541

Telephone Number: 508 274-1651

Email Address: kb@falmouthhousingtrust.org

### Property Ownership

Legal Property Owner of Record: Falmouth Housing Trust, Inc.

Is the owner the applicant? yes

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

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

### Development Team

Please submit as attachments the resumes of the development team and a list and description of affordable housing projects completed by the applicant. Karen Bissonnette, Joanne O' Sullivan, Addie Drolette, David Garrison, Troy Clarkson, Edwin Montelro

### Project Information

Describe the proposed project including:

Project Style:

1 | Page

Falmouth Affordable Housing Fund  
Rev. 4/19

RECEIVED

FEB 9 2023

HOUSING COORDINATOR

Type of Units (condo ownership, fee simple ownership, rental, etc.): 4  
Single-Family Owner-Occupied  
Homes with fee simple ownership  
with a permanent affordable  
deed restriction

Total Number of Units: 4 Number of BRs 3  
Number of Market Units: \_\_\_\_\_  
Number of Affordable Units: 4  
Proposed Sale Prices/Rents: \$240,000  
Proposed Condo Fees: \_\_\_\_\_

Proposed % of AMI target beneficiaries: 80% AMI

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

Falmouth Housing Trust continues efforts to address the shortage of housing that working people can afford. This has become even more challenging over the past three years because of the effects of the pandemic on housing costs and building prices.

On January 5, 2023, the ZBA approved an insubstantial change to a 1990s Comprehensive Permit issued for the Esker Place/Longshank development which created 18 affordable homes. This modification allows the building of 4 additional single-family deed restricted affordable homes. These homes will be sold to those at 80% of AMI. The fact that FHT owns the land is crucial to this project.

Falmouth Housing Trust owns 16.5 acres at this site and will be using approximately 2.5 acres to create these homes. The rest of the land will be open space. Originally this land was given to the Town by the developers of Ballymeade and it was deeded by the Town to FHT in the 1980s.

The 3-bedroom homes will be 1,551 square feet. The 3 bedrooms homes will be a Cape Cod Saltbox style. The homes will have heat pump technology making them all electric. Consequently, there will be significant saving to the homeowners on utility bills as FHT takes advantage of the most current technology and complies with the Town's Building Stretch Codes.

We are applying for a municipal subsidy to make it possible to build these homes and include them on the Town's Subsidized Housing Inventory.

The project will follow Sustainable Development Principles adopted by Governor Patrick's Administration in 2007, which encourages housing development that is consistent with sustainable development design and green building practices. The development is compact and conserves land and utilizes existing water and electric infrastructure and existing roadways rather than requiring new water, electric or roadways. The project will expand housing opportunities that are compatible with the character of the neighborhood and the community and supports the implementation of the local and regional affordable housing plans.

This project addresses the affordable needs of the Town in accordance with the Falmouth Affordable Housing Fund Board of Trustees' 2019 Funding Priorities by creating affordable housing that is consistent with many of the Commonwealth's Sustainable Development Principles:

- by creating affordable housing with an increased density that is compatible with surrounding homes and neighborhoods
- by meeting criteria of the Target Populations by providing housing for low-income Households at 80% of AMI
- by providing housing for larger families needing 3+bedrooms
- by creating homes for first time buyers
- by creating more affordable units than proposed and required through Comprehensive Permit Applications (40B)
- by continuing to preserve open space with clustered lots

Also, this project is in line with the Housing Production Plan's stated need for 70+ housing units per year and the Commonwealth's Housing Choice goal of 135,000 new housing units.

Clearly, the demand for housing continues to increase and according to the Housing Needs and Demand Analysis Falmouth needs more than 500 homes over the next five years to meet this demand. Our mission is to build workforce housing for young people and families. The lack of affordable housing contributes to the loss of our young workforce—many of whom are low-to-moderate income people who provide essential services to our community. As Falmouth's young workforce has decreased, our population continues to grow older; the number of age dependent people (children and those 65 and older) is larger than our working population. This is an unhealthy ratio for any community; all communities need a diverse, productive workforce to thrive.

A recent report issued by The Concord Group and presented by the Housing Assistance Corporation states that the region will lose over 800 families whose income is \$100,000 or less over the next three years. These are the people whose presence is critical to sustain our economy and our quality of life.

The report goes on to say that almost 50% of those who work on Cape Cod live off Cape and commute here because of the lack of housing they can afford. For those who are also worried about our environment, the emissions from all of these cars are certainly not healthy.

Furthermore, there has been an 11% decline in Falmouth's school population in just the past three years. We have a High School that was built for 1,600 students and next year there will be less than 800. This is a clear indication that our community has a problem retaining and attracting those of childbearing age. And the closure of the Falmouth Hospital Maternity and Pediatric units is another harsh reminder that our community lacks this important group, which no community can survive without.

By losing this demographic, our community is losing the diversity, vibrancy, and contributions that this population brings, which affects our local economy and threatens the quality of life. Falmouth's lack of affordable housing is an obstacle to attracting and retaining a young and talented workforce. To retain this population, our low-to-moderate income residents must have housing they can afford. Because Falmouth Housing Trust recognizes the value of this demographic to the health and composition of our town, creating affordable housing for this population is our sole priority. By providing affordable housing opportunities, FHT helps to retain and attract this valuable workforce who make our community vital, healthy, and economically strong.

#### **Site Information**

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

The almost 2.5 acres of land is currently owned by Falmouth Housing Trust. The lot breakdown is as follows:

Lot 19 is 32,212 S.F.

Lot 20 is 23,364 S.F.

Lot 21 is 25,055 S.F.

Lot 22 is 24,582 S.F.

Each lot has 100+ feet of frontage on Sam Turner Road where there will be two curb cuts for two driveways shared for the four homes. The two curb cuts instead of four, is the result of a site visit with the Head of the DPW and the Town Engineer who made this recommendation.

The property is zoned AGAA, and the lots are located within Falmouth's Coastal Pond Overlay District for Wild Harbor.

All of Sam Turner Road has modest single-family homes and in addition to Esker Place, East Ridge

Road was developed with 6 affordable homes built in the 2006 which are just down the street from Esker Place.

Falmouth Housing Trust worked closely with the Director of Natural Resources, Chuck Martinsen, to receive his approval for our Sam Turner Road Project. Three site visits took place with our engineer and changes to FHT's original site plan were made at his suggestion. The discovery of the actual path and habitat of the deer were flagged and accommodations on the plan were made to the satisfaction of the DNR Director.

The four new homes will be part of the 18 home Esker Place neighborhood built by FHT in the 1990s. The new homes are slightly larger at 1551 square feet than the existing homes which are about 1200 square feet.

The size of the new homes is more in line with the existing houses across the street from the property's location and compatible with the design of these existing homes, meaning two story Cape Style.

The zoning relief required is permitted under the existing Comprehensive Permit for the development approved by the ZBA in the 1990s.

**Building:** On January 5, 2023, the ZBA approved an insubstantial change of a 1990s Comprehensive Permit which permits FHT to move forward to build the houses.

**Zoning:** AGAA

**Health:** Perc tests were done with favorable results. A conventional septic system will be done for each house lot.

**Conservation:** Building will not impact any area subject to Con Com jurisdiction

**Infrastructure:** There is Town water on the street as well as electricity

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Amount of FAHF Request: \$500,000

### **Project Feasibility**

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

### **Community Outreach**

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

Conversations with a few of the neighbors in Esker Place have taken place. These new homes will be part of the existing HOA and information about the current leadership of the HOA has been sought.

Falmouth Housing Trust will work with Housing Assistance Corporation to do the Affirmative Marketing and Lottery for these houses and at that time will promote these opportunities to Real Estate Agents as well as to Housing Advocates.

We have also approached philanthropic members of our community to help FHT secure the funds to complete this project. Donors like the idea of a public private partnership to provide more housing and only through the generosity of community members and FAHF/CPC funds will this and future projects be feasible. Housing continues to be the priority of the CPC Committee evidenced by the recent vote to fund the Falmouth Affordable Housing Fund with an additional \$2.5 million.

FHT has begun raising money for this project because, in addition to the proposed FAHF request of \$500,000, FHT needs to raise approximately \$280,000 to complete the project. FHT will also be contributing the land.

Also, FHT works with several very community minded vendors with the hope that they will provide some of their services as Gift-in-Kind donations.

### **Development Schedule**

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

## List of Attachments

Attachment B-Project Schedule

List of affordable housing projects completed by Falmouth Housing Trust, Inc.

Resumes of Development Team

One Stop Affordable Housing Finance Application

Builder's quote and specs

Bank Reference

Site Plan

Maps

Pictures property

House Plans

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

Submit one electronic copy to [Kim.Fish@falmouthma.gov](mailto:Kim.Fish@falmouthma.gov)  
and (6) hard copies to: Kim Fish, Housing Coordinator, Town  
of Falmouth, 59 Town Hall Square, Falmouth, MA 02540

## **OPEN SESSION**

### **CONSENT AGENDA**

#### **1. Administrative Orders**

- f. Authorize application to Division of Local Services for determination of whether a second referendum is required due to the increase in cost for the Wastewater Treatment Facility Improvements project

**DETERMINATION OF BORROWING  
COVERED BY DEBT EXCLUSION**

G.L. c. 59, §21C(k)

**APPLICATION FROM CITY/TOWN OF FALMOUTH**

Application Date: 2/27/23

Email Form to:  
Deborah A. Wagner  
Director of Accounts  
wagnerd@dor.state.ma.us

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**INSTRUCTIONS:** Provide **ALL** information requested.

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**A. AUTHORIZED SIGNATURES.** Must be signed by city council president and mayor or city manager or majority of the selectboard. Signature certifies that all information is true and correct.

	Select Board Member	
Name	Title	Date
	Select Board Member	
Name	Title	Date
	Select Board Member	
Name	Title	Date
	Select Board Member	
Name	Title	Date
	Select Board Member	
Name	Title	Date

**B. CONTACT.** Provide name and telephone number of person to contact if additional information is needed to process this application. Amy Lowell, Wastewater Superintendent, (508) 457-2543 x 3018 or Ed Senteio, Finance Director, (508) 495-7364

**YOU MUST ALSO COMPLETE SECTIONS C, D AND E**

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**DOR USE ONLY**

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**FOR COMMISSIONER OF REVENUE**

Base exclusion:

\$ \_\_\_\_\_

\_\_\_\_\_  
Director of Accounts

Additional debt approved:

\$ \_\_\_\_\_

Date: \_\_\_\_\_

Total debt covered by debt exclusion:

\$ \_\_\_\_\_

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I attest that we accept the architect, cost estimator or OPM's report detailing the categories and reasons for project cost increases. I further attest that the increased project costs are not related to project scope changes.

\_\_\_\_\_  
Chair, Selectboard/Council President

Date

February 14, 2023

Amy Lowell  
Wastewater Superintendent  
Town of Falmouth  
416 Gifford St  
Falmouth, MA 02540

Re: Owners Project Manager Report to support Falmouth's application to the Department of Revenue for determination of borrowing covered by a debt exclusion - Wastewater Treatment Facility (WWTF) Improvements Project

Dear Ms. Lowell,

In April 2022, Falmouth Town Meeting appropriated \$24,000,000 for the Falmouth WWTF Improvements Project. A debt exclusion for the project passed on the ballot in May of the same year. The projected cost of the project has increased since the cost estimate was developed prior to the April 2022 Town Meeting. This letter details the circumstances affecting the anticipated increases in costs for the Falmouth WWTF Improvements project for consideration of the need for a second ballot vote. As required, this letter also summarizes efforts by the project team throughout the design phase to mitigate anticipated project cost increases.

Preliminary costs for the project were based on planning-level estimates included in the *December 2020 Falmouth WWTF Fiscal Sustainability Plan*. These cost estimates were updated by the Design Engineer in February 2022 in preparation for the 2022 Spring Town Meeting appropriation for construction phase funding. These estimates are shown in Table 1 below in the "Original Amount" column.

As the project has proceeded through the design phase, each component has been reviewed for necessity toward the project goals, which include creating treatment capacity for the near future Teaticket-Acapesket (TASA) area flows and flows from existing service areas. The project team has had regular discussions about each project component with the intent to optimize cost-effectiveness.

Because this project will be publicly bid and because market costs appeared to have increased substantially, the Town requested an independent cost estimate be performed at the final design stage. This independent cost estimate was contracted through the OPM.

Table 1 compares the current anticipated project costs at the final design phase with those used as basis for the original appropriation at the April 2022 Town Meeting (the May ballot vote did not include a dollar amount, but it was understood to be based upon the Town Meeting appropriation).

**Table 1: Comparison of Anticipated Project Cost**

Description	Original Amount <sup>1</sup>	Current Amount <sup>2</sup>	Increase
Sequencing Batch Reactor	\$4,000,000	\$7,500,000	\$3,500,000
Sludge Processing	\$5,800,000	\$8,400,000	\$2,600,000
Operations Buildings	\$4,400,000	\$6,600,000	\$2,200,000
Influent Equalization	\$1,100,000	\$2,100,000	\$1,000,000
Ultraviolet Disinfection	\$900,000	\$1,600,000	\$700,000
Electrical Service	\$400,000	\$400,000	-
<i>Subtotal – Construction cost</i>	<i>\$16,600,000</i>	<i>\$26,600,000</i>	<i>\$10,000,000</i>
Contingency (25%/10%) <sup>3</sup>	\$4,200,000	\$2,700,000	-\$1,500,000
Construction engineering <sup>4</sup>	\$3,100,000	\$4,200,000	\$1,100,000
<b>Total – Project cost</b>	<b>\$24,000,000</b>	<b>\$33,500,000</b>	<b>\$9,500,000</b>

1. As presented to the Select Board and Finance Committee prior to the April 2022 Town meeting; Costs by Design Engineer, based on preliminary design documents.
2. Estimate by Independent Cost Estimator; based on final design documents.
3. Contingency was 25% at preliminary design stage and 10% at final design stage.
4. Original estimate did not include cost for Owner's Project Manager during construction.

As shown, the total anticipated project cost has increased by \$9.5M, which is due to increases in the project construction costs. The cost increase is not related to a change in scope from the project originally approved by the electorate at the time the debt exclusion was approved; the scope of work has not changed materially from that used to estimate the original costs. Instead, the anticipated increases in construction costs are based on recent local trends in the construction industry, which have been affected by factors including: COVID-19 disruptions to equipment/material supply chains; strong demands for specialized construction services; limitations on construction labor availability; inflation and other macro-economic factors; etc. Also, since cost estimation is based on projecting historic costs into the future, it has been difficult with recent economic trends to conservatively predict future costs.

The impacts of these factors have been seen in recent, local bids for other similar projects, including the Mashpee Phase 1 Water Resources Reclamation Facility (WRRF). This example project's low bid received in August 2022 was approximately 38% higher than the estimated costs generated during the design phase, though design phase cost estimates for that project were completed by both the design engineer and an independent cost estimator. This reveals some of the difficulty in predicting the actual bid environment at that time. To more conservatively budget for the Falmouth project, cost estimation for this project has included comprehensive consideration of these factors.

The project team has taken steps to reduce the scope of work (and thereby mitigate costs) in response to these factors, as much as is reasonably possible. Such efforts have included the following:

- Reducing the size of the new odor control system by reducing the number and volume of spaces it will treat (eliminating treatment of wet well and influent equalization tank air, and continuing use of the existing odor control for the Septage Receiving tanks).
- Eliminating the previously proposed access road behind the Operations Building.
- Eliminating pumping from the Influent Equalization tank to reduce capital and future O&M cost increases.
- Where appropriate, identifying more than one option for pipe material type, to allow the contractor to select the most cost-effective pipe material during construction.

- Simplifying stormwater management design while maintaining stormwater retention and treatment function.
- Displacing limited work scopes to be performed by Town personnel (e.g., preparatory relocations, etc.).

These efforts have helped to mitigate some of the anticipated cost increases but have not changed the project intent or significantly impacted the intended effect of the completed project. The primary scope of work cannot be changed as the improvements comprise essential process and operational improvements to accommodate planned future flows. Eliminating or significantly reducing the scope of these components would undermine the critical project objectives and is therefore not practical.

It is our understanding that the Town of Falmouth will be using available funding sources to mitigate the effect of this project cost on Falmouth rate payers, as follows:

Current Estimated Project Cost	\$33,500,000
American Rescue Plan Act grant	\$1,330,000
Cape Cod Water Protection Collaborative up to 25 % loan forgiveness	\$8,375,000
State Revolving Loan program up to 3.3% loan forgiveness	\$1,105,500
<i>Approximate total local project cost after grants/forgiveness</i>	<u>\$22,700,000</u>

The project increases have been discussed in several public forums, have been reported in the newspaper and broadcast on public television to create awareness of the situation. In April 2023, Town meeting will vote on the additional spending authorization. The Town has a decades long practice of adding new projects when debt drops off from previous projects to ensure the projects do not increase the tax rate beyond proposition 2 ½ plus new growth.

Please let us know if you have any questions on the information contained herein or if you need something more to support this piece of the project moving forward.

Sincerely,  
WESTON & SAMPSON ENGINEERS, INC.



Laurie Toscano  
Team Leader

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**QUESTION 2**  
**THE ANNUAL TOWN ELECTION**  
**AND THE VOTE THEREON**  
**HELD IN FALMOUTH, MASSACHUSETTS**  
**MAY 17, 2022**

**Question 2:**

Shall the Town of Falmouth be allowed to exempt from the provisions of proposition two and One half, so called, the amounts required to pay for the bonds issued to pay costs of of engineering, design and construction of improvements to the Wastewater Treatment Facility including, without limitation, all costs thereof as defined in Section 1 of Chapter 29C of the of the General Laws, as most recently amended by St. 1998, c. 78, including the payment of all other costs incidental and related thereto?

	PCT 1	PCT 2	PCT 3	PCT 4	PCT 5	PCT 6	PCT 7	PCT 8	PCT 9	TOTALS
YES	536	388	273	314	396	400	253	276	276	3112
NO	145	123	96	142	105	120	135	111	107	1084
Blank	36	38	16	32	28	29	27	34	17	257
Total Ballots Cast	717	549	385	488	529	549	415	421	400	4453

TRUE COPY ATTEST

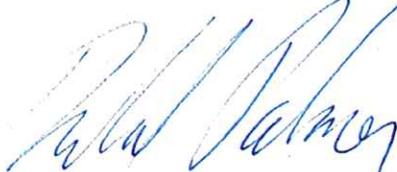
  
**MICHAEL PALMER, TOWN CLERK**  
**FALMOUTH, MASSACHUSETTS**

**ARTICLE 14  
AND THE VOTE THEREON AT  
THE ANNUAL TOWN MEETING  
CONVENED IN FALMOUTH, MASSACHUSETTS  
APRIL 4, 2022**

**ARTICLE 14:** To see if the Town will vote to appropriate a sum of money to fund the engineering, design and construction of improvements to the Wastewater Treatment Facility, including costs incidental and related thereto, to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Select Board.

**VOTED:** By a unanimous vote, a quorum being present on Monday, April 4, 2022 the Town voted the sum of \$24,000,000 is appropriated to pay for costs of engineering, design and construction of improvements to the Wastewater Treatment Facility including, without limitation, all costs thereof as defined in Section 1 of Chapter 29C of the General Laws, as most recently amended by St. 1998, c. 78, including the payment of all other costs incidental and related thereto; that to meet this appropriation the Treasurer with the approval of the Select Board is authorized to borrow \$24,000,000 and issue bonds or notes therefor under Chapter 44, Section 7(1) and Chapter 29C of the General Laws, as most recently amended by st. 1998, c.78, or pursuant to any other enabling authority; provided, however, that no sums shall be borrowed or expended hereunder unless and until that Town shall have voted to exclude the amounts required to repay any borrowing authorized by this vote from the limitations of Chapter 59, Section 21C of the Mass. General Laws (also known as Proposition 2½); that any bonds or notes issued pursuant to this vote shall be general obligation bonds of the Town unless the Treasurer with the approval of the Select Board determines that they should be issued as limited obligation bonds and may be secured by local system revenues as defined in Section 1 of Chapter 29C, as most recently amended by St.1998, c.78; that the Treasurer with the approval of the Select Board is authorized to borrow all or a portion of such amount from the Massachusetts Clean Water Trust established pursuant to Chapter 29C, as most recently amended by St. 1998, c. 78; and in connection therewith to enter into a loan agreement and/or security agreement with the Trust and otherwise to contract with the Trust and Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or for the financing thereof; that the Town Manager is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action to carry out the project.

**A TRUE COPY ATTEST**



**MICHAEL PALMER, TOWN CLERK  
FALMOUTH, MASSACHUSETTS**

## **OPEN SESSION**

### **MINUTES**

1. Review and Vote to Approve Minutes of Meetings
  - Public Session – January 23, 2023; February 13, 2023

**TOWN OF FALMOUTH**  
**SELECT BOARD**  
**AGENDA**  
**MONDAY, JANUARY 23, 2023 – 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**

1. Call to Order
2. Pledge of Allegiance
3. Recognition
4. Announcements – Woodneck Beach Update
5. Public Comment

**6:35 p.m. TOWN MANAGER'S PRELIMINARY REPORT**

**6:45 p.m. BUSINESS**

1. Update on COVID-19 – Scott McGann, Health Agent (5 minutes)
2. Vote Seasonal Wage Rates for FY2024 (5 minutes)
3. Discuss override for fire staffing (10 minutes)
4. Review of April 2023 Town Meeting Articles (45 minutes)

**7:50 p.m. CONSENT AGENDA**

1. Licenses
  - a. Approve application for three Special One-Day Wine and Malt Liquor Licenses – West Falmouth Library, located at 575 West Falmouth Highway, West Falmouth – January 25, March 15, and June 7, 2023, from 6:00 p.m. to 7:30 p.m.
2. Administrative Orders
  - a. Approve letter for support for Town of Sandwich special legislation regarding state revolving fund eligibility for wastewater treatment and disposal facilities located at Joint Base Cape Cod
  - b. Approve agreement for Payment in Lieu of Taxes for Personal Property between SCS Nathan Ellis 011282 Falmouth West, LLC and the Town of Falmouth
  - a. Approve 2023 Seasonal Population Increase Estimation Form for submittal to the Alcoholic Beverages Control Commission

**7:55 p.m. MINUTES**

1. Review and Vote to Approve Minutes of Meetings
  - Public Session – October 24, 2022; December 19, 2022; January 7, 2023; January 9, 2023; January 11, 2023

**8:00 p.m. TOWN MANAGER'S SUPPLEMENTAL REPORT**

**8:05 p.m. SELECT BOARD REPORTS**

**8:15 p.m. DISCUSSION OF FUTURE AGENDA ITEMS**

**8:20 p.m. ADJOURN**

Nancy R. Taylor, Chair  
Select Board

**TOWN OF FALMOUTH**  
**SELECT BOARD**  
**Meeting Minutes**  
**Open Session**  
**MONDAY, JANUARY 23, 2023 – 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.*

Present: Onjalé Scott Price, Acting Chair; Sam Patterson; Doug Brown; Scott Mr. Zylinski.

Absent: Nancy Taylor, Chair.

Staff Present: Peter Johnson-Staub, Interim Town Manager.

1. Call to Order by Acting Chair Scott Price at 6:30 p.m.
2. Pledge of Allegiance
3. Recognition  
Mr. Brown recognized Peter McConarty, Director of Public Works; Jim McLoughlin, Town Engineer; and Steven Cadorette, Deputy Director of Public Works for securing a complete streets grant.
4. Announcements – Woodneck Beach Update  
Mark Kasprzyk reported erosion due to storms during the first week of January 2023 that exposed rusty metal stakes and old snow fencing wire. He and Mike Souza cleaned up the beach and brought in sand to refortify what was lost. The Select Board asked about pumping sand from offshore back onto the beach, Mr. Kasprzyk responded that will most likely result in the sand ending up in an unintended area.
5. Public Comment-none.

**TOWN MANAGER'S PRELIMINARY REPORT**

Mr. Johnson-Staub reviewed his Preliminary Report in the packet.

**BUSINESS**

1. Update on COVID-19 – Scott McGann, Health Agent

**Mr. Zylinski moved to take this item out of order. Second Mr. Patterson. Vote: Yes-4. No-0. Absent-1.**

Mr. McGann provided his report via PowerPoint presentation. CDC guidance on community level transmission was reviewed. January is the worst month for Covid. Hospitalizations in Barnstable County were reviewed. About one third of people in town have their second booster. Biweekly updates are provided via FCTV. Home test kits are being distributed as they become available.

2. Vote Seasonal Wage Rates for FY2024

Mr. Johnson-Staub referred to the schedule in the packet for employment grades 2-11; all of all those amounts are increased 15% over prior amounts. The four elections positions listed are an 11% increase, and the Town Clerk supports this increase. The bonus program used last year will be continued, but the Town may make some adjustments for retention purposes. One position, night watch harbormaster, will be stricken from the schedule.

**Mr. Patterson moved to approve the FY2024 Seasonal Wage Rates. Second Mr. Brown. Vote: Yes-4. No-0. Absent-1.**

3. Discuss override for fire staffing (10 minutes)

Mr. Johnson-Staub made a PowerPoint presentation, which is in the packet. He reviewed the tax rate impact scenarios, the average 2022 and 2023 single-family tax bill, the 2023 Tax Rates in Barnstable County, Tax Deferral and Exemption Options.

Housing remains a big issue for all employers across the State.

The \$1.5M override is only for expenses directly related to hiring the firefighters. The stabilization funds may be used for other one-time costs associated with hiring firefighters. The interest accrued would remain in the Fire Department stabilization fund.

The smaller override of \$950,000 means that as of FY24, Mr. Johnson-Staub is less confident we have sufficient revenues to be assured we can pay for all the costs associated with hiring those 14 firefighters into the future depending on the economy. He is comfortable with the assumptions that are required on the smaller override option because the revenue estimates are conservative at 80%.

Information was provided on the tax impact on each potential override.

Mr. Johnson-Staub provided information to the Select Board related to tax exemptions. The information is available to the public on the Town website. In order to adopt programs that the town doesn't currently have requires a town meeting vote.

According to Mr. Johnson-Staub, the same 14 additional positions are proposed under both override amounts. He feels comfortable with both options. The override amount goes to the Fire Department. Under both scenarios the Town can fund the FFD, and under the \$950,000 scenario we would be relying on local estimated receipts and there would be less money available for other purposes. They would look at other ways to increase revenues, such as the ambulance fee; the finance director looked at ambulance rates across the cape, Falmouth is below average and we can raise another \$150,000, which may be used to make the funding plan more secure with the smaller override.

4. Review of April 2023 Town Meeting Articles  
Mr. Johnson Staub reviewed the Articles in the packet.

Article 5: creation of the stabilization fund. This is recommended to be done under either override, if one of the overrides is not approved, then this fund will not be needed.

Article 6: override article to pay for the 14 additional firefighters and appropriate a sum of money into the stabilization fund.

The override needs to be approved at an election ballot unless a special election is held to consider the override.

There is time to pull something off the election ballot if Town Meeting votes it down.

Mr. Zylinski asked if that could be worded to encompass the flexibility at Town Meeting?

Mr. Johnson-Staub does not believe so, but they could potentially vote both overrides knowing one would be taken off the ballot.

Mr. Brown asked if we get to Town Meeting and do not explain why the Safer Grant is not used, we should review that again at the next meeting on 1/30/23. Mr. Johnson-Staub suggested it is within the scope and there is no grant available to apply for at this time. If that changes, Mr. Johnson-Staub would suggest they apply for it. The Safer Grant is temporary, there is a way to incorporate a Safer Grant for some of the positions. The grant funds would have to be spent on actual firefighters hired and would change the funding plan.

More information will be had in about a month regarding Articles 9 and 10. Financial articles are printed in the warrant, the explanation is written in the Town Meeting booklet.

Article 12 the Town borrowed money for a capital project, the money is in a bank account and we have not spent it all. Funds need to be appropriated for a capital project, likely for the Wastewater treatment facility, so the Select Board would need to reauthorize these borrowed funds for this purpose.

Article 14 was submitted by Falmouth Retirement Board, and it proposes increasing the wage base upon which the annual cost of living adjustment is applied for retirees. Municipal pension Cost of Living Adjustments are only applied to maximum of \$18,000. Falmouth applies it to the first \$14,000 of the pension benefit that would be raised to \$16,000 with this article. The Finance Committee will recommend.

Article 15 rescinds acceptance of the Civil Service statute for Police and Fire. It is here because the legislature has not acted on the Town's petition to withdraw the Police Department from Civil Service. Town Counsel conferred with other attorneys and it is her opinion we can exit Civil Service even if the State does not act on that petition, but we would need to have Town Meeting vote this article. There are towns doing that now and they have been successful, they have not faced a legal challenge to this point.

Articles 16-19 petitioner's articles. These must be placed on the Town Meeting Warrant.

Article 20 broadens the purpose of the funds to be used for union and non-union employees.

Article 21 free cash appropriated for three purposes: support opioid use disorder treatment funds received through the lawsuits, fireworks celebration, retain consultant for independent department reviews.

Article 22 funded by appropriating funds from unspent school capital articles.

Article 23 funding design, permitting, construction of East Falmouth, North Falmouth, and Morse Pond Schools roof replacements. OPM and design money not construction.

Article 24 sum of money appropriated for design and construction of improvements to the Wastewater Treatment Facility, these costs will be \$10 million higher than originally anticipated. Looking at options to raise revenues, reuse funds, approved with debt exemption, we need a new plan to cover the additional funding without a tax increase.

Article 25 design and permitting of extension of sewer system to the Teaticket/Acapesket area. If this requires a tax increase, we may need to consider deferring this project.

Article 26 replace section of water main, \$3.1 million estimated cost. We may need to consider deferring this project.

Article 27 study of water mains to detect lead and other hazardous materials funded free cash.

Article 28 there may be a grant to offset the cost of this project.

Article 29 sum of money for evaluating locations for treatment of raw water from the Ashumet and Fresh Pond wells, funded by the US Air Force so the cost will be reimbursed. A written agreement is needed to cover the cost.

Article 30 draft not in the packet. Amend position classification plan, Diversity, Equity, and Inclusion position from a grade 8 to 9. Create the Sustainability Coordinator position at a grade 8.

Article 31 change in fingerprint bylaw. Requiring a finger print for all liquor license applicants every year is an administrative burden on the police department, would like to change to every 5 years for liquor licenses. Any new license or change in manager would require fingerprint check.

Article 32 a bylaw change brings insurance requirements in line with reality for taxi operators

Article 33 amendment for the Flow Neutral Bylaw, wastewater treatment capacity associated with each different area: Little Pond Sewer Service Area, Teaticket/Acapesket Sewer Service Area, and the rest of the Town.

Article 34 the Board of Health needs to modernize the stable bylaw, proposing authorizing the Board of Health to develop and promulgate the regulations.

Article 35 The Town Clerk requested this housekeeping item that specifies how Saturday office hours are treated regarding regulatory deadlines.

Article 36 appropriate a sum of money to fund relocation of a water main connected with the work Eversource is doing to provide power to Martha's Vineyard. Have an inquiry with the MA Department of Revenue to see if that can be treated as a grant and spent without appropriation.

Article 37 Eversource asked for modification of an easement for installation of the power line at the parking lot on Locust Street.

Article 38 Community Preservation articles automatically on the warrant.

## CONSENT AGENDA

1. Licenses
  - a. Approve application for three Special One-Day Wine and Malt Liquor Licenses – West Falmouth Library, located at 575 West Falmouth Highway, West Falmouth – January 25, March 15, and June 7, 2023, from 6:00 p.m. to 7:30 p.m.
2. Administrative Orders
  - a. Approve letter for support for Town of Sandwich special legislation regarding state revolving fund eligibility for wastewater treatment and disposal facilities located at Joint Base Cape Cod
  - b. Approve agreement for Payment in Lieu of Taxes for Personal Property between SCS Nathan Ellis 011282 Falmouth West, LLC and the Town of Falmouth
  - a. Approve 2023 Seasonal Population Increase Estimation Form for submittal to the Alcoholic Beverages Control Commission

**Mr. Zylinski moved approval of the Consent Agenda. Second Mr. Patterson. Vote: Yes-4. No-0. Absent-1.**

## MINUTES

1. Review and Vote to Approve Minutes of Meetings

Public Sessions:

December 19, 2022

**Mr. Patterson moved to approve as amended and release for public access. Second Mr. Brown. Vote: Yes-4. No-0. Absent-1.**

January 7, 2023

**Mr. Patterson moved to approve as amended and release for public access. Second Mr. Brown. Vote: Yes-4. No-0. Absent-1.**

January 9, 2023

**Mr. Patterson moved to approve as amended and release for public access. Second Mr. Zylinski. Vote: Yes-4. No-0. Absent-1.**

January 11, 2023

**Mr. Brown moved to approve as amended and release for public access. Second Mr. Patterson. Vote: Yes-4. No-0. Absent-1.**

## TOWN MANAGER'S SUPPLEMENTAL REPORT

Mr. Johnson-Staub working on the Town Meeting Warrant.

## SELECT BOARD REPORTS

Mr. Brown:

Attended the Massachusetts Municipal Association (MMA) Annual Meeting. The MMA and the Cape and Islands Municipal Leaders Association voted to send a comment letter to the Massachusetts Department of Environmental Protection (DEP) regarding the impact of impractical changes to Title V and requested restoring the funding of \$2 million associated with it noting the DEP is bringing forward a flawed plan.

Attended workshops at the annual meeting, subject matter included the fiscal outlook, Division of Local Services, and Private Roads.

Attended the Beach Committee meeting, the committee is disappointed that cleaning of bathhouses funding provided last year was not included in this year's budget.

Mr. Brown will attend the opening of Megansett Crossing on Thursday, 1/26/23 at 3 p.m.

Mr. Patterson:

Attended the Massachusetts Municipal Association Annual Meeting. One workshop Mr. Patterson attended was on electric vehicle implementation, and there is a lot of money available for it. The Cape Cod Commission can be a resource.

Acting Chair Scott Price:

Attended the Massachusetts Municipal Association Annual Meeting. She attended workshops on subject matter including working from home, retention of employees, and Housing. Acting Chair Scott Price asked for the Select Board members' notes and she will compile them and send them to Mr. Johnson-Staub to provide them to each department head.

Attended the Massachusetts Black Law Makers Round Table: Michael Curry talked about inequalities in healthcare and what we can do.

#### **DISCUSSION OF FUTURE AGENDA ITEMS**

Acting Chair Scott Price stated there will be an update on Black Beach at the Select Board's meeting on 1/30/23.

Mr. Zylinski asked for Town Counsel to clarify the Conflict of Interest Law. Mr. Johnson-Staub reported that he talked with Chair and Vice Chair, and the Select Board may take that up at a Saturday Workshop meeting as part of Conflict of Interest training. Tentatively planned for March, but the date is to be determined. This would be a workshop meeting for Select Board training and not open to the public.

Mr. Brown would like a policy discussion regarding consistent dates for the flags to be posted for the Martin Luther King, Jr. holiday. Mr. Brown noted wanting to discuss other policies as well. Mr. Johnson-Staub asked Mr. Brown to provide a list of policies that Mr. Brown would like to have addressed.

#### **ADJOURN**

Mr. Brown moved to adjourn the meeting at approximately 8:40 p.m. Second Mr. Patterson. Vote: Yes-4. No-0. Absent-1.

Respectfully Submitted,

Jennifer Chaves  
Recording Secretary

**TOWN OF FALMOUTH**

**SELECT BOARD**

**AGENDA**

**MONDAY, FEBRUARY 13, 2023 – 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**

1. Call to Order
2. Pledge of Allegiance
3. Proclamation – Black History Month
4. Recognition
5. Announcements – Volunteers in Public Schools
6. Public Comment

**6:35 p.m. TOWN MANAGER'S PRELIMINARY REPORT**

**6:40 p.m. COMMITTEE INTERVIEWS**

1. Interview, vote and appoint committee members
  - a. Beach Committee – Gerard Cogliano, Trisha Herlihy, Susan DiPasquale

**6:45 p.m. PUBLIC HEARINGS**

1. Application for an Entertainment License – Town Hall Partners LLC d/b/a Timber Axe Bar & Bowl, 23 Town Hall Square, Falmouth. Continued from 1/9/23, 1/30/23. (10 minutes)
2. Approve an application by the Portuguese American Association of Falmouth, Inc. to amend its Entertainment License and Sunday Entertainment License to be exercised at 55 Ashumet Road, East Falmouth (5 minutes)

**7:00 p.m. BUSINESS**

1. Update on the Town Manager Hiring Process (15 minutes)
2. Police Department Staffing Update (10 minutes)
3. Funding Plan for Capital Borrowing Projects (10 minutes)
4. Wastewater Capital Project Updates – Treatment Facility Improvements and Design of Sewer System Extension to Teaticket-Acapesket Area (20 minutes)
5. Presentation of Petition Articles for April 2023 Town Meeting (5 minutes each)
  - a. Present Petition Article #15 – Rosemary Carey
  - b. Present Petition Article #16 – Patricia P. Johnson
  - c. Present Petition Article #17 – Patricia P. Johnson
  - d. Present Petition Article #18 – Philip Alexander Gessen
  - e. Present Petition Article #19 – Sandra Faiman-Silva
6. Acting as Trustees of the Falmouth Affordable Housing Fund, Discussion and Vote on application from the Affordable Housing Committee for funds in the amount of \$9,500 to retain Brian Switzer Video to create an affordable housing video (5 minutes)

7. Acting as Trustees of the Falmouth Affordable Housing Fund, Discussion and Vote on application from the Affordable Housing Committee to request funding in the amount of \$30,000 to hire a consultant to update the Housing Production Plan (5 minutes)
8. Discussion on Sustainability Coordinator Job Description (5 minutes)

**8:35 p.m. CONSENT AGENDA**

**I. Administrative Orders**

- a. Approve a Grant of License to William and Carol Brenner to maintain an existing post and rail fence along the eastern edge of the property which encroaches onto the road layout at 3 Ruth Terrace.
- b. Approve application to the Cape Cod Commission for 2023 District Local Technical Assistance (DLTA) funding for the Town's Open Space and Recreation Plan
- c. Vote to amend Select Board Naming Policy
- d. Affirm seasonal wage schedule for calendar year 2023

**8:40 p.m. MINUTES**

- I. Review and Vote to Approve Minutes of Meetings
  - Public Session – October 24, 2022

**8:45 p.m. TOWN MANAGER'S SUPPLEMENTAL REPORT**

**8:50 p.m. SELECT BOARD REPORTS**

**9:00 p.m. DISCUSSION OF FUTURE AGENDA ITEMS**

**9:05 p.m. ADJOURN**

Nancy R. Taylor, Chair  
Select Board

**TOWN OF FALMOUTH**  
**SELECT BOARD**  
**Open Meeting Minutes - DRAFT**  
**MONDAY, FEBRUARY 13, 2023 – 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.*

**Select Board:**

Present: Nancy Taylor, Chair; Onjalé Scott Price, Vice-Chair; Samuel Patterson; Douglas Brown; Edwin (Scott) Zylinski II

Absent: None

Others present: Peter Johnson-Staub, Interim Town Manager

**OPEN SESSION**

Call to Order: By Chair Nancy Taylor at 6:30 p.m.

Pledge of Allegiance: Led by the Select Board

Proclamation: Mr. Brown read out the Proclamation for Black History Month contained in its entirety in the Select Board Packet.

**Motion by Doug Brown: To proclaim February 2023 to be Black History Month in the Town of Falmouth and urge all citizens to observe this month with appropriate programs, ceremonies, and activities. Second: Sam Patterson Vote: Yes – 5 No - 0**

Recognition: Ms. Scott Price recognized key individuals and groups who assisted people with housing during the severe cold weather a few weekends ago: Suzie Hauptmann, Director of Falmouth Human Services; Gina Torielli and Carol Greenly from Belonging to Each Other; Stephanie Rault, Outreach Coordinator at Housing Assistance Corp. (HAC); Mark Abbott, Falmouth Human Services (FHS) social worker, and the AIDS Support Group of Cape Cod outreach workers.

Mr. Brown also recognized support and refuge provided by the community during the cold snap, namely a few hotels and the police station.

Announcements: Tracey Crago, Executive Director of Volunteers in Public Schools (VIPS), showed a video to celebrate the non-profit's 40<sup>th</sup> anniversary. The presentation highlighted relationships built through volunteering for programs organized around mentoring, academic support, financial literacy, and wellness.

**Public Comment:**

Dr. Barbara Schneider - said there was a very successful discussion among residents at a Precinct 4 meeting regarding affordable housing. She said she contacted other precinct captains with information should they, too, want to hold similar discussions in their precincts.

Peter McConarty, Director of Public Works – said that the water department would begin tomorrow installing water main on Hayway Rd., saying it was a 4-phase project, but wanted to inform residents of the timeline for specific areas of installation. He said the whole project was to improve service and pressure of water lines.

**TOWN MANAGER'S PRELIMINARY REPORT**

Mr. Johnson-Staub orally previewed/summarized all agenda items for the Board, referring to a memo in the Select Board packet entitled *Preliminary Report for February 13, 2023*, and dated February 10, 2023. Mr. Johnson-Staub alerted the Board to one candidate for Beach Committee who had withdrawn her application, and that the two scheduled hearings would be taken out of order. He also clarified that in the Consent Agenda, Item d, the seasonal wage schedule, if voted, would change from a fiscal year to a calendar year schedule.

**COMMITTEE INTERVIEWS**

Interview, vote and appoint committee members - Gerard Cogliano, Trisha Herlihy, Susan DiPasquale (Susan DiPasquale had withdrawn her application.)

Gerard Cogliano – Town Meeting member from Precinct 7 – has experience in the coast guard and army - has history in Falmouth since 1962 – has experience with environmental issues – understands the importance of the town’s beaches as a resource – said he would be available year-round.

Trisha Herlihy – thanked community members for varied services to the town – came to Falmouth in 1978 as a lifeguard – loves saltwater – is devastated over what has happened to the beaches over the past 40 years – sees the changes in what the beach committee deals with now versus years ago – visits all 10 Falmouth beaches regularly – talks regularly with current beach committee member about degraded beaches and other issues. When asked if her past experience with the Beach Committee and other areas would help currently, Ms. Herlihy said yes, it would, highlighting the need for creativity in solving these problems. She said she would be available year-round.

**Motion by Scott Zylinski: To nominate Trisha Herlihy for the unexpired term on the Beach Committee ending on 6/30/2024** Ms. Scott Price noted that anyone can attend Beach Committee meetings and offer input, even if not an active member. **Vote: Yes – 5 No - 0**

#### **PUBLIC HEARINGS**

Chair Taylor noted the change in order of the hearings from the published agenda, as stated in Mr. Johnson-Staub’s preliminary report. Ms. Scott Price read out the hearing notice.

Approve an application by the Portuguese American Association of Falmouth, Inc. to amend its Entertainment License and Sunday Entertainment License to be exercised at 55 Ashumet Road, East Falmouth

Michael Duarte, President of the Portuguese American Assn. of Falmouth, said that the group has always had a license for outdoor entertainment and wants to continue that. Mr. Brown asked Mr. Johnson-Staub if the issue over the license could be related to confusion over a full rather than a club liquor license, but no further information was known.

Public Comment: None

**Motion by Sam Patterson: To close the hearing** Second: Scott Zylinski **Vote: Yes – 5 No - 0**

**Motion by Doug Brown: To move approval of an application by Portuguese American Association of Falmouth, Inc. to amend its entertainment license and its Sunday entertainment license to be exercised at 55 Ashumet Road, East Falmouth** Second: Scott Zylinski **Vote: Yes – 5 No - 0**

Application for an Entertainment License – Town Hall Partners LLC d/b/a Timber Axe Bar & Bowl, 23 Town Hall Square, Falmouth. Continued from 1/9/23, 1/30/23.

Mr. Brown recused himself from the hearing and left the room.  
Ms. Scott Price read out the hearing notice.

Attorney Kevin Klauer, representing the applicant Michael Mueller, said that he had submitted the requested signed proposal for sound mitigation requested by the Select Board. Sam Patterson, referring to his experience with sound proofing in a past situation, said that reverberation is a huge factor in successfully sound proofing a room. Until you attenuate reverberation, he said, you are not going to get a significant change. He said he saw the proposal as conditional, seeing the need for more sound-absorbing material. He said he had serious doubts that the proposal would work.

Atty. Klauer briefly explained the technician’s plan to use acoustical panels to push the sound to the area of the room, the bar, that does not have the same amount of reverberation, making it an effective means to address the noise. Mr. Zylinski raised the possibility of a probationary license, suggesting 3 months/90 days, during which time the effectiveness of the panels could be evaluated and input could be obtained from neighbors. Mr. Patterson again expressed doubt that the proposed panels would be sufficient to solve the noise problem and supported the idea of a

“trial run.” Atty. Klauer and Michael Mueller talked about the price of the needed 6 panels at \$1,000 each as a significant cost to the business, especially as the business is new and trying to establish a customer base.

**Public comment:**

Dennis Ditullio, Precinct 8 – said he wondered what tests would indicate if the sound proofing had actually worked – would it be about decibel levels? - science? – complaints from people? Mr. Zylinski said that it was important to try to satisfy the rights of both parties in this issue. Mr. Patterson said he appreciated the question and that an objective basis would be needed to measure the level of noise mitigation. Mr. Ditullio again asked about what the test for successful mitigation would be. Mr. Patterson explained again his previous experience with sound proofing a large room, which required surrounding ceiling-to-floor sound-absorbent material in order to be effective.

Linda Tsimortos, 137 Main St. – referred to an email from Richi Mehta and said her views are the same as his – highlighted points made in the email, saying the building is old and doesn’t have the proper insulation – hopes the soundproofing works – said she is there at night – glad that the business is making an effort – wants the issue settled saying it’s been 9 months – supports the 3-month trial – said amplification should not be heard beyond the walls of an establishment – said she heard the bowling for years but this is different due to amplification and hours of operation.

At this point, Atty. Klauer reiterated that the requested license is until 11:00 on a limited basis. He said the applicant’s preference is not to shorten the time frame and said 3 months is difficult due to the logistics of ordering and receiving the panels and scheduling musicians, and that the sample size for measuring effectiveness would be too small. He said 6 months would be better, but said the preference is to request the license renewal in November. He said revenue data with/without entertainment is not known at this point. He said the scope of what is being requested by the applicant has been reduced in a meaningful way.

**Motion by Sam Patterson: To close the hearing Second: Scott Zylinski Vote: Yes – 4 No – 0 (Doug Brown had recused himself.)**

Mr. Zylinski said he could agree to a six-month time period. Mr. Patterson said it would be the responsibility of the applicant to install enough sound proofing to be effective at noise mitigation. Ms. Scott Price said she appreciates what the applicant has done to be a good neighbor in addressing the noise concerns.

**Motion by Scott Zylinski: To approve the license for 6 months, with it being incumbent upon the applicant to make sure they install enough sound absorbing material, and to return before the Select Board in 6 months Second: Onjalé Scott Price Vote: Yes – 4 No – 0 (Doug Brown had recused himself.)**

Mr. Brown returned to the meeting room.

**BUSINESS**

Update on the Town Manager Hiring Process

Interim Town Manager Peter Johnson-Staub left the meeting room for the duration of this item.

Richard White, principal of Groux-White Consulting, summarized the hiring process:

- Began in mid-December, advertised January 10 in publications including but not limited to Cape Cod Times, local papers, Massachusetts Municipal Association (MMA) website, with the ads continuing for approximately one month
- Solicited possible candidates and contacted 75 current managers
- Convened two meetings so far of the selection committee
- Plan to begin interviewing in late February
- Have received 34 cover letters and resumes (including 15 current or past CEOs, 1 asst. CEO, 7 senior level dept. heads) all of whom have had direct or indirect involvement with municipal government
- 20 candidates are from Massachusetts, 24 from New England, 10 have New England connection
- Plan to start confidential interviews soon, probably 8 or more; selection committee will present 3-4 finalists to Select Board by mid-March for the public process
- Had conversations with Falmouth dept. heads regarding what they were looking for
- Asked Select Board members for up to 5 community leaders to interview
- Coordinated results of those conversations to develop themes and trends of desired characteristics

Chair Taylor noted that Mr. White had received the notes from the public listening session and the collated comments from the town's website. Regarding the choosing of the selection committee members, she said that she and Mr. White had agreed that five was a good number. She said a few people wrote to request being on the committee, and that she had sent those names to each Select Board member. Each Select Board member put up one name, and they voted that slate. She said the result is a very strong screening committee.

Responding to a question by Mr. Brown about what candidate information the Board would receive, Mr. White said that each Select Board member would receive a complete packet of all applicants, as well a list of final recommendations. Ms. Scott Price asked if a Select Board member could request that a candidate who is not on the final recommended list be interviewed. Mr. White said yes, that the Select Board has that right. Mr. Zylinski asked Mr. White if he felt the people from the community who were interviewed were being candid. Mr. White said his impression was that people were being very straightforward and honest, and that due to the richness of the feedback, he could tell no one was holding back.

#### Police Department Staffing Update

Police Chief Ed Dunne updated the Board on the staffing situation in the department. He said that the department is budgeted for 65 people where there should be 52 patrolmen, but is currently at 46 people with 33 patrolmen, breaking it down further by position. He went on to detail reductions in staff due to retirements, injuries, medical leave, military duty, resignations, and leaving for jobs in other towns. He said he expects staff to number 40-41 officers going into the summer months. He said Mashpee, Bourne, and Falmouth offer mutual aid assistance to each other when needed and expects that to continue.

Board questions and discussion focused on the situation and what can be done to alleviate it. Chief Dunne said that the Civil Service component presents obstacles in terms of the hiring process and efficiency. Now, it takes about a year from start to finish for an applicant to complete the necessary requirements, he said, much of it "jumping through hoops" with Civil Service. Hiring from other towns, called lateral movement, is something being done now among departments in MA. There was brief comment about adding more clinicians. Chief Dunne also said he would not want to have to remove the resource officer from schools. There is an upcoming Town Meeting article addressing the Civil Service component that may provide some relief to this situation. He said he realized the staffing update was discouraging but wanted the Board to know about it heading into the summer.

#### Funding Plan for Capital Borrowing Projects

Mr. Johnson-Staub began the presentation entitled "Financing Large Capital Projects" saying that the impetus for the report was the unanticipated increase over the past year of the costs of the water treatment plant upgrades. The report focused on large capital projects (those over \$2M) going approximately 10 years into the future, and how to accomplish those projects, in terms of borrowing, without a tax increase. Mr. Johnson-Staub said that the presented "concept capital plan" is the beginning of a conversation and will, of course, require further study. He clarified that the two capital projects planned for 2023 April Town Meeting can be accomplished without a tax increase. Mr. Johnson-Staub then began the 10-screen presentation, moving through the information on each.

Halfway through, Finance Director Ed Senteio continued the presentation, noting other parties from the wastewater department and financial departments who had contributed to the concept model for debt service. Mr. Senteio explained in some detail a screen entitled "Debt Drop Off" and how to read the graph on it. He said that the concept plan is adaptive in that it can be adjusted to account for changing interest rates.

Mr. Johnson-Staub then explained the screen entitled "Additional Capital Needs Would Require Tax Increase or Other Funding Sources," focusing on the first item, water main replacement program, and how it could be funded. He reiterated that the listed projects are not covered in the concept plan, making the point that the Town's projected needs outstrip the tax levy.

Board comment included Mr. Patterson asking about electric vehicle charging stations and the requisite infrastructure upgrades for the energy source, and where that funding would come from. Mr. Johnson-Staub said that there are grant opportunities to make use of, but that this need was not included in the plan. Mr. Brown said that an ambitious dredging plan from the waterways committee would also need to be considered. Ms. Scott Price said that she would like to see the financial model that was referred to in the presentation.

At this point, a meeting attendee who did not identify himself asked if the Town has money set aside for climate change disasters. Mr. Johnson-Staub said that the concept plan does not have an allocation for coastal resiliency, but

a project to relocate the Trunk River sewer main would fall under that category. Chair Taylor had to stop the meeting attendee from asking an additional question about wind farms.

Wastewater Capital Project Updates – Treatment Facility Improvements and Design of Sewer System Extension to Teaticket-Acapesket Area

Amy Lowell, Wastewater Superintendent, narrated a presentation consisting of 14 screens which explained 3 wastewater-related articles on the April Town Meeting warrant: Article 24 – Supplemental Appropriation For Wastewater Treatment Facility Improvements; Article 25 – Design and Permitting Teaticket-Acapesket Sewer Area-Phase 1; Article 32 (corrected during the presentation from the incorrect article number on the screen) – Update of Flow Neutral Bylaw. Ms. Lowell moved through each screen, providing detail where necessary.

- Details for Article 24 included reasons for cost increases, comparisons with similar projects in other towns, and MA Department of Revenue (DOR) requirements.
- Details for Article 25 focused specifically on what is included in this phase of the project and what isn't (not a lift station at Robbins Road, ascertained by a question from Mr. Patterson), construction details, survey work, application costs, and timeline.
- Article 32 deals with requirements for obtaining a 0% interest loan.

Mr. Brown asked about betterment payments required of people who live in a 40B development. Ms. Lowell said this issue is known about and is being reviewed as part of the water and sewer rate study. Mr. Brown also asked about additional wastewater treatment needs due to increasing affordable housing in Town. Ms. Lowell said conflicting needs and plans, such as maintaining water quality in ponds and estuaries while meeting affordable housing goals, have to be carefully balanced. She said it is one of the Town's biggest challenges.

Presentation of Petition Articles for April 2023 Town Meeting

Present Petition Article #15 – Rosemary Carey

Ms. Carey presented approximately 8 screens explaining what the article seeks and the benefits to the Town if passed. She said that the article would reverse a Select Board decision not to grant permission to a wind developer to conduct soil tests on town-owned property. The presentation included reasons to support the article, examples of other towns which have benefitted from the testing, and assurances that there are no health risks. Chair Taylor granted Ms. Carey a few moments of additional time to complete the presentation.

Present Petition Article #16 – Patricia P. Johnson

Ms. Johnson requested that the Select Board vote indefinite postponement on this article.

Present Petition Article #17 – Patricia P. Johnson

Ms. Johnson requested that the Select Board vote indefinite postponement on this article.

Present Petition Article #18 – Philip Alexander Gessen

Mr. Gessen explained this article which seeks to reduce the use of single-use plastic containers, especially take-out food containers. He provided rationale for this action, focusing on negative impacts of plastics to the environment and health, and cited statistics to make that point. He said the article is part of a Cape-wide initiative to help citizens transition to using more sustainable and re-usable products.

Present Petition Article #19 – Sandra Faiman-Silva

Via telephone connection, Dr. Faiman-Silva explained the article, a resolution to change the Massachusetts flag, seal, and motto. She said the current flag depicts a white hand holding a drawn sword over the head of an indigenous person. The motto in Latin translates to, "Peace under the sword, but peace with liberty." Dr. Faiman-Silva stressed the importance of imagery and symbolism, and said we need to examine those images for meaning and context, taking into account how the imagery makes those depicted in it feel. She stressed the importance of determining what images and symbols accurately convey our core values. She said the debate about the flag's imagery has been going on for 40 years, and that more than 56 municipalities have already passed the resolution to permanently change it.

Acting as Trustees of the Falmouth Affordable Housing Fund, Discussion and Vote on application from the Affordable Housing Committee for funds in the amount of \$9,500 to retain Brian Switzer Video to create an affordable housing video

**Motion by Onjalé Scott Price: That the Board, acting as Trustees of the Falmouth Affordable Housing Fund, approve an expenditure of \$9,500 from the Fund to retain the services of Brian Switzer to create a video outlining the affordable housing issues in our community and authorize the Interim Town Manager to expend said funds for this purpose Second: Sam Patterson Vote: Yes- 5 No - 0**

Acting as Trustees of the Falmouth Affordable Housing Fund, Discussion and Vote on application from the Affordable Housing Committee to request funding in the amount of \$30,000 to hire a consultant to update the Housing Production Plan

Mr. Johnson-Staub summarized the item, saying that the plan needs updating every 5 years. He said he would ask the housing coordinator to work with the consultant to produce a succinct report but stressed that the research and analysis required to produce an updated plan are outside the scope of what the housing coordinator can be expected to do at this time.

**Motion by Onjalé Scott Price: That the Board, acting as Trustees of the Falmouth Affordable Housing Fund approve an expenditure of \$30,000 from the Fund to retain the services of a consultant to update the Housing Production Plan and authorize the Interim Town Manager to expend said funds for this purpose Second: Scott Zylinski Vote: Yes – 5 No - 0**

Discussion on Sustainability Coordinator Job Description

Mr. Johnson-Staub highlighted the features of the sustainability coordinator job description, features such as researching grant opportunities, writing grant proposals, assembling information on energy consumption, working with Cape Light Compact and other entities to prioritize energy efficiency initiatives, researching projects, and overall project management. He said the energy committee has offered feedback on the draft. He said while the Select Board does not need to approve the job description, he is seeking their input to assure that the job description is in line with their priorities. Ms. Scott Price said that she would like to see the comments from the energy committee.

Board discussion included this feedback:

- The importance of being an effective communicator
- Converting buildings as well as vehicles to electrification
- Adding solar panels to roofs of school buildings, and communicating with school leaders to coordinate energy efficiency efforts

Mr. Zylinski said the draft job description mirrored the priorities of the strategic plan and that it was very well done. Chair Taylor said the draft, with input, would go back to Mr. Johnson-Staub who would finalize it.

**CONSENT AGENDA**

Chair Taylor read out the items on the Consent Agenda below.

**Administrative Orders**

- a. Approve a Grant of License to William and Carol Brenner to maintain an existing post and rail fence along the eastern edge of the property which encroaches onto the road layout at 3 Ruth Terrace.
- b. Approve application to the Cape Cod Commission for 2023 District Local Technical Assistance (DLTA) funding for the Town's Open Space and Recreation Plan
- c. Vote to amend Select Board Naming Policy
- d. Affirm seasonal wage schedule for calendar year 2023

**Motion by Onjalé Scott Price: To approve the Consent Agenda Second: Scott Zylinski Vote: Yes – 5 No - 0**

**MINUTES**

Review and Vote to Approve Minutes of Meetings

Public Session – October 24, 2022

Ms. Scott Price complimented the minutes for their thoroughness, saying she thought they were well done. She later noted they were done by Diane Davidson.

**Motion by Sam Patterson: To approve and release to the public Second: Onjalé Scott Price**

**Vote: Yes – 5 No - 0**

### **TOWN MANAGER'S SUPPLEMENTAL REPORT**

Mr. Johnson-Staub read the Town Manager's *Supplemental Report* dated February 12, 2023 and found in the Select Board packet.

The first item, SAFER Grant, Mr. Johnson-Staub explained with detail as he read through, elaborating where necessary. He stressed that the grant was a temporary solution only, not a long-term funding source, for additional fire department personnel.

At the conclusion of Item #2 - Mayflower/South Coast Wind - Chair Taylor asked for clarification on the public forums held by South Coast. Mr. Johnson-Staub said that the company was going directly to the public, organizing and hosting the forums for the residents of Falmouth themselves rather than involving the Select Board.

### **SELECT BOARD REPORTS**

**Mr. Brown reported on the following:**

- Attended the Precinct 4 meeting at East Falmouth School to discuss housing concerns voiced by residents. He said Ms. Scott Price and Mr. Johnson-Staub were also present. He said he heard what residents' needs are, especially related to housing assistance.
- Also attended the Cape and Islands Municipal Leaders Association with Mr. Patterson. He said Provincetown has drafted their own version of a deed which restricts housing to be used only for year-round housing.
- Last, Mr. Brown said he would be attending the Planning Board meeting on Valentine's Day.

**Ms. Scott Price reported on the following:**

- Attended the same Precinct 4 meeting with Mr. Brown and Mr. Johnson-Staub. She said she was glad that Barbara Schneider has started to do that.
- Also noted two upcoming Black History Month events: A lecture on Thursday at Falmouth Academy, and another lecture on line on Friday.

**Mr. Zylinski reported on the following:**

- Attended meetings of the solid waste advisory committee and the historical commission. He said he continues to be impressed with the dedication, input, and drive of those groups.
- Also attended a ZBA workshop, saying it was the most intuitive and collaborative meeting/workshop that he has experienced with that board. He said it was well done and well received by participants.

**Mr. Patterson**

- No report at this meeting.

**Chair Taylor reported on the following:**

- Said the commission on disabilities is looking at self-assessment in terms of what is happening in Town.
- Attended the board of health meeting because she wanted to hear from everyone on Mrs. Johnson's warrant article. She said it was very well done.
- Attended the Water Quality Management Committee (WQMC) meeting earlier in the day, and said it was interesting to listen to their recommendations and how they are moving forward with Department of Environmental Protection (DEP) regulations.
- Last, Chair Taylor attended the Finance Committee (FINCOM) meeting to hear about the budget.

### **DISCUSSION OF FUTURE AGENDA ITEMS**

Mr. Brown would like to further discuss the Mayflower/South Coast Wind proposal to get a better sense of lines of communication. He said the Board is in an odd position now with the company communicating directly with the public rather than with the Town. He said he thinks the company needs to come and negotiate with the Town if they want to do something on Town property. Chair Taylor added that she thinks the Select Board vote was misunderstood and could be a point of that discussion as well.

Mr. Brown also mentioned the policy workshop coming up on April 1, as noted in the town manager's supplemental report. He said he would send along his list to the chair.

Mr. Patterson asked about a report on the Robbins Road lift station, which he brought up during Amy Lowell's report. He said it was last September that the Board discussed the issue and there has been no update. Mr. Johnson-Staub said the engineering report evaluating the options for that lift station was expected in March, and Chair Taylor remembered Ms. Lowell had asked for 6 months. Mr. Brown also mentioned other possible pathways to a lift station on that property. Chair Taylor suggested an update on a March agenda.

**Motion by Motion by Onjalé Scott Price: To adjourn at 9:15 Second: Scott Zylinski**  
**Vote: Yes – 5 No - 0**

Respectfully submitted,  
Carole Sutherland, Recording Secretary

DRAFT