

TOWN OF FALMOUTH
BOARD OF SELECTMEN

AGENDA

MONDAY, JUNE 18, 2018 – 6:30 P.M.
SELECTMEN'S MEETING ROOM
TOWN HALL

6:30 p.m. OPEN SESSION

6:30 p.m. EXECUTIVE SESSION

1. M.G.L. c. 30A, s. 21(a)(6) – Status/update on potential purchase of Lyberty Green project site

7:00 p.m. OPEN SESSION

1. Call to Order
2. Pledge of Allegiance
3. Proclamation
4. Recognition
5. Announcements
6. Public Comment
7. Affirm Appointment of Beach Superintendent

7:15 p.m. SUMMARY OF ACTIONS

1. Licenses
 - a. Application for Lodging House License – The Heights House, 20 Grand Avenue, Falmouth
 - b. Application for Change in Sunday Opening for an All Alcoholic Package Store License – Himalayan King, Inc. d/b/a Old Barn Package Store, 20 Luscombe Ave., Woods Hole
 - c. Application for Special One-Day Liquor License – Buzzards Bay Coalition Reception for Science Symposium – Falmouth Academy, 7 Highfield Drive, Friday, 6/29/18
 - d. Application for Change of Manager – Portuguese American Association of Falmouth, Inc. – 55 Ashumet Road, Hatchville
2. Administrative Orders
 - a. Approve Release of Water Main Extension Agreement and Easement for Hiken Way, East Falmouth, as authorized by vote of Town of April 2018 Town Meeting on Article 25
 - b. Approve Eversource Energy Petition to Install One 4" Conduit on English Street, east of Maravista Avenue Ext.
 - c. Approve Eversource Energy Petition to Remove and Relocate One Pole on Main Street, west of Scranton Avenue
 - d. Vote to Ratify Minor Changes to Andrews Farm Conservation Restriction
 - e. Vote to Accept Grant Funding in the amount of \$5,625.00 from the Executive Office of Public Safety and Security Highway Safety Division – FY2018 Pedestrian and Bicycle Safety Enforcement and Equipment
3. Special Events

Recurring - Recommended:

 - a. 41st Annual Paul White Memorial Road Race – Nye Park, North Falmouth – Saturday, 7/7/18

PUBLIC HEARINGS

7:30 p.m.

1. Application for a New Wine and Malt Common Victualler License – Silver Beach Pizza of Cape Cod Inc. d/b/a Silver Beach Pizza & Seafood, 557 North Falmouth Highway, North Falmouth

7:40 p.m.

2. Application for Alteration of Premises of an All Alcoholic Common Victualler License – The Tasty Oyster, Inc. d/b/a Epic Oyster, 70 County Road, North Falmouth

7:50 p.m.

3. Application for a New All Alcoholic Common Victualler License – JZ Restaurant, Inc. – 366 East Falmouth Highway, East Falmouth

8:00 p.m.

4. Hearing Pursuant to S. 280-10 of the Code of Falmouth (Taxi Regulations) at Request of Falmouth Taxi, 17 Walker Street, Appealing Suspension or Revocation of Taxi Permit by Chief of Police

8:10 p.m.

5. Flow Neutral Bylaw – Evaluation of Request for Variance – LaFrance Hospitality Corp. – 763 Main Street and 24 Scranton Avenue, Continued from May 21, 2018

8:20 p.m. BUSINESS

1. Presentation – The Seven Year Itch at the Falmouth Dog Park – Barb Schneider
2. Discussion with Eversource Representative, Robert Smith
3. Update on Town-Wide Crosswalk Uniformity – Peter McConarty, Department of Public Works
4. Request for Sign Variance – ConvenientMD, 40 Davis Straits
5. Request for Sign Variance – St. Barnabas Church, 91 Main Street – Lobster on the Lawn
6. Discuss Vacancy on Charter Review Committee
7. Interview, Vote and Appoint Members to the Shellfish Advisory Committee
8. Interview, Vote and Appoint Incumbents on Regulatory Boards:
 - a. Board of Assessors
 - b. Conservation Commission
9. Interview, Vote and Appoint Incumbents with Applicants for the Positions
 - a. Constable
 - b. Solid Waste Advisory Committee
 - c. Waterways Committee
10. Interview, Vote and Appoint Applicants for Vacancies on Committees:
 - a. Retirement Board
11. Annual Committee Reappointments
12. Discuss/Consider Non-Binding Resolution on Medical Aid in Dying
13. Minutes of Meetings:
Public Session – June 4, 2018
Executive Session – June 4, 2018
Vote to Release/Not to Release Minutes of Executive Sessions
14. Individual Selectmen's Reports
15. Review of Town Manager's Report
16. Review and/or Discuss Correspondence Received

Susan L. Moran, Chairman
Board of Selectmen

Bruce Mogardo
39 Moonakis Rd.
East Falmouth, MA 02536

Work Experience on the Falmouth Beaches

1963-1964, Lifeguard

- Responsible for beach safety

1964-1966, Head Lifeguard

- Responsible for other Lifeguards on beach regarding rotations etc.
- Supervised beach clean-up and all incidents requiring medical attention

1968-1969, Assistant Beach Superintendent (under Mr. Kelly)

- Responsible for beach assignments
- Supervised all beach staff and beach inspections

1970-1973, Beach Superintendent

- Responsible for hiring staff, beach assignments, and the purchase of all equipment/supplies
- Oversaw Beach Department's budget, beach maintenance
- Attended Beach Committee Meetings

1980-1998, Director of Beach Maintenance

- Responsible for all maintenance, including pre-season set-up and post-season take-down
- Acted as Beach Department Liaison to D.P.W.
- Charged with all beach cleaning and Beach Rake operations

2002-2016, Assistant Beach Superintendent (under Don Hoffer)

- Assisted in all beach operations
- Continued beach cleaning responsibilities including all Beach Rake operations

2017-present, Acting Beach Superintendent

- Responsible for all Beaches Dept. Staff and Operations
- Oversee Beach Department's budget and hiring
- Author of Capital Plan and Town Report
- Liaison to D.P.W.
- Oversee Beach Receipts
- Attend Beach Committee Meetings
- Coordinate beach needs with Police and Fire Departments

Other Employment Experience

1970-1992, Classroom Teacher/Coach at Falmouth High School

- Taught Health Courses and Coached Track and Football

1992- 2002, Administrator of House A at Falmouth High School

- Responsible for 360 students throughout their 4 years at Falmouth High School
- Chair for Special Needs Meetings
- Representative of the school in Juvenile Court
- Assist with Class Events including Graduation and Awards presentations
- Help Principals implement Safety Crisis Protocols all Schools

Number:
18-2-LH

Fee
\$35.00

The Commonwealth of Massachusetts
Town of Falmouth

This is to certify that
The Heights House
Maureen Kelly, Owner/Manager

25 Harbor Avenue
Falmouth, MA 02540

is hereby granted this

Lodging House License

25 Harbor Avenue, Falmouth

and at that place only and expires on the below specified date unless sooner suspended or revoked for violation of the laws of the Commonwealth of Massachusetts relating to the licensing of Lodging Houses. This license is issued in conformity with the authority granted to the licensing authorities under section twenty-three, of chapter one hundred and forty, of the General Laws, and is subject to the provisions of sections twenty-two to thirty-one inclusive of said chapter.

Number of Rooms: 6

Valid from: June 18, 2018

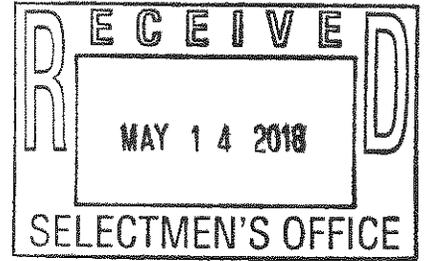
Valid until: May 1, 2019

By order of The Falmouth Board of Selectmen

June 18, 2018

This License Must be Posted in a Conspicuous Place upon the Premises

TOWN OF FALMOUTH
Office of the Town Manager & Selectmen
59 Town Hall Square, Falmouth, Massachusetts 02540
Telephone (508) 495-7320



APPLICATION FOR LODGING HOUSE LICENSE

M.G.L. Chapter 140, Sections 22 - 31



PAID
\$ 10.00

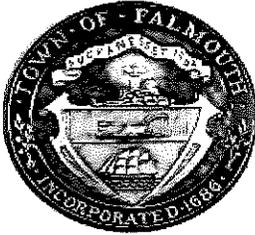
NAME OF APPLICANT Maureen Kelly
ADDRESS 25 Harbor Avenue, Falmouth
NAME OF ESTABLISHMENT The Heights House
MAILING ADDRESS (if different) 20 Grand Ave., Falmouth
MANAGER Maureen Kelly
FID # [REDACTED]
TELEPHONE # (Bus) [REDACTED] (Home) Seibel
EMAIL heightshouseinfo@yahoo.com
NO. OF LODGERS _____
NO. OF ROOMS 6
MAXIMUM NUMBER OF LODGERS ALLOWED _____

BED & BREAKFAST YES _____ NO not at this time

DATE 5/14/2018
[Signature]
OWNER, MANAGER OR AUTHORIZED AGENT

LICENSE FEE: \$35.00
FILING FEE: \$10.00

BOARD OF SELECTMEN



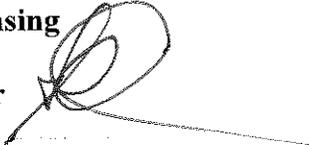
TOWN OF FALMOUTH

ZONING BOARD OF APPEALS

59 TOWN HALL SQUARE, FALMOUTH, MA 02540
508-495-7460 – FAX 508-495-7463

Memorandum

TO: Diane Davidson, Office Manager/Licensing

FROM: Sari D. Budrow, Zoning Administrator 

RE: Lodging House License – The Heights House
25 Harbor Avenue, Falmouth

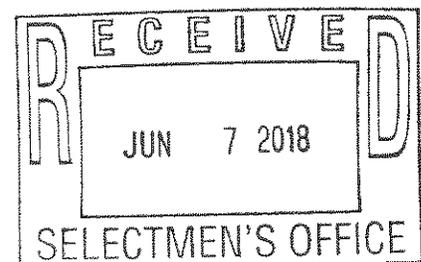
DATE: June 7, 2018

The subject property is a 1.1 acre parcel zoned Residential C that is not within any overlay districts.

The Board of Appeals recently approved a Special Permit (copy attached) to allow a six (6) room commercial accommodations pursuant to Section 240-23 A. of the Code of Falmouth. The subject property abuts Business 3 and Marina zoning on one side and Residential C on the other side. There are numerous businesses nearby and several of the residences rent rooms or property through the Air Bnb site. The applicant has on-site parking for guests. The applicant has owned the nearby motel for many years successfully.

The Board has no concerns with the issuance of a license for this property.

If you have any questions, please do not hesitate to contact me.



FALMOUTH ZONING BOARD OF APPEALS

FINDINGS AND DECISION

SPECIAL PERMIT NO: 121-17
APPLICANT/OWNER: MAUREEN B. KELLY of Falmouth, Massachusetts
SUBJECT PROPERTY: 25 Harbor Avenue, Falmouth, Massachusetts
Assessor's Map: Map 46B Section 11 Parcel 010 Lot 000
DEED/CERTIFICATE: Book 27505 / Page 111
SUMMARY: Special Permit Granted with Conditions

Received
MAY -3 2018
Falmouth Zoning
Board of Appeals

PROCEDURAL HISTORY

1. Under a date of December 21, 2017, the applicant applied to the Zoning Board of Appeals for a Special Permit pursuant to Section(s) 240-23 A. of the Code of Falmouth to allow commercial accommodations to operate a Bed and Breakfast on subject property known as 25 Harbor Avenue, Falmouth, MA.
2. Notice was duly given as required by Section 11 of Chapter 40A, M.G.L., as well as notices sent to all persons deemed to be affected thereby as they appear on the tax list, and at which hearing, at the Board's discretion, relevant and appropriate testimony was heard.
3. A duly advertised public hearing was opened on February 8, 2018.
4. The public hearing was closed on March 1, 2018, wherein the Board consisting of Acting Chairman Terrence Hurrie, Clerk Kimberly Bielan, Member Ed Van Keuren and Alternates Gerald Potamis and Robert Dugan (sitting as voting members) made a decision to direct the Zoning Administrator to draft a positive Decision for the Board's review and possible vote. Zoning Administrator Budrow stated that she will draft a decision and post it in the open meeting for March 15, 2018 for Board review.
5. The applicant was present at the hearing and reviewed and discussed proposed plans with the Board.
6. The Board received documents and information prior to and during the public hearing that are on file in the office of the Board of Appeals at Town Hall, as set forth below:

Letters/E-mails from Abutters/Interested Parties

A substantial amount of emails and letters were been submitted to the file as follows (see file for names and addresses):

Received in Support of proposed Bed & Breakfast - 64

Received in Opposition of proposed Bed & Breakfast	-	19
Received comments concerning proposed Bed & Breakfast	-	13

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

- 12/21/2017 Applicant submitted photos of existing dwelling and garage structures on subject property to be used for proposed Bed and Breakfast and a note stating additional buffering in the form of a Leyland Cyprus' as secondary to existing six foot (6') fence
- 01/12/2017 Applicant submitted a response to the Falmouth Fire Rescue referral submitted to the file
- 01/18/2018 Applicant submitted a revised "Site Plan" for Proposed Parking with a revision date of 8/7/2017
- 01/30/2018 Applicant submitted a letter to the Board of Appeals regarding comments in letters submitted regarding a 'zoning change' and gave addresses of rentals in the neighborhood and reviews and lists existing commercial entities that have existed for several years in the neighborhood that is stated to be only 'residential'
- 02/05/2018 Applicant submitted a map of the general neighborhood of subject property showing traffic patterns to the areas diners, bars and businesses existing currently
- 02/05/2018 Applicant submitted a map of the general area showing the Business 3 Districts in the area of the subject property as well as transient rental homes (14 total) in the area noting the mixed use in said neighborhood
- 02/06/2018 Applicant submitted information sheet dated February 5, 2018 that notes density and lot size by other Bed & Breakfasts in the general area in comparison with subject property
- 02/11/2018 From 02/11/2018 to 02/26/2018 Applicant submitted several emails with photos of the site relative to lighting and water concerns raised by abutters
- 02/27/2018 Email letter from applicant to Zoning Board regarding issues brought up at previous hearing: lighting, water, screening/buffering and noise

Letters/Referrals/E-mails from Town Departments

- 12/21/2017 ZBA staff submitted to the file a copy of an Appeal of the Building Commissioner's determination regarding the garage – the Appeal was upheld and a garage was allowed to be constructed with a setback of no less than 25' from the house – Appeal Decision dated 11/25/1974
- 12/21/2017 ZBA staff submitted to the file a copy of an Administrative Approval dated February 29, 2016 for covered porches to the front and rear of the existing dwelling on subject property

- 12/22/2017 ZBA staff submitted to the file a copy of an Administrative Approval dated December 21, 2017 for construction of dormers and a deck addition to the existing detached garage structure on subject property
- 01/03/2018 Referral submitted to the file from Water Superintendent with no comment
- 01/03/2018 Referral submitted to the file from the Director of Assessing with no comment
- 01/04/2018 Referral submitted to the file from Lt. Mel Trott of Falmouth Fire Rescue Department that states the building has to comply with Chapter 9 of the Massachusetts Building Code Fire Protection Systems.
- 01/05/2018 Referral submitted to the file from the Planning Department staff that has no comment
- 01/18/2018 Referral submitted to the file from the Town Engineering Department with standard comments and noting that the house number must be posted clearly
- 01/29/2018 ZBA staff submitted to the file a copy of a Quitclaim Deed conveying subject property from Falmouth Heights Corporation (H. Williams) to applicants dated 6/27/2013

Note: ZBA sent Referral requests to: Assessors, Building Department, Conservation Commission, Engineering Department, Board of Health, Fire Department, Planning Department, Board of Selectmen and Water Department

Plans submitted by Applicant/Applicant's Representative

"Site Plan Proposed Parking" prepared for Maureen Kelly 25 Harbor Ave. Falmouth Village Falmouth, MA as drawn by Warwick & Associates Inc. on a plan dated 3/22/2016 with a revision date of 1/18/2018 – plan is stamped, signed and dated by Gary S. Labrie, PLS on 1/22/2018 and has a Board date 'received' stamp of January 25, 2018;

"Site Plan Proposed Parking for Maureen Kelly 25 Harbor Ave. Falmouth Village, Falmouth, MA" plan drawn by Warwick & Associates Inc. with a revised date of 1/18/2018 – the applicant has drawn landscape plan on this "Site Plan" with 'key' of plan at top of page – plan has a Board date 'received' stamp of February 28, 2018;

"Interior Renovation Design Tim Kelly, 25 Harbor Ave. Falmouth, MA" Drawing A1 drawn by Architecture by SPB dated 6/29/2016 with a Board date 'received' stamp of December 21, 2017; and

"Custom Remodel Kelly Garage Dormer Design 25 Harbor Falmouth, MA" drawn by Designs by SPB consisting of: Drawing A1 Elevations, Drawing A2 Floor Plans, Drawing S1 Framing Plans, Drawing D1 Construction Details – all Drawings have a revision date of 12/21/17 and a Board date 'received' stamp of December 29, 2017.

Hearing February 8, 2018:

Maureen Kelly, applicant and owner of subject property reviewed the application requesting to operate a Bed and Breakfast on subject property. The existing dwelling has four (4) bedrooms and the detached garage structure will have two (2) bedrooms for the commercial accommodations if approved by the Board. She noted proposed parking for customers and said there will be no dumpsters on site (dumpster existing for construction materials currently). She reviewed the proposed Leyland Cypress trees that will buffer proposed parking spaces so as not to shine lights on adjacent properties; the existing 6' fence along the property lines around subject property for additional screening of lighting on the property that will be maintained. She stated that the proposed Bed and Breakfast Inn would not be part of the existing motel on adjacent property that they also own, but that this Bed and Breakfast would be a separate entity. Traffic will be minimal as some of the clientele will come from the nearby ferry service which is within walking distance; or by taxi. The proposed Bed and Breakfast is two lots off from Falmouth Heights Road which is a well-traveled road regardless of the season, but is more traveled in the summer season because of its proximity to the ocean and restaurants along the shoreline. She responded to comments made by abutters to the effect that this commercial use would impact the residential neighborhood. She then noted that all properties abutting the west of subject property are zoned Business 3 and that the majority of the properties along Falmouth Heights Road (2 properties over from the west of this property) are commercial uses [she named MacDougall's Marina, Shanty Restaurant, Residential Inn, Island Queen Ferry Service, and a condominium complex). The properties on the east side of the subject property are primarily residential although quite a few are rented during the summer season. Mrs. Kelly stated that they have been in the hospitality service for over 20 years and the motel adjacent to subject property has been in existence and cohabitating with the neighbors for over 50 years.

The Board discussed plans with Mrs. Kelly. All concerns and questions were addressed.

The Chairman asked for any public comment in support or opposition of the proposed project.

Mark Cilfone of 58 Davis Road in Falmouth spoke in support of the proposed Bed and Breakfast. He is the owner of La Cucina Sul Mare and has known the applicant for several years.

Linda Connors of 33 Harbor Avenue in Falmouth spoke in opposition to the project. She cited that out of the sixty (60) letters in support of the project, most do not live in the neighborhood. She spoke on lights from subject property, dumpster on site and concern of noise and traffic that a Bed and Breakfast would generate.

Marjorie Johnson of 49 Harbor Avenue in Falmouth spoke in opposition stating that there is a requirement in the State of Massachusetts for a Bed and Breakfast owner to be owner occupied. Ms. Johnson stated that the applicant owns a nearby parking lot as well and wanted to make sure that none of that parking will be on subject property.

Zoning Administrator Budrow informed Ms. Johnson that the property owned by the applicant to the south of subject property, known as 0 Grand Avenue, has a Special Permit to allow parking of boats during winter months and vehicles during spring and summer.

Daniel Roy of 22 Harbor Avenue in Falmouth stated opposition to the project stating that he does get along with the applicant but he believes the Bed and Breakfast will impact their quality of life. He

further suggested that the dwelling is being converted into four apartments. He further stated concern with traffic and parking on site. He had concern with letters of support.

Member Bielan explained that Mr. Roy has stated apartments, dwelling and living areas; she clarified that there are four bedrooms in the principal dwelling not dwelling units or apartments.

Eleanor Hickey of 20 Central Park Avenue stating opposition citing this is a residential neighborhood and should not be turned into commercial use. She asked about stormwater management on site as several trees on the one acre site were removed.

Susan Donahue of 39 Harbor Avenue questioned six (6) bedrooms noting that the dwelling has four (4). She stated that they take pride in their neighborhood.

Paula Lichter of Deacons Avenue in Falmouth stated she is neutral to the proposal but worried about future commercial use as it appears to be large.

Margaret Muirphy of 36 Grand Avenue stated opposition noting that this is a residential area and we are all year round residents.

Member Bielan stated that the proposed is not a 'springboard' for every commercial use. If approved it will be a Bed and Breakfast use only, which is allowed in a residential district through a special permit granted by this Board.

The Board discussed the proposed and asked the applicant for more information on stormwater containment on site, lighting, landscaping and Board of Health referral or comment regarding six (6) bedroom use.

Member Bielan made a motion to continue the hearing to March 1, 2018 at 6:00 pm. Member Van Keuren seconded the motion. Motion carried 5 - 0.

Hearing March 1, 2018:

Maureen Kelly, applicant and owner, reviewed the items the Board requested more information on. She said that the lighting has been changed from 60 watts to 40 watt bulbs, all lights are shining down and that all motion detectors have been repaired. She stated that she will affix the standard sized sign on the front of the structure (rather than have a freestanding sign) and has a landscape plan showing Leyland Cypress trees around the west and south property lines as additional buffering to the existing 6' fence. She noted that there are two (2) French drains at the back of the garage building, gutters will be added to the garage building as well and there is a drywell to the left of the driveway; the front building already has French drains and gutters. She informed the Board that she has hired an on-site manager who will reside in one of the bedrooms of the Bed and Breakfast, that she is anticipating staying operational year-round and that 'quiet time' for the business will be from 10:00 PM to 9:00 AM.

Attorney Laura Moynihan was present on behalf of the applicant and reviewed the state and local regulations of a Bed and Breakfast and the different criteria of a lodging house, inn or bed and breakfast. It was noted at previous hearing that an abutter stated that the State requires a Bed and Breakfast to be owner occupied. Attorney Moynihan explained that that is not the case and reviewed Chapter 140

Section 23 and Chapter 64 G of M.G. Laws, pursuant to which the Board of Selectmen license uses such as this. Attorney Moynihan noted for the record that there are condominiums, motels, boatyards, home occupations, homes being rented out seasonally all in close proximity to this particular property and neighborhood. She stated that residential zoning itself is not a guarantee of single-family dwelling uses only; there are many other potential business uses allowed in a residential district by right such as group day care homes, child care centers, sober houses, schools, churches, museums, libraries, nonprofit educational institutions.

Member Bielan informed the attending public that the licensing of the Bed and Breakfast is not within the purview of the Board of Appeals.

Chairman Hurrie asked if there was any public comment in support or opposition.

Linda Connors, abutter at 33 Harbor Avenue, reiterated that she wants to make sure the applicants keep the yard nice and that she is concerned as the applicant is in Florida part of the year.

David Lions of 4 Montgomery Court spoke in favor of the project noting that 'The Heights' is a place of destination and small cottages are being removed with large houses put in their place. New people come into the area, but in this case this is someone that has history with 'The Heights' and has been responsible. He further stated he is speaking for himself and not of an employee of the limousine service of the applicant's husband.

Marjorie Johnson of 49A Harbor Avenue (condominium complex) stating her concern is the request for commercial accommodations. She noted the definitions of a Bed and Breakfast in Mass General Law and just wants to make sure what is being permitted is regulated. She is also concerned of owner living off site.

Attorney Moynihan stated in response that in terms of looking at all the uses that are going on in this particular neighborhood, the submission that the Board has received is that of a quiet single-family neighborhood, which is really not correct. You have other rental uses going on in the neighborhood; there has been a lodging house use at 8 Harbor Avenue that went on for twenty (20) or more years and operated during that time by an abutter in opposition to this application. Attorney Moynihan stated that the Zoning Board's role is to apply the bylaws and in this application you have the standards of density being met -- you have a lot that is over an acre in size; and you have other rental uses existing in the neighborhood -- including seasonal rentals of dwellings. The bylaw standard is that the proposed use will not have adverse effects which over balance its beneficial effects on either the neighborhood or the Town. Are there adverse effects? We are submitting that there are no adverse impacts. The applicants have greatly improved the integrity and character of the dwelling and garage structure on subject property; they have operated and owned a nearby motel for many years; and this commercial accommodation will be an economic benefit to the Town, the tax base and the economic vitality of this neighborhood and the Town as a whole. Attorney Moynihan said in closing that they ask the Board to grant the special permit as requested.

The Board members discussed the application and plans for the proposed Bed and Breakfast.

Member Bielan made a motion to close the hearing. Member Van Keuren seconded the motion. Motion carried 5 - 0.

Chairman Hurrie closed the hearing.

FINDINGS

The Board of Appeals, after carefully considering all of the facts and evidence submitted at the hearing, makes the following findings:

The subject property located at 25 Harbor Avenue in Falmouth (Falmouth Heights) contains 49,036 square feet of Residential C zoned land that is not located within any coastal overlay district. The existing structures on subject property (dwelling and detached garage) are in compliance with Sections 240-68 A. and B. of the Code of Falmouth (setbacks), and the lot coverage on subject property is in compliance with Section 240-69 A. and of the Code of Falmouth. The applicant applied under Section(s) 240-23 A. of the Code of Falmouth to allow commercial accommodations as a Bed and Breakfast in an existing dwelling and detached garage on subject property. The dwelling has four (4) existing bedrooms and the applicant is proposing two (2) additional bedrooms within the detached garage structure. The detached garage structure was constructed after the previous owner, Howard Williams, filed an Appeal/Variance in 1974 with the Board of Appeals (refusal from Building Inspector) for permission to erect a detached garage with storage space on subject property. The Board voted in favor of the applicant with only one (1) condition: "Garage must be setback from the house at least 25'." The applicant gave history from 1965 of the property wherein Mr. Williams (previous owner) constructed the existing dwelling and after construction of the detached garage in 1974/75, made soft balls and did mechanical and other repairs within the garage structure for many years.

Section 240-23 of the Code of Falmouth – "Special permit uses." states: *The special permit granting authority for the following uses shall be the Board of Appeals except where noted otherwise in this Chapter: A. Commercial accommodations. (See Article XXVII.)*

The Board finds that the application is appropriately before the Board of Appeals based on Section 240-23 of the Code of Falmouth. The Board further finds that they have reviewed and considered Section 240-142 "Cooking Facilities" under Article XXVII before making a determination on this application. Furthermore, the Board finds that the proposed guest rooms within the Bed and Breakfast may have a coffee pot, refrigerator and sink, but the guest rooms, as conditioned herein, will not be allowed any cooking facility which shall include a microwave, hot plate, toaster oven or any other food preparation appliances.

The Board finds that the proposed Bed and Breakfast operation on subject property will not adversely impact the neighborhood as there are other nearby and abutting businesses in the general neighborhood (see file for establishments listed by applicant and submitted on January 30, 2018). The Board further finds through research that some of the properties in close proximity to the proposed Bed and Breakfast have seasonal rentals; this fact was also noted by the applicant in the same document noted herein. Furthermore, the Board finds, as noted by applicant's attorney (Laura Moynihan), that 8 Harbor Avenue (owned by S. Livingston since 1984) that is located across the roadway and one property down from subject property, had previously operated a lodging house for more than twenty (20) years (until approximately 2013) on a lot that is smaller than the subject property and that said lodging house co-existed with the neighborhood.

The Board finds that the traffic impacts will be only negligible, if any, given the preponderance of pedestrian use in the area, the location of the site, and general traffic conditions existing on the street and surrounding area. The Board further finds that principal dwelling has been a four-bedroom dwelling historically with commercial use of the detached garage. Furthermore, the Board finds that the additional of two (2) bedrooms within the detached garage for commercial accommodations is modest. The previous commercial use within the detached garage structure will be eliminated and there shall be no home business or other commercial activity on the subject property except that as approved herein.

The Board finds the applicant will have an on-site manager for the year round use of the proposed Bed and Breakfast. The Board further finds that other than guests, there will be no other residents except for the owner/manager and his/her partner/family within the Bed and Breakfast operation.

The Board finds that the parking proposed on site is adequate for the proposed Bed and Breakfast use on subject property and that the buffering of the parking spaces shown on the plan submitted and noted herein is appropriate for said parking. The Board further finds that the architecture of the dwelling and detached garage structure is within the architectural integrity of the surrounding neighborhood. The structures on the subject property have the appearance of a single-family dwelling. It is also noted that at the time of the hearing process for this special permit, the applicant had received a building permit for work to be completed on the detached garage and dwelling on subject property. Furthermore, the Board finds that the applicant is amenable to additional landscaping and has proposed installation of Leyland Cypress trees along the westerly and southerly property lines for additional buffering of the site to address concerns by abutters.

The Board finds that the applicant has addressed all issues regarding stormwater on subject property through the existing French drains and drywells, as well as additional drywells and gutters proposed.

The Board finds that the applicant is proposing to adhere to quiet hours for the Bed and Breakfast operation from 10:00 PM to 9:00 AM daily.

The Board finds that the applicant has listened to all of the abutters and Board members remarks and concerns and has herein submitted additional landscaping, quiet hours for the Bed and Breakfast operation, addressed concerns of stormwater drainage on site, changed the lighting and motion sensors on site and will have an on-site manager at all times for the Bed and Breakfast operation.

In addition to the above findings, the Board finds that the proposed will be in harmony with the general purpose and intent of this chapter and does include consideration set forth in Section 240-216 of the Code of Falmouth as follows:

A. The site is adequate in terms of size for the proposed Bed and Breakfast as all dimensional requirements on subject property are in compliance with the Code of Falmouth under Sections 240-68 A. and B. and Section 240-69 A. The Board finds that the size of the subject property (1+ acre) is substantially large for the neighborhood.

B. The site is suitable for the proposed use as the property is zoned residential and a commercial accommodation operation is approvable under Section 240-23 A. of the Code of Falmouth by the Board of Appeals.

C. There will be minimal impact on traffic flow to the subject property through the proposed Bed and Breakfast. There is appropriate parking on site and there is no change in the location of the existing driveway on site.

D. The visual character of the subject property has been improved and there does not appear to be any impact on the neighborhood's visual character as there are several houses in the surrounding area that have been improved such as this; and there is no impact on any view or vista from the roadway or abutting properties.

E. The sewage disposal system is in place and will be approved by the Board of Health prior to occupancy for the proposed Bed and Breakfast operation.

F. There are adequate utilities to subject property by virtue of an existing dwelling on site.

G. The proposed Bed and Breakfast operation discussed and represented herein will have no effect on the supply of affordable housing in Falmouth.

H. There was no Site Plan Review required by the Planning Board and the referral submitted to the file from the Planning Department had no comment.

I. The application is within compliance of all applicable sections of the zoning bylaws as represented, except for the nonconformities stated herein.

J. The approval of this special permit does not include any affordable housing.

The Board of Appeals has weighed the effects of the proposed Bed and Breakfast for commercial accommodations at 25 Harbor Avenue in Falmouth as discussed herein and finds that the beneficial effects to the neighborhood or Town in granting this permit outweigh any negative or adverse effects there may be. The Board further finds that the granting of this permit will be in harmony with the purpose and intent of the Zoning Bylaw.

Open Meeting 3/15/2018: Clerk Bielan absent – remains quorum for application of four (4) members. Board reviewed the affirmative draft decision prepared by Zoning Administrator as requested.

Member Potamis made a motion to Grant the Special Permit with conditions. Member Van Keuren seconded the motion.

NOW THEREFORE

BE IT RESOLVED, that the Board of Appeals (herein referred to as Board) being of the opinion aforesaid and acting under the provisions of the Code of Falmouth voted **4 to 0 to Grant a Special Permit** to Maureen B. Kelly (herein referred to as Applicant) under Section(s) 240-23 A. of the Code of Falmouth to allow a six-bedroom commercial accommodations (Bed and Breakfast) operation on subject property known as 25 Harbor Avenue, Falmouth, Massachusetts. This special permit shall be subject to the following conditions:

1. The commercial accommodations on subject property shall be as represented to the Board and as shown on plans submitted and reviewed by the Board entitled as follows:
 - "Site Plan Proposed Parking" prepared for Maureen Kelly 25 Harbor Ave. Falmouth Village Falmouth, MA as drawn by Warwick & Associates Inc. on a plan dated 3/22/2016 with a revision date of 1/18/2018 – plan is stamped, signed and dated by Gary S. Labrie, PLS on 1/22/2018 and has a Board date 'received' stamp of January 25, 2018;
 - "Site Plan Proposed Parking for Maureen Kelly 25 Harbor Ave. Falmouth Village, Falmouth, MA" plan drawn by Warwick & Associates Inc. with a revised date of

1/18/2018 – the applicant has drawn landscape plan on this “Site Plan” with ‘key’ of plan at top of page – plan has a Board date ‘received’ stamp of February 28, 2018;

- “Interior Renovation Design Tim Kelly, 25 Harbor Ave. Falmouth, MA” Drawing A1 drawn by Architecture by SPB dated 6/29/2016 with a Board date ‘received’ stamp of December 21, 2017; and
 - “Custom Remodel Kelly Garage Dormer Design 25 Harbor Falmouth, MA” drawn by Designs by SPB consisting of: Drawing A1 Elevations, Drawing A2 Floor Plans, Drawing S1 Framing Plans, Drawing D1 Construction Details – all Drawings have a revision date of 12/21/17 and a Board date ‘received’ stamp of December 29, 2017.
2. There shall be no more than six (6) bedrooms allowed on subject property.
 3. The applicant shall install the additional French drains and drywells as shown on the “Site Plan” revised on 1/18/2018, with a Board date ‘received’ stamp of February 28, 2018 and marked as a Landscape plan by the applicant. Additional drainage is noted as three (3) additional drains/drywells in orange on said plan (see key at top of plan – color coded).
 4. All stormwater/run off shall be maintained on site.
 5. There shall be no cooking facilities of any kind allowed in the guest rooms within the commercial accommodations approved herein. This includes, but not limited to, a microwave, a hotplate, a toaster oven or any nu-wave cooking (food preparation) appliance. A coffee pot and refrigerator in a guest room is allowed.
 6. The twenty (20) Leyland Cypress trees as shown on the Landscape plan noted in condition 1 and 3 above, shall be no less than 5’ in height and shall be installed prior to occupancy of the commercial accommodations approved herein.
 7. All lighting on subject property shall be low level lighting and shall not shine or flow onto adjacent properties or roadway.
 8. There shall be no off-site parking from this commercial accommodation. All parking on subject property shall be for staff and guests of this commercial accommodation only.
 9. Testimony was that a sign for the commercial accommodations will be affixed to the main dwelling structure. Said sign shall be approved according to the Sign bylaws of the Town Code.
 10. There shall be no home occupation or other commercial activity on subject property except for the commercial accommodations as approved herein.
 11. Any deviation, no matter how minor, from plans submitted and approved, orally or in writing, by this Board, shall be submitted to the Board for approval prior to implementation of said change. Minor changes may be administratively approved by the Zoning Administrator.

12. This permit shall not take effect until a copy of the decision bearing the certification of the Town Clerk that 20 days has elapsed after the decision had been filed in the office of the Town Clerk with no appeal being filed, or an appeal has been filed within such time, is recorded in Barnstable Registry of Deeds. (Any person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.)
13. This permit shall lapse three (3) years from the date on which this decision is filed in the Town Clerk's office if a substantial use of the Special Permit has not sooner commenced except for good cause as determined by the Board of Appeals.

Decision of the Falmouth Zoning Board of Appeals Continued:

Special Permit Number: 121-17

Applicant: MAUREEN B. KELLY of Falmouth, Massachusetts

Subject Property: 25 Harbor Avenue, Falmouth, Massachusetts
Map 46B Section 11 Parcel 010 Lot 000

Action: The Board of Appeals, by the signature below, being present, certifies the vote of the Board as follows for the above referenced:

Vote: 4 - 0 to Grant the Special Permit as represented to the Board, based on the Findings stated herein and with the above stated Conditions.


Terrence J. Hurrie, Acting Chairman, Board of Appeals

RECEIVED

MAR 16 2011

FALMOUTH MASSACHUSETTS

APR 8 8:45 am

Date Filed With Town Clerk

Notice is hereby given that any appeal from this Decision shall be made pursuant to Section 17 of Massachusetts General Laws, Chapter 40A, and shall be filed within twenty (20) days after the date of filing of this Decision in the office of the Falmouth Town Clerk.



Town of Falmouth

MICHAEL PALMER
TOWN CLERK

59 Town Hall Square, Falmouth, Massachusetts 02540
(508) 495-7353 Fax (508) 457-2511

CERTIFICATION OF NO APPEAL

I, Michael Palmer, Town Clerk of the Town of Falmouth, hereby certify that the Board of Appeals vote was filed in this office on March 16, 2018 and that no Notice of Appeal on this vote was received during the twenty days (20) next after such receipt and recording of said vote.


Michael Palmer
Town Clerk



Date: April 18, 2018

RE: Kelly, 25 Harbor Ave.

BARNSTABLE REGISTRY OF DEEDS
John F. Meade, Register



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission

For Reconsideration

LOCAL LICENSING AUTHORITY REVIEW RECORD

89307-PK-0390
ABCC License Number

Falmouth
City/Town

06/08/2018
Date Filed with LLA

TRANSACTION TYPE (Please check all relevant transactions):

- Checkboxes for various transaction types: New License, Change Corporate Name, Pledge of Collateral, Change Corporate Structure, Transfer of License, Change of DBA, Change of Class, Change of Hours, Change of Manager, Alteration of Licensed Premises, Change of License Type, Issuance/Transfer of Stock, Change of Beneficial Interest, Change of Location, Change of Category, Management/Operating Agreement.

APPLICANT INFORMATION

Form fields for applicant information: Name of Licensee (Himalayan King, Inc.), D/B/A (Old Barn Package Store), Address (20 Luscombe Avenue), City/Town (Woods Hole), State (MA), ZIP Code (02543), Manager (Dikingsong Rai), License Type (\$15 Package Store), Class (Annual), Category (All Alcoholic Beverages), and Special Legislation status.

LOCAL LICENSING AUTHORITY DECISION

Decision section: Please indicate the decision of the Local Licensing Authority (Approves this Application) and the days/hours alcohol will be sold (8 AM - 11 PM weekdays; 10 AM - 11 PM Sundays).

If Approving With Modifications, please indicate below what changes the LLA is making:

Table for modifications: Changes to the Premises Description, Indoor Area, Patio/Deck/Outdoor Area, Seating Capacity, Number of Entrances, Number of Exits, and a table for Floor Number, Square Footage, and Number of Rooms.

Abutters Notified: Yes [] No [X] Date of Abutter Notification: N/A Date of Advertisement: N/A

Please add any additional remarks or conditions here:

[X] Check here if you are attaching additional documentation

The Local Licensing Authorities By:

Alcoholic Beverages Control Commission
Ralph Sacramone
Executive Director

06/18/2018

Date APPROVED by LLA

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

**RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION
MONETARY TRANSMITTAL FORM**

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

REVENUE CODE: RETA

CHECK PAYABLE TO ABCC OR COMMONWEALTH OF MA: NO FEE

A.B.C.C. LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY):

89307PK0390

LICENSEE NAME: Himalayan King, Inc. d/b/a Old Barn Package Store

ADDRESS: 20 Luscombe Avenue

CITY/TOWN: Woods Hole

STATE MA

ZIP CODE 02543

TRANSACTION TYPE (Please check all relevant transactions):

Change of Hours

Change of DBA

THE LOCAL LICENSING AUTHORITY MUST MAIL THIS TRANSMITTAL
FORM ALONG WITH THE CHECK, COMPLETED APPLICATION, AND
SUPPORTING DOCUMENTS TO:

**ALCOHOLIC BEVERAGES CONTROL COMMISSION
P. O. BOX 3396
BOSTON, MA 02241-3396**

HIMALAYAN KING, INC.

*Action by Written Consent
of the Board of Directors*

A special meeting of the Board of Directors of the corporation was held at the time, date, and place set forth below:

Date: June 4, 2018
Time: 1:00 p.m.
Place: Woods Hole, MA

The undersigned, being all the Directors of Himalayan Kings, Inc., a Massachusetts Corporation, do hereby adopt and consent to the following votes and actions and direct the Secretary to make this instrument a part of the records of the Board of Directors of this Corporation:

VOTED: To submit an application for a Change of Hours to the Town of Falmouth to amend the hours set forth on the §15 Package Store, Off-Premise license for the premises located at 20 Luscombe Avenue, now known as the Old Barn Package Store and

VOTED: That the hours to sell alcoholic beverages only be amended for sales on Sunday to 10:00 am to 11:00 pm. All other days of the week shall remain as currently set forth.

There being no further business to come before the meeting, on motion duly made, seconded and unanimously carried, the meeting adjourned.

IN WITNESS WHEREOF, the undersigned, being all of the Directors of this Corporation, have hereunto set their hands as of the date first above written.



Dikingsong S Rai, Director

Diane Davidson

From: Sean Doyle <sdoyle@falmouthpolice.us>
Sent: Saturday, June 09, 2018 12:06 AM
To: 'Diane Davidson'
Cc: 'Brian Reid'
Subject: RE: Application for Change in Sunday Hours

This department does not have any issues with the request.

Lt. Doyle

From: Diane Davidson [mailto:ddavidson@falmouthmass.us]
Sent: Friday, June 08, 2018 3:43 PM
To: Brian Reid <breid@falmouthpolice.us>; Sean Doyle <sdoyle@falmouthpolice.us>
Subject: Application for Change in Sunday Hours

Capt. Reid,
Lt. Doyle,

Attached please find an application from Himalayan King, Inc. d/b/a Old Barn Package Store for a change in Sunday opening hours from 12 noon to 11 p.m. to new hours of 10 a.m. to 11 p.m. for your review and recommendation to the Board of Selectmen.

May I request a recommendation by Thursday, June 14, 2018, as this is scheduled for the Monday, June 18, 2018 Selectmen's meeting.

Thank you,

Diane

*Diane S. Davidson
Office Manager/Licensing
Office of the Town Manager and Selectmen
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540
(508) 495-7321*

2018

License Alcoholic Beverages

18-25-WM

Fee:

25

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

Special License For The Sale of Wine & Malt Beverages

License to Expose, Keep for Sale, and to Sell

Wines and Malt Beverages

To Be Drunk On the Premises

To Buzzards Bay Coalition

114 Front Street
New Bedford, MA 02740

On the following described premises:

Falmouth Academy, 7 Highfield Drive, Falmouth, MA 02540

THE ABOVE NAMED PROFIT OR NON PROFIT ORGANIZATION IS HEREBY GRANTED A SPECIAL LICENSE FOR THE SALE OF WINE AND MALT BEVERAGES ONLY, TO BE DRUNK ON THE PREMISES.

This license is valid from the 29th day of June 2018 until the 29th day of June 2018, unless earlier suspended, cancelled or revoked.

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

Date: Friday, June 29, 2018. Hours: 5:00 p.m. - 6:00 p.m. - Reception for Science Symposium

1. Proof of liquor liability insurance required. 2. Alcoholic beverages served on the premises must remain on the premises. 3. Secure area where alcohol will be sold and consumed. 4. Servers must be TIPS (or equivalent) certified.

IN TESTIMONY WHEREOF, the undersigned have hereunto affixed their official signatures this 18th day of June 2018

Licensing Board

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

Diane Davidson

From: Sean Doyle <sdoyle@falmouthpolice.us>
Sent: Saturday, June 09, 2018 12:03 AM
To: 'Diane Davidson'
Cc: 'Brian Reid'
Subject: RE: Application for One-Day Liquor License - Buzzards Bay Coalition

As long as all laws and by-laws are adhered to then this department does not have any issues with this request.

Lt. Doyle

From: Diane Davidson [mailto:ddavidson@falmouthmass.us]
Sent: Friday, June 08, 2018 3:47 PM
To: Brian Reid <b Reid@falmouthpolice.us>; Sean Doyle <sdoyle@falmouthpolice.us>
Subject: Application for One-Day Liquor License - Buzzards Bay Coalition

Capt. Reid,
Lt. Doyle,

Attached please find an application for a special one-day liquor license from Buzzards Bay Coalition for a Reception for Science Symposium to be held at Falmouth Academy, 7 Highfield Drive on Friday, June 29, 2018 from 5:00 p.m. to 6:00 p.m. for your review and recommendation by Thursday, June 14, 2018.

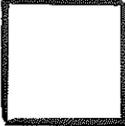
This application will be discussed at the Monday, June 18, 2018 Selectmen's meeting.

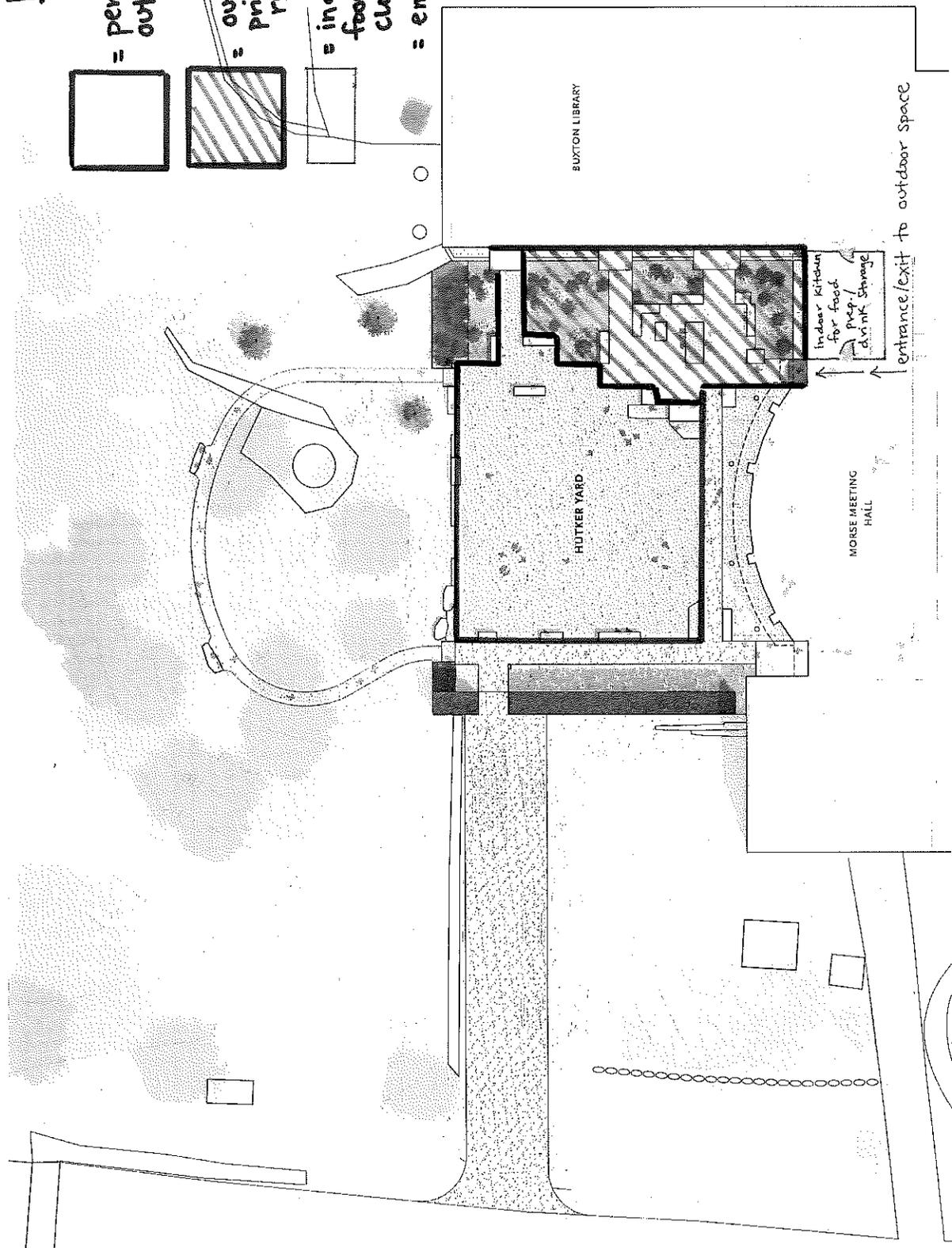
Thank you,

Diane

*Diane S. Davidson
Office Manager/Licensing
Office of the Town Manager and Selectmen
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540
(508) 495-7321*

KEY

-  = perimeter of total outdoor space for event
-  = outdoor serving area; primary location of reception event
-  = indoor space, used for food/drink prep and closed to event guests
-  = entrances and exits



Security Plan for Use of Falmouth Academy Outdoor Space

In support of the Buzzards Bay Coalition's
Application for Special One-Day Liquor License
for the Sale of Alcoholic Beverages

Following an afternoon public science symposium held inside facilities at Falmouth Academy, the Buzzards Bay Coalition will hold a one-hour reception in the school's outdoor Hutker Yard space. This will include passed hors d'oeuvres from Jacqueline's Catering and a cash bar operated by employees of ICJ Corp. The cash bar will sell only beer, wine, and non-alcoholic beverages; IDs will be checked for all individuals seeking to purchase alcoholic beverages, and service will be strictly limited to total one hour. Servers will have access to the adjacent internal kitchen space, which will remain closed to event attendees at all times.

Consumption of alcoholic beverages will be restricted to the outdoor patio space shown on the provided map, outlined in red and striped in blue. Coalition staff will monitor entrances and exits into and within the adjacent buildings (marked in pink), as well as the patio's border with the greater outdoor space (outlined in red). Additional staff will be posted at the building's main entrance, from which guests depart upon the event's conclusion.



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission

For Reconsideration

LOCAL LICENSING AUTHORITY REVIEW RECORD

00123-CL-0390

Falmouth

June 7, 2018

ABCC License Number

City/Town

Date Filed with LLA

TRANSACTION TYPE (Please check all relevant transactions):

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

APPLICANT INFORMATION

Name of Licensee Portuguese American Association of Falmouth, Inc D/B/A

ADDRESS: 55 Ashumet Road CITY/TOWN: Falmouth STATE MA ZIP CODE 02540

Manager Joseph Amaro Martinho

Granted under Special Legislation? Yes No

§12 Club Annual All Alcoholic Beverages

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

If Yes, Chapter of the Acts of (year)

LOCAL LICENSING AUTHORITY DECISION

Please indicate the decision of the Local Licensing Authority: Approves this Application

Please indicate what days and hours the licensee will sell alcohol: 8:00 am to 1:00 am Weekdays; 12 Noon - 1am Sundays

If Approving With Modifications, please indicate below what changes the LLA is making:

Please indicate if the LLA is downgrading the License Category (approving only Wines and Malts if applicant applied for All Alcohol): <input type="checkbox"/> No	Changes to the Premises Description	Indoor Area Total Square Footage	<input type="checkbox"/>	Floor Number	Square Footage	Number of Rooms
	Patio/Deck/Outdoor Area Total Square Footage	Number of Entrances	<input type="checkbox"/>			
	Seating Capacity	Number of Exits	<input type="checkbox"/>			

Abutters Notified: Yes No Date of Abutter Notification N/A Date of Advertisement N/A

Please add any additional remarks or conditions here:

Check here if you are attaching additional documentation

The Local Licensing Authorities By:

Alcoholic Beverages Control Commission
Ralph Sacramone
Executive Director

June 18, 2018
Date APPROVED by LLA

Phyllis Downey

From: Sean Doyle <sdoyle@falmouthpolice.us>
Sent: Sunday, June 10, 2018 3:17 PM
To: 'Phyllis Downey'; 'Brian Reid'
Subject: RE: Change of Manager - Portuguese American Assn.

After conducting a CORI check on Joseph Martinho, this department does not have any issues with the request.

Lt. Doyle

From: Phyllis Downey [mailto:phyllis.downey@falmouthmass.us]
Sent: Friday, June 08, 2018 9:41 AM
To: Sean Doyle <sdoyle@falmouthpolice.us>; Brian Reid <broid@falmouthpolice.us>
Subject: Change of Manager - Portuguese American Assn.

Hello,

Attached please find an application for a change of manager and CORI form as follows:

1. All Alcohol Club license: Portuguese American Association of Falmouth, Inc. located at 55 Ashumet Road.

May I request your response by Friday, June 15, 2018?

Thank you,

Phyllis

Phyllis Downey
Administrative Assistant
Office of the Town Manager & Selectmen
508-495-7320

Portuguese American Association of Falmouth, Inc.

Board of Directors Meeting Minutes

January 18, 2018

Meeting called to order at 7:05 pm by President Megan E Braga. Members presented were David Vieira, Dan Loureiro, Isabel Melo, Christina Estrela, John DeMello, Daune Louzon, Jose Chaves, Linda Lawrence and Paulina Moura. There was a quorum. Invited guests were Fernanda Lopes, Maria Fonseca, John Sylvia and Lucia Chaves. There were no minutes for the month of November and December. A lack of attendance made a no quorum.

- 1) **Motion to accept the minutes** with a correction from the paragraph "Scholarship Fund (words) not legal to be to be stricken and replaced by non-taxable and strike the sentence the donors are aware". Dan Loureiro made a motion, 2nd by Linda Lawrence.
Correspondence Report Isabel Melo was asked to send a thank you note to Anthony Caputo. Mr. Caputo is the engineer overseeing the Sprinkler system plans. A bill for his work was submitted in the amount of \$3,100.00 for work done on 08/31/2011 and finished on 2015. Motion for this bill to be paid was made by John DeMello, 2nd by Dan Loureiro. All in favor.
Megan asked to have a single binder with the minutes from the BOD as well as the monthly member meetings available for all.

2) **Old Business:**

- a) Linda Lawrence would like to have an estimated cost of the meal to be printed on the tickets. This would save the club meal taxes. With this method taxes will be paid only on the meal value and not the entire ticket price.
 - b) **Bar Manager change over** stating The BOD approved Joe Martinho as the new Bar Manager with a motion made by David Vieira, 2nd by Linda Lawrence. All in favor.
 - c) **Club morale:** The policy of the club has been clarified that the expenses of the monthly dinner meal does not have to be absorbed by each monthly committee if they choose not to.
 - d) **Chamber of Commerce membership:** The PAA received a bill from the Chamber for the past two years. This membership was not cancelled. David checked the website and noticed that the PAA still currently a member. It is to our advantage to be a member of the chamber of commerce. This bill should to be paid at the nonprofit rate.
- 2) **Committee reports:** social events \$333.00; New Years' Eve \$1,510.00; six rentals for December \$4,288.50. The total bar income for December was \$6,131.50.
Treasurers' Report not completed. We're only thru Dec. \$69,239.85. Finalizing posts thru the end of the year. Adjustments need to be done.
John DeMello is planning on a car, tractor and truck show in the spring/summer. Hopefully we will attract other for this event. We hope to get the sheriffs' tent and have food available.

Fernanda Lopes spoke of New Years' event. Attendees were 95 adults and 9 children. This event brought in \$6,400.00 gross. Donation of \$85.00; raffle brought in \$270.00 for a total of \$6,865.00. Expenses were \$2,018.35 for a net profit of \$3,836.70.

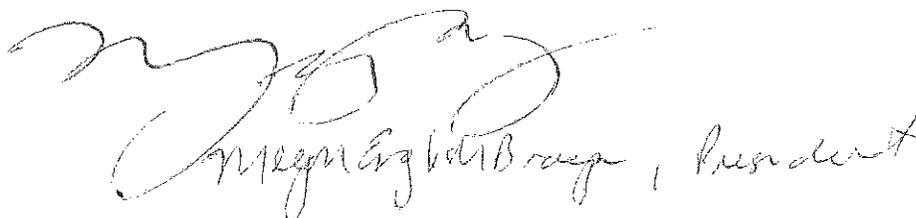
4) **Upcoming events:**

- a) **Carnaval** to be held on February 3, chaired by Lucia Chaves. There was confusion if this event was still taking place.
- b) **Creating of Committees** for upcoming events: Committees are needed for events. Megan will ask, in her letter to the members, for volunteers. Living Las Vegas (Dan Loureiro), Rummage Sales (Daune Louzon), Day of Portugal (Lucia Chaves), Luau (Fernanda Lopes), Apple picking (David Vieira) are some of the next events needing volunteers. A signup sheet will be available at the dinner meetings.

5) **New Business:**

- a) **Status of Finance committee.** Peter Butler no longer is the acting finance chair. Committee members are: Fernanda Lopes, Daune Louzon, Jose Chaves and Lucia Chaves. David will chair this committee and is suggesting creating a chart and budget for the near future.
- b) **Security & Access.** Megan and David will meet with Peter Butler and ask for a list of the people who has keys and codes to access the building for security reasons.
- c) **Monthly member meals.** Linda Lawrence will wait to discuss her "idea". The discussion was tabled.
- d) **Committee Formalization.** Budgets, numbers and minutes where required. All committees should have recorded information to be shared with other committees. John Sylvia reminded the board to make the membership aware of the upcoming elections. David Vieira referred to the by-laws of how the nominating committee is formed. "The President shall appoint one member to the Nominating Committee, two members shall be appointed by the Board of Directors, and two shall be elected by the membership at large. The first order of business by the nominating committee shall be to elect a chair". This committee, composed of five members including the chair, should be formed by February or March.

Adjournment: 8:35 pm. Motion made by Dawn Louzon, 2nd by John DeMello.



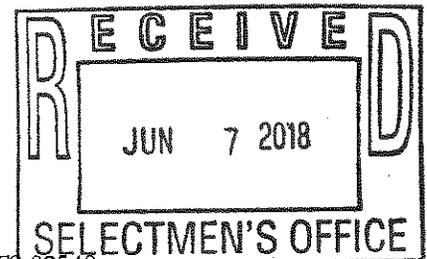
Megan Elizabeth Braga, President

**TOWN OF FALMOUTH
OFFICE OF TOWN COUNSEL
MEMORANDUM**

TO: JULIAN SUSO, TOWN MANAGER
FROM: FRANK K. DUFFY, TOWN COUNSEL
SUBJECT: ABANDONMENT OF EASEMENT – HIKEN WAY
DATE: 6/6/2018
CC: STEVE RAFFERTY, WATER SUPT.
KEVIN KLAUER, ESQUIRE

I enclose herewith a Release of Water Main Extension Agreement for Hiken Way as authorized by the vote of Town of Town Meeting on Article 25, April, 2018 Annual Town Meeting.

Please have the Board of Selectmen vote and execute the document for recording in the Barnstable Registry of Deeds.



RELEASE OF
WATER MAIN EXTENSION AGREEMENT AND EASEMENT
TO SERVE HIKEN WAY, EAST FALMOUTH
BARNSTABLE COUNTY, MASSACHUSETTS

WHEREAS, KENNETH P. ANDREWS and HISAKO ANDREWS, now or formerly of 356 Old Meeting House Road, East Falmouth, MA (the Grantor) and the Town of Falmouth, a municipal corporation in Barnstable County, Massachusetts, acting by and through its Department of Public Works, 416 Gifford Street, Falmouth, MA (the Grantee) entered into a Water Main Extension Agreement and Easement dated September 16, 2005 to serve a private way known as Hiken Way in said Falmouth; and

WHEREAS, said Water Main Extension Agreement and Easement is recorded in the Barnstable County Registry of Deeds in Book 20385, Page 268; and

WHEREAS, Hiken Way has never been fully developed and there are no present plans to sell or use the lots abutting Hiken Way for residential purposes; and

WHEREAS, the Grantor desires to use the land described in the Water Main Extension Agreement and Easement for other purposes.

NOW THEREFORE, the Grantor and the Grantee agree as follows:

- 1) The private way known as Hiken Way as shown on the plan recorded in the Barnstable County Registry of Deeds in Plan Book 603, Page 49 shall not be developed for residential purposes;
- 2) The extension of the existing water main in Hiken Way shall no longer be a part of the Town of Falmouth water supply system as set forth in paragraph 5 and it shall be considered a private connection from Old Meeting House Road with all maintenance and repairs the responsibility of the Grantor, successors and assigns; and
- 3) The Grantee (Town of Falmouth) releases and abandons the easement as set forth in paragraph 8 of the Water Main Extension Agreement and Easement; and
- 4) The Grantor and the Grantee jointly and severally release each other from any and all claims that presently exist or may arise in the future from any acts performed and related to the Water Main Extension Agreement and Easement; and
- 5) Said Water Main Extension Agreement and Easement is rescinded and of no further force and effect.

For authority see vote on Article 25 of the April, 2018 Falmouth Annual Town Meeting a copy of which is attached hereto.

IN WITNESS WHEREOF, the said Kenneth P. Andrews and Hisako Andrews signed, acknowledged and delivered this instrument and the Town of Falmouth has signed, acknowledged and delivered this instrument by its Board of Selectmen, duly authorized, this ____ day of _____, 2018.

Kenneth P. Andrews

Hisako Andrews

Town of Falmouth
By its Board of Selectmen

Susan L. Moran, Chairman

Megan English Braga, Vice Chairman

Doug Jones

Samuel H. Patterson

Douglas C. Brown

Prepared by:



Frank K. Duffy, Town Counsel
157 Locust Street, Falmouth, MA 02540



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

ncroft@falmouthmass.us

Date: June 14, 2018

To: Board of Selectmen

From: Nicholas Croft, Hearing Officer

Subject: Eversource – Petition to install 25' of 4" underground conduit on English Street

A petition was submitted by Eversource to install 25' of 4" underground conduit on English Street to accommodate service to house #51 English Street.

The Engineering recommendation is to approve the request as submitted on Plan No. 2269934, W/O #2269934, dated May 19, 2018. Contractor must bore under asphalt.

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

Thank you,

Nicholas Croft
Engineering Technician
DPW Engineering Division

N:\SHARED\mmsa\pdc\img\BASE\INST\FAL-ENGLISH.dwg

#50

PARCEL ID: 39 08 026 101
46 ENGLISH ST
N/F
SANDERSON SCOTT M
SANDERSON LISA G

#56

PARCEL ID: 39 08 028 100
50 ENGLISH ST
N/F
REVENAUGH SEAN

PARCEL ID: 39 08 029 098
56 ENGLISH ST
N/F
MCGOWAN FRANCIS J

1067 ± TO
MARAVISTA AVE EXT

388/6

PARCEL LINE

PARCEL LINE

388/H7

●

● 388/7

● 388/8

EDGE OF PAVEMENT

ENGLISH ST

EDGE OF PAVEMENT

EVERSOURCE TO INSTALL
25" ± PIPE-POLES-BORE
UNDER ROAD & CBL

PARCEL LINE

PARCEL ID: 39 09 008 125
45 ENGLISH ST
N/F
DWYER BARRY
DWYER KAREN

PARCEL LINE

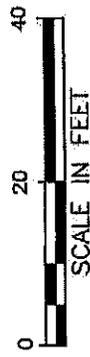
388/H7B

PARCEL ID: 39 09 005A 127
51 ENGLISH ST
N/F
NOE MICHEL

PARCEL LINE

PARCEL ID: 39 09 004 129
59 ENGLISH ST
N/F
LIBERATORE LISA J

PARCEL LINE



SCALE IN FEET

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MASS. LAW

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

Plan #	2208934
Ward #	
Work Order #	2208934
Surveyed by:	N/A
Researched by:	N/A
Plotted by:	BP
Proposed Structures:	TL
Approved:	A DEBENEDECTIS
P#:	

NSSTAR EVERSOURCE
DIGS

1165 MUSCHELMISTS AVE. DORCHESTER, MASS. 02125

Plan of ENGLISH ST
FALMOUTH

Showing PROPOSED CUSTOMER TO INSTALL

Scale: 1" = 20'
SHEET 1 of 1

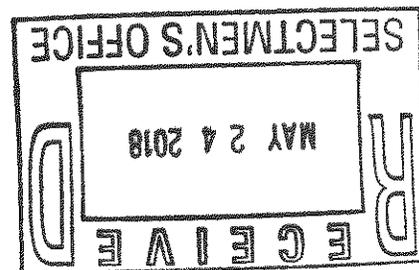
Date: 5/19/18

PUBLIC HEARING NOTICE

You are hereby notified that a hearing will be held in the Small Conference Room, Falmouth Town Hall at 2:00 p.m. on Thursday, June 14, 2018 upon the petition of NSTAR Electric Company d/b/a Eversource Energy to install one 4" conduit on English Street, east of Maravista Avenue Ext., Falmouth.

Per Order of the Falmouth Board of Selectmen

*Publication Date: Friday, June 1, 2018, Falmouth Enterprise
Account #: 2056*



May 22, 2018

Town of Falmouth
Board of Selectmen
59 Town Hall Square
Falmouth, MA 02540

Dear Board Members:

Enclosed is a petition for **1** proposed conduit location(s) on **English Street, Falmouth**, Massachusetts.

This proposed location(s) is required to accommodate underground service at 51 English Street. This petition will require a notice to abutters and a hearing.

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

Very truly yours,

Donna Rosa

Donna Rosa
Right-of-Way
Representative
508-441-5177

DR:dh
Enclosures

**FORM OF ORDER FOR
UNDERGROUND CABLE AND CONDUIT LOCATIONS**

IN BOARD OF SELECTMEN FOR THE TOWN OF Falmouth, Massachusetts:

ORDERED:

Notice having been given and a public hearing held, as provided by law, 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 or 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 19 day of MAY, 2018.

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. **2269934**, Dated **MAY 19, 2018**, filed with said petition. The following are public ways or parts of ways under, along and across which the cables above referred to may be installed under this order:-

**ENGLISH STREET, East of Maravista Avenue Ext
WO# 2269934**

4" Conduit

I hereby certify that the foregoing order was adopted at a meeting of the Board of Selectmen of the Town of **Falmouth**, Massachusetts held on the _____ day of _____, 2018.

Clerk of Selectmen.

Massachusetts _____, 2018.
Received and entered in the records of location orders of the Town of _____
Book _____ Page _____.

Attest:

Town Clerk

(over)

We hereby certify that on _____ 2018, at _____ o'clock, _____ M., at _____ a public hearing was held on the petition of the NSTAR ELECTRIC COMPANY (d/b/a Eversource Energy) for permission to install and maintain underground cables, conduits, manholes and fixtures and 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.

.....
.....
.....
.....
.....

.....
Selectmen of the Town of **Falmouth**
Massachusetts

CERTIFICATE

I hereby certify that the foregoing is a true copy of a joint location order and certificate of hearing with notice adopted by the Board of Selectmen of the Town of **Falmouth**, Massachusetts, on the _____ day of _____, 2018, 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:

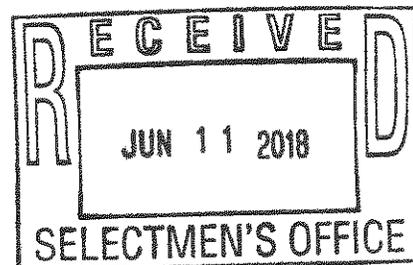
Town Clerk.



Town
50 Duchaine Blvd.
New Bedford, MA 02745

April 30, 2018

Town of Falmouth
Board of Selectmen
59 Town Hall Square
Falmouth, MA 02540



Dear Board Members:

Enclosed is a petition for 1 proposed joint pole location(s) and the removal of 1 existing joint pole location(s) on **Main Street** in **FALMOUTH**, Massachusetts.

This proposed relocation(s) is required to relocate riser pole. This petition will not require a notice to abutters and a hearing.

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

Very truly yours,

Donna Rosa
Right-of-Way
Representative
508-441-5177

DR: dh
Enclosures

PETITION FOR JOINT POLE RELOCATIONS

New Bedford, Massachusetts

APRIL 27, 2018

To the Board of Selectmen of **FALMOUTH**, Massachusetts

NSTAR ELECTRIC COMPANY (d/b/a Eversource Energy) and
VERIZON NEW ENGLAND, INC.

request permission to relocate poles, wires, cables and fixture, including the necessary sustaining and protecting fixtures, along and across the following public way or ways:-

MAIN STREET, West of Scranton Avenue

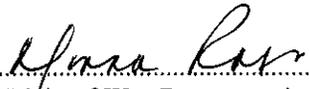
**One (1) Pole #25/54
One (1) Pole #25/54
to be removed**

Wherefore they ask that they be granted a joint relocation for and permission to erect and maintain poles, wires, and cables, together with such sustaining and protecting fixtures as they may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked Plan No. **2259105** dated, **APRIL 27, 2018**

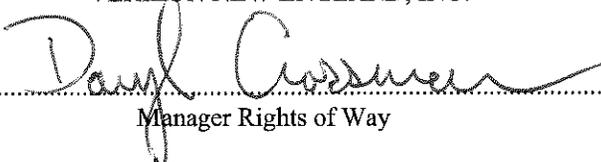
Also for permission to lay and maintain underground cables, conduits, wires, and necessary equipment in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each may desire for distributing purposes.

Your petitioners agree to reserve space for one crossarms at a suitable point on each of said poles for the fire, police, telephone and telegraph signal wires belonging to the municipality and used by it exclusively for municipal purposes.

NSTAR ELECTRIC COMPANY (d/b/a Eversource Energy)

By.....
Right-of-Way Representative

VERIZON NEW ENGLAND, INC.

By.....
Manager Rights of Way

ORDER FOR JOINT POLE RELOCATION

In Board of Selectmen of the Town of **FALMOUTH**, Massachusetts.

ORDERED: That the **NSTAR ELECTRIC COMPANY** (d/b/a Eversource Energy) and **VERIZON NEW ENGLAND, INC.**

be and they are hereby granted a joint relocation for and permission to erect and maintain poles and their respective wires and cables to be placed thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Companies dated the **27** day of **APRIL, 2018**.

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

Poles shall be of sound timber, and reasonably straight, and shall be set substantially at the points indicated upon the plan marked-Plan No. **2259105**, Dated **APRIL 27, 2018** filed with said petition. There may be attached to said poles by said **NEW ENGLAND TELEPHONE** and **TELEGRAPH COMPANY** not to exceed **40** wires and **4** cables and by said **NSTAR ELECTRIC COMPANY** (d/b/a Eversource Energy) necessary wires, cables, and fixtures

and all of said wires and cables shall be placed at a height of not less than **18** feet from the ground at highway crossings, and not less than **16** feet elsewhere.

The following are the public ways or parts of ways along which the poles above referred to may be erected, and the number of poles which may be erected thereon under this order:-

MAIN STREET, West of Scranton Avenue

**One (1) Pole #25/54
One (1) Pole #25/54
to be removed**

Also that permission be and hereby is granted to each of said Companies to lay and maintain underground cables, conduits, wires, and necessary equipment in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each may desire for distributing purposes.

I hereby certify that the foregoing order was adopted at a meeting of the Board of Selectmen of the Town of **FALMOUTH**, Massachusetts, held on the _____ day of _____, 2018.

Clerk of Selectmen

CERTIFICATE

I hereby certify that the foregoing is a true copy of a joint relocation order adopted by the Board of Selectmen of the Town of **FALMOUTH**, Massachusetts on the _____ day of _____ 2018, and recorded with the records of location orders of said Town, Book _____ Page _____.

This certified 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 relocate riser pole #25/54 for Main Street.

PARCEL ID: 45B 03 002 002
0 MAIN STREET
JOHN WESLEY METHODIST
CHURCH INC

PARCEL ID: 39 21 001 000
744 MAIN STREET
FALMOUTH, TOWN OF

APPROX. R.O.W.

● 25/53 (JO-ES)
SIDEWALK
EDGE OF ROAD

● 25/54 (JO-ES)
NEW 25/54 (JO-ES)
15'

MAIN ST

EDGE OF ROAD

SIDEWALK

APPROX. R.O.W.

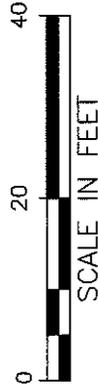
PARCEL ID: 47B 05 002 002C
729 MAIN STREET
FERREIRA, MARK S.
FERREIRA III, JOHN F.

PARCEL ID: 47B 05 001 007C
743 MAIN STREET
RJR DEVELOPMENT LLC

SCRANTON AVE

LEGEND

- Proposed Pole
- Existing Pole
- Pole with Riser



BY YOUR USE OF THE INFORMATION CONTAINED IN THIS MAP YOU AGREE THAT NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, IS GIVEN WITH RESPECT TO THE INFORMATION. NEITHER NSTAR ELECTRIC COMPANY, NSTAR GAS COMPANY NOR ITS PARTNERS, AFFILIATES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES OR AGENTS (COLLECTIVELY THE "NSTAR ENTITIES") SHALL BE LIABLE FOR ANY LOSS OR INJURY CAUSED IN WHOLE OR IN PART BY USE OF THIS INFORMATION OR IN RELIANCE UPON IT. TO THE MAXIMUM EXTENT ALLOWED BY LAW, THE NSTAR ENTITIES SHALL BE RESPONSIBLE TO THE MAXIMUM TO RELEASE, REDEMPT AND HOLD THE NSTAR ENTITIES HARMLESS FROM ANY SUCH LOSS OR INJURY. THE INFORMATION MAY NOT REPRESENT A SURVEY, MAY NOT BE THE MOST COMPLETE AND IS SUBJECT TO CHANGE WITHOUT NOTICE. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE INFORMATION, EITHER EXPRESSED OR IMPLIED. UNAUTHORIZED ATTEMPTS TO MODIFY THE INFORMATION OR USE THE INFORMATION FOR OTHER THAN ITS INTENDED PURPOSES ARE PROHIBITED.

MASS. LAW

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

Plan #	2259105
Ward #	
Work Order #	2259105
Surveyed by:	N/A
Research by:	PG
Plotted by:	PG
Proposed Structures:	TL
Approved:	A DEBENEDICTIS
Scale	1"=20'
Date	APRIL 27, 2018
P#	1 of 1

NSTAR EVERSOURCE
Electric
1165 MASSACHUSETTS AVE. DORCHESTER, MASS. 02125

Plan of MAIN STREET

FALMOUTH

Showing PROPOSED POLE RELOCATION

Diane Davidson

From: Peter Johnson-Staub <peter.jstaub@falmouthmass.us>
Sent: Friday, June 08, 2018 11:08 AM
To: 'Diane Davidson'; Julian Suso
Subject: FW: Andrews Farm CR for BOS agenda 6/18/18
Attachments: RE: TIME SENSITIVE Falmouth CR #85 Ref #16399 updated for final state re... (7.02 MB)

Please include the below message from Pat in the Selectmen packet. For the agenda itself, I would suggest we list under Summary Actions:

“Vote to ratify minor changes to Andrews Farm Conservation Restriction”

Peter Johnson-Staub
Assistant Town Manager
Town of Falmouth, MA
P: 508-495-7320

<http://www.falmouthmass.us>

Kindly Remember that under MA General Laws most email correspondence is deemed a public record.

From: pharris [mailto:pharris@falmouthmass.us]
Sent: Friday, June 8, 2018 9:00 AM
To: 'Peter Johnson-Staub' <peter.jstaub@falmouthmass.us>
Cc: 'Frank Duffy' <fduffy@falmouthmass.us>; 'jwhritenour 300committee.org' <jwhritenour@300committee.org>
Subject: RE: Andrews Farm CR

Proposed Agenda item:

Vote to ratify minor changes to Andrews Farm Conservation Restriction imposed by EEA after the Board's May 21, 2018 approval.

Explanation:

On May 4, 2018, the Conservation Restriction Reviewer at Massachusetts Executive Office of Environmental Affairs (EEA) wrote to T3C and the Town stating that the Andrews Farm CR had been approved subject to his final edits. Copy of email attached. The Reviewer was informed that the requested edits were acceptable and that the “final” CR would be presented to the Conservation Commission and the Board of Selectmen for approval and execution at their next regularly scheduled meetings, and upon execution forwarded immediately to EEA for execution by the Secretary. The CR Reviewer was informed that “time was of the essence” to obtain all necessary signatures because the Town is required to record and submit the recorded CR to the State prior to the end of the fiscal year (preferably by June 15) in order to receive \$400,000 in LAND Grant reimbursement funds for acquisition of the Andrews Farm. The Conservation Commission approved and executed the CR on May 16; the Board of Selectmen approved and executed the CR on May 21st. T3C sent the executed CR to EEA on May 22 by overnight mail requesting that the Secretary's signature be obtained as soon as possible and returned in the enclosed overnight envelope. T3C emphasized (once again) that the Town needed the fully executed CR as soon as possible to comply with the LAND Grant Reimbursement Request deadline. It was T3C's understanding that the fully executed CR would be returned on or before June 1st.

On June 4, 2018, the CR Reviewer informed T3C that they required additional edits to the CR. Although, the edits are minor and intended to merely clarify certain matters, such changes to a document previously approved by the Commission and Board require their ratification. Specifically, the changes include:

- Defining the "Special Events" authorized at the farm;
- Substituting certain references to documentation included in the Baseline Documentation Report to documentation included in the Land Management Plan;
- Requiring that any fuel storage tank "be above ground";
- Correcting a cross reference to subparagraph I.B.5 to subparagraph I.B.8;
- Editing a mathematical inconsistency in Paragraph II.A.2 and footnote 1 to provide that T3C's \$450,000 contribution toward the \$1,700,000 purchase price is 26.5%; and
- Deleting a duplicated statement.

The CR Reviewer has informed T3C and the Town that the CR will not be submitted to the Secretary for his signature unless and until the Conservation Commission and the Board of Selectmen ratify the referenced changes.

Patricia A. Harris
Associate Town Counsel
157 Locust Street
Falmouth, MA 02540
Tele: (508)548-8800
Fax: (508) 540-0881

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From: Peter Johnson-Staub [<mailto:peter.jstaub@falmouthmass.us>]
Sent: Thursday, June 07, 2018 10:32 AM
To: 'pharris' <pharris@falmouthmass.us>
Cc: 'Julian Suso' <jsuso@falmouthmass.us>; 'Diane Davidson' <ddavidson@falmouthmass.us>
Subject: RE: Andrews Farm CR

Pat,

I think you said we need an affirming vote from the Selectmen on June 18th to address two changes required by the state. When you have a chance, please send us the recommended agenda wording and – when you have them – the revised docs.

Thanks,
Peter

Peter Johnson-Staub
Assistant Town Manager
Town of Falmouth, MA
P: 508-495-7320

GRANTOR: TOWN OF FALMOUTH CONSERVATION COMMISSION
GRANTEE: THE 300 COMMITTEE LAND TRUST, INC.
ADDRESS: 398 Old Meetinghouse Road, and 0 Berry Patch Lane, Falmouth MA
GRANTOR'S TITLE: Barnstable County Deeds Book 31095, Page 237; Book 31095, Page 185; and Book 31095, Page 211
PLAN OF RECORD: Barnstable County Deeds Plan Book 674, Page 26

CONSERVATION RESTRICTION

THE TOWN OF FALMOUTH, a Massachusetts municipal corporation, with an address of 59 Town Hall Square, Falmouth MA 02540, acting by and through its **Conservation Commission**, under Section 8C of Chapter 40 of the Massachusetts General Laws, its successors and permitted assigns, ("Grantor"), acting pursuant to Sections 31-33 of Chapter 184 of the Massachusetts General Laws, for and in consideration of Four Hundred Fifty Thousand Dollars and 00/100 (\$450,000.00), receipt of which is hereby acknowledged, with QUITCLAIM COVENANTS, grants to **THE 300 COMMITTEE LAND TRUST, INC.**, a Massachusetts charitable corporation with an address of 157 Locust Street, Falmouth MA 02540, its successors and assigns holding record title in the Premises as hereinafter defined, ("Grantee"), IN PERPETUITY and exclusively for conservation, agriculture, and passive recreation purposes, the following described CONSERVATION RESTRICTION ("Conservation Restriction"), on 34.48 acres, more or less, located at 398 Old Meetinghouse Road and 0 Berry Patch Lane in the Town of Falmouth, County of Barnstable, Commonwealth of Massachusetts, said parcels being described in *Exhibit A* and shown on *Exhibit B*, both of which are attached hereto, said parcels hereinafter referred to as the "Premises." Grantor and Grantee, their successors and assigns, are bound by and subject to the terms and conditions of this Conservation Restriction. For Grantor's title, see deed and easements recorded in the Barnstable County Registry of Deeds in Book 31095, Page 237; Book 31095, Page 185; and Book 31095, Page 211.

Purpose. This Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the Massachusetts General Laws and otherwise by law, and is subject to Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts. Its purpose is to assure that the Premises will be dedicated to and maintained for conservation and agricultural purposes and retained in perpetuity in its scenic, natural and open condition; to prevent any use of the Premises that will materially impair or interfere with the conservation, agricultural and passive outdoor recreation values of the Premises; and to ensure that appropriate public access for passive recreation is permanently available. The conservation of the Premises will yield a significant public benefit because the Premises' protection will advance the following policies and objectives:

WHEREAS, the Town of Falmouth, at a duly called Town Meeting held on November 7, 2017, acting on Article 28 of the Warrant, voted to purchase the Premises, to be held by the Conservation Commission of the Town of Falmouth for conservation, agriculture and passive recreation purposes, and further authorized the Board of Selectmen to purchase the Premises utilizing funds collected through the so-called "*Community Preservation Act*" pursuant to Chapter 149, §298 of the Acts of 2004, as amended by Chapter 352, §§129-133 of the Acts of 2004 (the so-called Barnstable County Community Preservation Act) and M.G. L. Chapter 44B, § 1-17 of the Massachusetts General Laws, and convey a perpetual Conservation Restriction over the Premises, an attested copy of which vote is attached hereto as Exhibit C; and

WHEREAS, the Massachusetts Executive Office of Energy and Environmental Affairs ("EOEEA") Division of Conservation Services' Local Acquisitions for Natural Diversity ("LAND") Program has contracted with the Grantor, as evidenced by the LAND Project Agreement dated January 22, 2018, by and between the Commonwealth of Massachusetts and Grantor, with Barnstable County Registry of Deeds in Book31095, Page 247, attached hereto as Exhibit D (the "Project Agreement"); and,

WHEREAS, the Commonwealth of Massachusetts adopted Chapter 277 of the Acts of 2010 to create a Massachusetts Food Policy Council to develop recommendations to advance *inter alia* the following food system goals for the Commonwealth: (A) increased production, sales and consumption of Massachusetts-grown foods;... (C) the protection of the land and water resources required for sustained local food production; and (D) the training, retention and recruitment of farmers and providing for the continued economic viability of local food production, processing and distribution in the Commonwealth; and,

WHEREAS, in July 1991 the Barnstable 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 and 2009, which provided, *inter alia* (references are to the 2009 Plan, most recent update as of June 2016):

- 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, page 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, page 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, page 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 HPC-C1, page 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);
- Open Space and Recreation Goals to “preserve and enhance the availability of open space that provides wildlife habitat and recreational opportunities, and protects the region’s natural resources and character” (OS1); and to “preserve and enhance opportunities for passive and active recreation to meet the needs of both residents and visitors” (OS2);
- Businesses such as high technology, clean, light manufacturing, and resource-based industries (e.g., shellfishing, ecotourism, farming) can foster economic development that is dependent upon the preservation of open space and protection of natural resources, (p. 18);
- Beaches, farms, and woodlands contribute directly to key industries on Cape Cod, attracting tourists, providing areas for farming, cranberry growing, hunting, fishing, and swimming, (p. 66);
- 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); and,

WHEREAS, the Town of Falmouth developed a *Comprehensive Open Space and Recreation Plan* (2009, updated 2014), which identifies the town’s natural resource needs and established goals and policies, including:

- To acquire 30% of Falmouth’s total land area as high quality, permanently protected open space;
- To increase the number and type of passive and active recreational opportunities that may be pursued by Falmouth residents and visitors. The 300 Committee’s land stewards and the Conservation Commission are instrumental in ensuring the long term health of the town’s open space;
- Increase public access to the greatest extent possible (including parking);
- To provide walking, biking, hiking, ski and snowshoe paths for year-round use; and,
- To preserve specific parcels within General Areas Identified for Future Protection; and,

WHEREAS, the Town of Falmouth adopted a *Conservation Restriction Policy*, consisting of policies and guidelines approved by the Board of Selectmen, Assessors and Conservation Commission, in 1991 and 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, outdoor recreation and education of the public;” and,

- to ensure that land remains available for farming
- to permanently protect open space
- to prevent filling of a floodplain or disturbance of wetlands

TONY ANDREWS FARM CONSERVATION RESTRICTION
Falmouth, MA

- to preserve and protect a trail, shoreline, or beach
- to prevent the cutting of trees or forests
- to limit or prevent construction on land of natural resource value
- to add to existing restricted land which is contiguous to the land proposed to be restricted

WHEREAS, the Town of Falmouth developed a *Local Comprehensive Plan* (2005) which established goals, including:

- To protect the things about Falmouth to be treasured and kept, such as our natural resources and heritage...and our remaining farmlands are critical to our community's resiliency and open space network (p.1 and 3)
- To preserve and enhance the availability of open space in Falmouth in order to provide wildlife habitat, recreation opportunities, and protect and conserve the natural resources, scenery and character of Falmouth. (p. 114);
- To preserve and enhance opportunities for passive and active recreation in the natural environment to meet the needs of both residents and visitors. (p. 115); and,

WHEREAS, preservation and habitat restoration of the Premises satisfies each of these objectives enumerated above because:

- The Premises contains a variety of habitats, including woodlands and open fields;
- The Premises contains the most important working farm in Falmouth and presently is intended for continued agricultural use enjoyed by the public in support of the goals of the Massachusetts Food Policy Council;
- The Premises abuts the 7-acre Bartolomei Town Conservation Area and will extend the breadth and mix of upland and wetland habitats offered there;
- The northern third of the Premises protects prime agricultural soils, including sandy loam;
- This Conservation Restriction provides for appropriate passive public outdoor recreation opportunities compatible with the agricultural use of the Premises; and,
- The Premises is a large unprotected property located within the Town's General Areas Identified for Future Protection; and,

WHEREAS, accordingly, the Premises possess significant open, undeveloped, natural, and scenic values (collectively, "conservation values") of great importance to the people of the Town of Falmouth and the Commonwealth of Massachusetts; and,

WHEREAS, the Grantee is a publicly-supported, tax-exempt, non-profit organization whose primary purpose is to acquire, preserve and conserve natural areas in the Town of Falmouth; and,

WHEREAS, the Grantor intends, as owner of the Premises, to convey to the Grantee the right to preserve and protect the conservation, agriculture and passive recreation values of the Premises in an open setting in perpetuity; and,

WHEREAS, the Grantor and the Grantee share the common goal of preserving and protecting and developing natural resources, while promoting passive recreation and enjoyment of the conservation values of open space by the public.

WHEREAS, this Conservation Restriction incorporates by reference a Land Management Plan, as approved by the Massachusetts Division of Conservation Services in 2018 as required under the terms of the so-called LAND reimbursement grant, and said Land Management Plan envisions a series of Farm Plans from time to time that are not inconsistent with both the purposes and terms of the Conservation Restriction and framework of the Land Management Plan, said Land Management Plan and Farm Plans may be amended as needed with the mutual consent of the Grantor and Grantee, and said Land Management Plan provides that the Grantor, acting through its Board of Selectmen, may decide to temporarily or permanently not pursue agricultural uses at the Premises, but may instead use the Premises for conservation and passive recreation;

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, the Grantor and the Grantee voluntarily agree that the CONSERVATION RESTRICTION described herein is an appropriate means to achieve the community's open space goals and objectives and to protect and enhance natural, farming and scenic values of Cape Cod, while promoting passive recreation and enjoyment of the conservation and agricultural values of the Premises by the public.

I. PROHIBITED ACTS AND USES AND RESERVED RIGHTS

A. Prohibited Acts and Uses. Subject to the exceptions set forth herein, the Grantor will not perform or allow others to perform the following acts or uses, which are prohibited on, above or below the Premises:

1. Construction or placing of any temporary or permanent building, including but not limited to any dwelling unit or habitable living space, tennis court, landing strip or helipad, mobile home, boats, swimming pool, parking area, fence, shed or storage box, utilities, fuel storage tank, asphalt or concrete pavement, antenna, satellite receiving dish, tower, windmill, ground-mounted solar array, sewage or septic disposal system, or other temporary or permanent structure or facility, or improvements of any kind, on, under, or above the Premises;
2. Construction of any roads or driveways through or on the Premises, or the clearing of vegetation, or the addition, removal or movement of soil for such purpose;
3. Mining, excavating, or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit or otherwise making topographical changes to the Premises;
4. Placing, filling, storing or dumping on the Premises of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, wood chips, tree and other vegetation cuttings, waste or other substance or material whatsoever; or the installation of underground storage tanks;
5. Any residential or industrial use or more than *de minimis* commercial recreation, and any municipal use other than conservation, agriculture and passive recreation;

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6. Cutting, removing or otherwise destroying trees, grasses or other vegetation; creation of a cultivated lawn or formal or cultivated gardens; application or use of fertilizers or pesticides unrelated to permitted agricultural use or management activities;
7. Activities detrimental to drainage, flood control, water or soil conservation, erosion control, or the quality of surface or ground water, or archaeological conservation;
8. The use, parking or storage of vehicles, including motorcycles, motorized trail bikes, all-terrain vehicles, snowmobiles, or any motorized vehicle, except for (a) emergency police and fire or other vehicles necessary in pursuit of official duties, and (b) motorized wheelchairs or scooters used by physically challenged parties, and (c) vehicles useful for permitted agricultural uses, allowed types of public access and occasional events, only as permitted in the Land Management Plan;
9. Conveyance of a part or portion of the Premises alone, or division or subdivision of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted);
10. Any other use of the Premises or activity thereon which is inconsistent with the purposes of this Conservation Restriction or which would materially impair other scenic, open space, natural, agricultural, and passive outdoor recreation values unless necessary in an emergency for the protection of the values that are the subject of this Conservation Restriction; and,
11. All development rights in the Premises are terminated and extinguished by this Conservation Restriction, and the Premises may not be used for the purpose of calculating the amount of Grantor's or any other land available for subdivision or calculating the building requirements on other land owned by the Grantor or any other person.

B. Reserved Rights and Exceptions. The Grantor reserves the right to conduct or permit the following activities and uses on the Premises, but only if such uses and activities do not materially impair the conservation, passive outdoor recreation, and agricultural values or purposes of this Conservation Restriction. Grantor and Grantee agree that it is intended that the majority (equal to or greater than half of 34.48 acres) of the Premises be initially devoted to continued agricultural use, but that the Grantor, acting through its Board of Selectmen, may decide to temporarily or permanently not pursue agricultural uses at the Premises, but may instead use the Premises for conservation and passive recreation.

Permits. The exercise of any right reserved by Grantor under this Paragraph B shall be in compliance with zoning and all other applicable federal, state and local laws, rules, regulations, and permits. The inclusion of any reserved right requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit should be issued.

1. *Farming:* The right to continue, and to undertake new, farming and agricultural uses and activities in accordance with an approved Farm Plan described below, including

those uses allowed in Agricultural Districts as listed in the Town of Falmouth Zoning By-law and which support the goals of the Massachusetts Food Policy Council. The right by the Grantor to conduct said farm uses itself or to lease all or part of the Premises to a third party to conduct said farm uses; said lease shall incorporate the terms of this Conservation Restriction and be limited by its prohibitions and benefitted by its reserved rights. Such uses and activities include, but are not limited to:

- a. the production of plant and animal products for domestic or commercial purposes, including floriculture, horticulture, orchardry, raising of livestock and poultry, the processing and sale of farm products predominantly grown, produced or raised on the Premises and the sale of related products;
- b. the use, improvement, maintenance, or reconstruction of the existing commercial farm stand and existing buildings as documented in the Baseline Documentation Report;
- c. the use of motorized vehicles such as tractors, rototillers, vehicles necessary in haying operations, crop-harvesting vehicles, and other motorized vehicles provided that the use of non-motorized equipment is impractical or impossible, and further provided that the use of any such motorized equipment is only for the purposes of agricultural activities undertaken on the Premises and that any motorized vehicles permitted herein are not stored or kept on Prime Farmland soils;
- d. the use of non-motorized equipment necessary in the growing, production, raising, keeping, storing, processing, marketing, and selling of crops, livestock, and livestock products;
- e. the installation, use, maintenance, repair, removal, replacement, or relocation of underground wells, and associated underground irrigation supply conduits and above ground spigots provided such well, conduits, and spigots specifically are used and maintained to serve only the Premises, subject to the receipt of any required approvals for groundwater withdrawal, above regulatory thresholds;
- f. in connection with any agricultural activity on the Premises, the storage and use of fuel, fertilizers, herbicides, pesticides, fungicides and natural controls are permitted, provided such uses are in compliance with all applicable local, state and federal statutes and regulations, and only to the extent that any such use does not have a demonstrable detrimental effect on the conservation values of the Premises. Grantor shall use Best Management practices; notwithstanding the foregoing, Grantor shall have the right to use herbicides to control or eradicate invasive species, and to use fungicides and insecticides on trees grown for sale in a limited manner to prevent impairment to the conservation values of this Conservation Restriction.. The total amount of fuel storage capacity permitted on the Premises shall be no greater than two

hundred fifty (250) gallons, and any fuel storage tank must have spill containment measures that meet all local, state and federal requirements;

- g. 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 in excess of one (1) acre in aggregate over any given consecutive five (5) year period is described in a Land Conversion Plan (hereinafter the "Conversion Plan") that is made part of the Farm Plan (as described below) and the Land Management Plan;
- h. the right to host gatherings for which the Grantor may charge a fee, including the use of tent(s) in connection with such gatherings in accordance with Falmouth's permitting process and with written notification by Grantor to the Grantee at the time of application to the Town provided that any such gatherings are consistent with the purposes of this Conservation Restriction. Parking during any such gatherings shall be limited to areas as ~~decided upon by the Grantor and Grantee in the~~ shown in the Baseline Report and the Land Management Plan provided that vehicles avoid active agricultural areas and Prime Farmland Soils and other significant agricultural soils when soils are water-saturated.
- i. the construction, use, maintenance, repair, relocation, and replacement of minor and temporary structures, without cement, subsurface, or other permanent foundations, only to the extent necessary, effective, or efficient to engage in agricultural activities provided that such structures related to agriculture receive Grantee's written permission as to dimensions, location and specific use;
- j. the installation of a solar array, including ground-mounted array, and/or windmill to serve the direct power needs of the Premises and/or the residences on Old Meetinghouse Road shown on the Plan as Lots A2 and A3 only;
- k. The stockpiling and composting of stumps, trees, and 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 (including scenic purposes) of this Conservation Restriction as determined by Grantee. No such activities shall take place in or within one hundred (100) feet of any pond or wetland. All exercise of this right shall take into account sensitive areas and avoid harm to nesting species during nesting season.
- l. Any agricultural activities shall be done in accordance with a Farm Conservation Plan ("Farm Plan") prepared by the lessee that is consistent with the Purposes and conservation values of this Conservation Restriction, is designed to avoid or minimize adverse impacts on soil and water quality, and

other conservation and scenic values of the Premises, and that is created in consultation with the USDA Natural Resources Conservation Service (NRCS), if such consultation service is available (or appropriate successor agency), approved by the Grantor and Grantee, and updated every ten (10) years or less, or when a new lease is issued. The Farm Plan shall define, at a minimum, any agricultural activities as described above, and additionally:

- i. crops, livestock, and livestock products to be produced on the Premises;
 - ii. location(s) of agricultural activities and temporary structures on the Premises;
 - iii. pest management system, provided that an Integrated Pest Management system is the default option and any use or storage of chemical products as described herein is defined and done only when non-chemical applications are impractical or impossible;
 - iv. compost and manure storage facilities and locations;
 - v. fuel requirements and storage system; and herbicide, pesticide, fungicide, soap, detergent (and other like substances) requirements, management, storage, and disposal system
2. Conservation and passive outdoor recreation uses consistent with Paragraph II.C below; and low-impact environmental and agricultural educational and research activities;
 3. Installation and maintenance of temporary or permanent boundary monuments delineating the Premises; erection and maintenance of small signs identifying Grantor and Grantee, acknowledging funding sources, and identifying prohibited and permitted uses of the Premises, including but not limited to signs relative to hunting, trapping, trespass onto adjoining private property, trail access and the protected conservation values, so long as such signage is consistent with the purposes of this Conservation Restriction;
 4. *Trails.* The marking, clearing and maintenance of existing footpaths as shown in the Land Management Plan. With prior approval of the Grantee and as defined in the Land Management Plan, the construction of new trails or the relocation or alteration of existing trails, provided that any construction, relocation, or alteration results in trails that are no wider than ten (10) feet. Any such maintenance or construction of trails may provide portions of trails for public access in compliance with the Americans with Disability Act;
 5. The construction, use, maintenance, and repair of one (1) unpaved parking area, in the location shown in the Land Management Plan as Parking Area 1 ("customer parking for Farm Stand Sales and Operations") to ~~serve no more than 41 cars and cover no more than 32,100 square feet.~~ Additional parking for Farm Stand and for special events shall be limited to areas as shown in the Baseline Report and decided upon by the Grantor and Grantee in the Land Management Plan provided that

vehicles avoid active agricultural areas and Prime Farmland Soils and other significant agricultural soils when soils are water-saturated.

6. The use of motor vehicles on Berry Patch Lane by the Grantee to reach its adjoining property on Ronnie Road;
7. The installation of composting toilets and/or porta-potties as needed to serve the permitted uses of the Premises;
8. Construction and maintenance of open-faced, sight-pervious fences, such as wooden split-rail, so long as free wildlife passage is not impeded, in connection with the creation and maintenance of foot trails, delineation of existing or future parking areas, and for private property demarcation;
9.
 - i) In conformance with accepted forestry and land management practices, the pruning or cutting of live trees and other vegetation on the Premises as necessary (a) to control or prevent an identified disease, insect infestation or other hazard to the health of the trees, (b) for storm cleanup; (c) for removal of non-native invasive plant species, (d) to control poison ivy and other potentially harmful plant life and other plant life that threatens indigenous species in public areas such as along paths and around the parking area so long as surrounding vegetation is not substantially disturbed, (e) to create and maintain pedestrian trails up to ten (10) feet in width in accordance with Paragraph I(B)(4), above, (f) for safety reasons to prevent injury to persons or damage to property, (g) for access to the Premises, (h) for activities associated with the management and prevention of wild fires, and (i) for approved agricultural uses in accordance with the Land Management Plan and the Farm Plan; the use of pesticides or other best management practices to manage invasive species is allowed provided that the use of pesticides is limited to avoid impairment to the conservation and agricultural values of this Conservation Restriction; and,
 - ii) Contingent upon the preparation of a forestry management plan (hereinafter "Forestry Plan") prepared by a forester licensed through the Massachusetts Department of Conservation and Recreation (DCR) in conformance with the "Directions for the Preparation of the Chapter 61 Forest Management Plans and Forest Stewardship Plans" and such statutes, regulations and directions in effect at the time of the approval of said Forestry Plan, such Forestry Plan to be approved by the Grantee and the DCR and to include provisions designed to minimize soil erosion, conserve surface and groundwater quality, scenic views, wildlife habitat, and to protect the conservation values of this Conservation Restriction, and to be effective for a ten (10) year period, and subject to the on-site supervision of a state-licensed forester, the minimal cutting of timber needed for habitat enhancement projects approved by the Massachusetts Natural Heritage and Endangered Species Program, and the sale of cut timber that results from any such cutting permitted herein with net proceeds dedicated to the stewardship of the Premises;
10. With the prior approval of the Grantee, habitat restoration and creation, and water quality improvement, including planting of native species;

11. Planting native trees and other vegetation including as a vegetative screening buffer to adjoining properties;
12. Active measures such as but not limited to boundary fencing consistent with Paragraph I(B)(5), and a security gate to be used outside of public hours at the entrance to the Premises, in order to prevent dumping and other unauthorized activities;
13. The right to install temporary enclosures and grazing areas for control of invasive vegetation with grazing animals provided that any management of grazing animals complies with Paragraph I(B)(1) and the Farm Plan;
14. With prior approval of the Grantee of a monitoring plan, the installation of wells for monitoring groundwater quality and/quantity;
15. The right to convey the Premises in its entirety; and,
16. It is anticipated that the Grantor, acting through its Board of Selectmen, may use or lease the Premises for continuing agricultural use. In the event that the Grantor, acting through its Board of Selectmen, decides not to pursue agricultural use or issue leases for agricultural use, Grantor in consultation with Grantee shall prepare and deliver, within eighteen (18) months from date of notice from Grantor to Grantee, a conservation plan to restore the Premises to native wildlife habitat(s) with the majority of the Premises to be kept open, by mowing, clearing or burning, as meadow/grassland habitat, a dwindling native habitat type on Cape Cod, or a cover crop that anticipates a possible re-establishment of agricultural uses of the Premises.
 - a. All farm-related structures on the Premises shall be secured for possible future agricultural use with the exception of the farmstand, which may remain open for the sale of produce generated off-site, but no other commercial use shall be allowed; said structures may be removed if no longer needed to support agriculture or if too costly to maintain;
 - b. Grantor shall issue in writing a report on the current status of any lease upon demand of the Grantee;
17. *Best Management Practices.* The exercise of any right reserved by Grantor under this Paragraph B shall follow established, up to date, and regionally-applicable Best Management Practices or similar standards developed by a governmental agency or other entity with known expertise in the area of practice and designed to protect the natural features potentially affected by the action(s).

C. Land Management Plan. The Grantor, acting through its Conservation Commission, will create a Land Management Plan to be approved by the Grantee for the purpose of facilitating agricultural, conservation, and passive recreational uses of the Premises in a manner that is consistent with this Conservation Restriction. The Land Management Plan shall include the Farm Plan (as described above), when available and as applicable, and any Forest Management Plan, as applicable, for the Premises and shall describe other non-agricultural land management

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objectives and operations, including the creation or modification of foot trails, and the restoration and/or creation of habitat, and a parking plan, among other land management matters.

II. ADDITIONAL PROVISIONS

A. Extinguishment.

1. If circumstances arise in the future such as render the purpose of this Conservation Restriction impossible to accomplish, this restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs. If any change in conditions ever gives rise to extinguishment or other release of the 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 II.A.2 below, 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, such as the EOEEA LAND Grant described herein and evidenced by project agreement attached hereto as Exhibit D, and the Community Preservation Act. Grantee shall use its share of the proceeds in a manner consistent with the conservation and agricultural purposes set forth herein.

2. *Proceeds.* Grantor and Grantee agree that this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is equal to 22.5 percent of the Premises' total value. For the purposes of this paragraph, the ratio of the value of this Conservation Restriction to that value of the Premises unencumbered by this Restriction shall remain constant¹.

3. *Grantor/Grantee 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 II.A.2 above, after complying with the terms of any law, gift, grant, or funding requirements. 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 the proceeds like a continuing trust in a manner consistent with the conservation purposes of this grant.

The purchase of the Premises by Grantor was funded, in part, with a reimbursement of \$400,000 from the Commonwealth of Massachusetts' LAND Program, and, in part, with Community Preservation Funds in the amount of \$800,000. Grantee's proceeds from disposal of the property under this Paragraph II.A shall be distributed in accordance with the LAND Project Agreement in attached Exhibit D, and in accordance with Mass. Gen. Laws. Ch. 44B, § 7 into the Community Preservation Fund for use for conservation and/or passive recreational use, or if the Grantee no longer participates in the Barnstable County Community Preservation Act or said Act no longer exists, in a fund used for similar purposes.

¹ (The Grantee contributed \$450,000 towards the purchase price of the Premises by the Grantor, which amount is 26.5 percent of the total purchase price paid by the Grantor for the Premises of \$1,700,000.)

Any remaining balance of said proceeds shall be deposited into the Grantee's open space account of the Community Preservation Fund for purchase of interests in land for conservation purposes in accordance with the Community Preservation Act (Section 298 of Chapter 149 of the Acts of 2004), after the terms of any gift, grant, or funding requirements are complied with. Should the Grantee's Community Preservation Fund no longer exist for any reason, the funds shall be applied to the acquisition of additional interests in land for conservation or passive outdoor recreation purposes.

B. Notice and Approval. Whenever notice to or approval by Grantee is required, Grantor shall notify Grantee, by a method requiring proof or receipt, in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and 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 of this Conservation Restriction. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within 60 days of receipt of Grantor's request. Grantee's approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not materially impair the purposes of this Conservation Restriction.

Failure of Grantee to respond in writing within 60 days shall be deemed to constitute approval by Grantee of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after 60 days in the notice, the requested activity is not prohibited herein, and the activity will not materially impair the conservation values or purposes of this Conservation Restriction.

C. Access. The Grantor hereby grants the following rights of access to the Premises:

1. *To the Public:* to the public generally for non-motorized passive outdoor recreation purposes such as walking and nature study, running, jogging, and cross-country skiing, bird watching, hiking, wildlife observation, nature study, photography, fishing, sketching and painting, and other similar activities which do not conflict with agricultural uses and as permitted by law and regulation and by the Land Management Plan, subject to Grantor's reasonable rules and this Conservation Restriction. Visitors may be ejected at any time by the Grantor for loud activities, or for failure to abide by the rules and regulations. Except as specifically permitted herein, non-pedestrian motorized access is not permitted.
2. *To the Grantee:* The Grantee and its representatives are granted the right to enter the Premises (a) after reasonable notification, at reasonable times and in a reasonable manner, for the purpose of inspecting the same to determine compliance with the provisions of this Conservation Restriction; and (b) to take any and all actions with respect to the Premises at the then fee owner's cost as may be necessary or appropriate, with or without order of court, to remedy, abate or enforce any violation hereof. Notwithstanding any public use of the Premises as permitted herein, neither the Grantor nor the Grantee assumes any obligation to maintain the Premises for

public passive outdoor recreational use. Grantor and Grantee claim all the rights and immunities against liability for injury to the public to the fullest extent of the law.

D. Legal Remedies of the Grantee

1. *Legal and Injunctive Relief.* The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to their condition prior to the time of the injury complained of (it being agreed that the Grantee will have no adequate remedy at law). 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. Grantee agrees to cooperate for a reasonable period of time prior to resorting to legal means in resolving issues concerning violations provided Grantor ceases objectionable actions and Grantee determines there is no ongoing diminution of the conservation values of the Conservation Restriction.

Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including reasonable counsel fees) incurred in enforcing this Conservation Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof, provided that a violation of this Conservation Restriction is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey and to have the boundaries permanently marked.

2. *Non-Waiver.* Enforcement of the terms of this Conservation Restriction shall be at the discretion of Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

3. *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.

4. *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 causes beyond the Grantor's control, including but not limited to fire, flood, storm 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.

E. Duration and Assignability.

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1. *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.

2. *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 herself and her successors and assigns, appoint the Grantee their attorney-in-fact to execute, acknowledge and deliver any such instruments on her behalf. Without limiting the foregoing, the Grantor and her successors and assigns agree themselves to execute any such instruments upon request.

3. *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 in the following instances:

As a condition of any assignment, the Grantee shall require that the purpose of this Conservation Restriction continues to be carried out; that the Assignee is not an owner of the fee in the Premises, and the Assignee, at the time of the assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and is a donee eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts. Any assignment will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

F. Subsequent Transfers. 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 execution of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

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.

G. Termination of Rights and Obligations. Notwithstanding anything to the contrary contained herein, the rights and obligations under this Conservation Restriction of any party holding an interest in the Premises terminate upon transfer of that party's interest, except that liability for acts or omissions occurring prior to the transfer, and liability for the transfer itself if the transfer is a violation of this Conservation Restriction, shall survive the transfer. Any new owner shall cooperate in the removal of violations occurring prior to and still existing after the transfer, and may be held responsible for any continuing violations.

H. 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.

I. Amendment. If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Sections 31-33 of Chapter 184 of the General Laws of Massachusetts and Section 298 of Chapter 149 of the Acts of 2004. Any amendments to this conservation restriction shall occur only in exceptional circumstances. The Grantee will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net gain in conservation value. All expenses of all parties in considering and/or implementing an amendment shall be borne by the persons or entity seeking the amendment. Any amendment shall be consistent with the purposes of this Conservation Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and if applicable, shall comply with the provisions of Article 97 of the Amendments to the Massachusetts Constitution, and any gifts, grants or funding requirements, including the so-called LAND grant from the Executive Office of Energy and Environmental Affairs. Any amendment shall be recorded in the Barnstable Registry of Deeds.

J. 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 to a non-fee owner that is qualified under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts in order to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

K. 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: Town of Falmouth Conservation Commission, 59 Town Hall Square,
Falmouth, MA 02540

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.

L. Miscellaneous Provisions.

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

2. *Construction.* Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to effect the purposes of this Conservation Restriction and the policies and purposes of Mass. Gen. Laws Chapter 184, Sections 31-33 and the Grantee. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.
3. *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 provision of this Conservation Restriction shall not be affected thereby.
4. *Entire Agreement.* This obligation sets forth the entire agreement of the parties with respect to the Conservation Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein.
5. *Joint Obligation.* The obligations imposed by this Conservation Restriction upon the parties that together comprise "Grantor" shall be joint and several.
6. *Captions.* The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
7. *Pre-existing Public Rights.* Approval of this Conservation Restriction pursuant to M.G.L. Chapter 184, Section 32 by any municipal officials and by the Secretary of Energy and Environmental Affairs 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.
8. No Massachusetts deed excise tax stamps are required as a municipality is a party to this Conservation Restriction.
9. *Subordination.* The Grantor shall record at the appropriate 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.
10. *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 General Laws have been obtained, and it has been recorded in a timely manner in the Barnstable Registry of Deeds.

*TONY ANDREWS FARM CONSERVATION RESTRICTION
Falmouth, MA*

M. Attachments. Attached hereto and incorporated herein by reference are the following:

Signature pages:

Grantor: Town of Falmouth Conservation Commission
Grantee Acceptance: The 300 Committee Land Trust, Inc.
Approval of the Town of Falmouth Board of Selectmen
Approval of the Secretary of Energy and Environmental Affairs

Exhibits:

Exhibit A: Legal Description
Exhibit B: Reduced Copy of Plan of Record
Exhibit C: Town Meeting Vote November 7, 2017, Article 28
Exhibit D: Copy of Recorded LAND Project Agreement

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

*TONY ANDREWS FARM CONSERVATION RESTRICTION
Falmouth, MA*

Grantor:

We, the undersigned, being a majority of the Conservation Commission of the Town of Falmouth, Massachusetts, hereby certify that at a public meeting duly held on _____ 2018, the Conservation Commission voted to approve and grant the foregoing Conservation Restriction to The 300 Committee Land Trust, Inc. pursuant to M.G.L. Chapter 184 Section 32 and Chapter 40 Section 8(C).

Grantor:

**TOWN OF FALMOUTH
CONSERVATION COMMISSION:**

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this _____ day of _____, 2018, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification which was personal knowledge of identity, to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

TONY ANDREWS FARM CONSERVATION RESTRICTION
Falmouth, MA

At a meeting held on _____ 2018, a quorum being present, a majority of the Board of Directors of The 300 Committee Land Trust, Inc. voted to accept this Conservation Restriction from the Town of Falmouth acting by and through its Conservation Commission on so-called Tony Andrews Farm and do hereby accept the foregoing Conservation Restriction.

Grantee:
The 300 Committee Land Trust, Inc.

Thomas Stone, President
The 300 Committee Land Trust, Inc.

Paula Yanni, Treasurer
The 300 Committee Land Trust, Inc.

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss. _____, 2018

Then personally appeared the above-named Paula Yanni, Treasurer, and Thomas Stone, President, of The 300 Committee Land Trust, Inc., the corporation named in the foregoing instrument, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the persons whose names are signed on the document, and each acknowledged he/she is duly authorized to act on behalf of said corporation, that the seal affixed to said instrument is the corporate seal of said corporation and each further acknowledged the foregoing instrument to be the free act and deed of said corporation, before me.

Notary Public
My commission expires:

APPROVAL and CONVEYANCE OF GRANT

At a public meeting duly held on _____, 2018, the Board of Selectmen of the Town of Falmouth, Massachusetts voted to grant, pursuant to Article #28 of the Town of Falmouth Town Meeting held on November 7, 2017, and M.G.L. Chapter 40 Section 8C, this Conservation Restriction, and also voted to approve, in the public interest, pursuant to Section 32 of Chapter 184 of the Massachusetts General Law the foregoing Conservation Restriction from the Town of Falmouth acting by and through its Conservation Commission to The 300 Committee Land Trust, Inc.

**TOWN OF FALMOUTH
BOARD OF SELECTMEN**

Susan Moran, Selectman (Chr.)

Samuel H. Patterson, Selectman

Megan Braga English, Selectman (Vice Chr.)

Douglas C. Brown, Selectman

Doug Jones, Selectman

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss. _____, 2018

Then personally appeared the above-named Susan Moran, Chairman of the Board of Selectmen, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the document, and acknowledged the foregoing instrument to be his free act and deed, on behalf of said Town of Falmouth Board of Selectmen, before me.

Notary Public
My commission expires:

**APPROVAL BY SECRETARY OF ENERGY & ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of the Executive Office of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction from the Town of Falmouth acting by and through its Conservation Commission to The 300 Committee, Inc. on the so-called Tony Andrews Farm has been approved in the public interest pursuant to M.G.L. Chapter 184, Section 32.

Date: _____, 2018.

Matthew A. Beaton., Secretary
Executive Office of Energy
And Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss. _____, 2018.

Then personally appeared the above-named Matthew A. Beaton, and proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the document, and acknowledged to me that he signed it voluntarily as Secretary of Energy and Environmental Affairs for the Commonwealth of Massachusetts, for its stated purpose.

Notary Public
My commission expires:

EXHIBIT A

DESCRIPTION OF THE PREMISES

The Premises subject to this Conservation Restriction is comprised of two parcels of land and the layout of Berry Patch Lane, so-called, located in the village of East Falmouth, Town of Falmouth, County of Barnstable, Commonwealth of Massachusetts, commonly known as Tony Andrews Farm and more particularly described as follows:

Approximately 34.48 acres, more or less, and being shown as Parcel B and Lot A1 (also shown as Former Parcel "A") and the fee in Berry Patch Lane on a plan entitled, "ANR Plan of Land for The Town of Falmouth 394 & 398 Old Meeting House Road and 0 Berry Patch Lane, East Falmouth, MA, Scale: 1" = 100', Date: September 15, 2017, revised 1/21/2018, Town of Falmouth, Department of Public Works, Engineering Division 416 Gifford Street, Falmouth MA 02540," recorded with Barnstable County Registry of Deeds in Plan Book 674, Page 26.

See Exhibit B attached hereto for a reduced copy of the above-referenced plan.

For Grantor's title, see deed dated February 9, 2018, recorded with Barnstable County Registry of Deeds in Book 31095 Page 237, and Easements dated February 9, 2018 and February 11, 2018, recorded with said Registry in Book 31095, Page 211, and Book 31095, Page 185, respectively.

Street Address: 398 Old Meetinghouse Road and 0 Berry Patch Lane, Falmouth MA

EXHIBIT C

Attested Copy of Town Meeting Vote
Article 28 of November 7, 2017

ARTICLE 28
AND THE VOTE THEREON AT
THE ANNUAL TOWN MEETING
CONVENED IN FALMOUTH, MASSACHUSETTS
November 7, 2017

ARTICLE 28: To see if the Town will vote to authorize the Board of Selectmen, to PURCHASE OR TAKE BY EMINENT DOMAIN, all or a portion of land in Falmouth, Barnstable County, Massachusetts, to be under the care and control of the Falmouth Conservation Commission for conservation, agriculture and passive recreation purposes, and/or a portion thereof under care and control of the Board of Selectmen and held in the town's general inventory, being described as follows:

Parcels A and B shown on a plan entitled "Subdivision of Land of Tony Andrews & Marina F. Andrews in East Falmouth Mass." Dated May 4, 1978 and recorded in Barnstable County Registry of Deeds in Plan Book 329, Pages 9 and 10 (hereafter the "Andrews Plan") and property known as 394 Old Meetinghouse Road consisting of 36.71± acres collectively and commonly referred to as the Tony Andrews Farm together with any improvements thereon, also referred to as Assessors Parcels 21 08 016 000, 21 08 016A 000 and 21 08 016B 000. Also included is the fee interest in Berry Patch Lane subject to certain rights of access and egress to the adjoining property shown as Lots 1 through 6 on the Andrews Plan (the "Property").

And, further, to appropriate a sum of money for the acquisition of the foregoing land, including costs incidental and related thereto, and to authorize the Board of Selectmen or its designee to accept any gifts of property, real, personal or otherwise, in relation to the foregoing acquisition and to enter into any agreements and to execute all documents it deems advantageous on behalf of the Town, for partial or full reimbursements of the cost of acquisition, and to determine how the same shall be raised, including certified free cash, appropriation from the Community Preservation Fund, under the Community Preservation Act, or by borrowing said sum or any part thereof pursuant to Chapter 44, Section 7(3) of the Massachusetts General laws, or any other enabling authority and to issue bonds or notes of the Town therefore.

And, further, that the Board of Selectmen and the Town Manager be authorized to submit, on behalf of the Town, any and all applications deemed necessary under the Self-Help Act, General Laws, Chapter 132A, Section 11 (now, so-called LAND grant), and/or any other sources, including those in aid of conservation, passive recreation or agricultural land acquisition, to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town to effect said purchase, and to receive and accept such grants or reimbursements for this purpose from these sources for the acquisition within the scope of this Article, or take any other actions relative thereto.

And, further, that the Board of Selectmen and Conservation Commission be authorized to grant a conservation restriction over all or a portion of the Property in perpetuity, in accordance with M.G.L. c. 184, §§ 31-33, to The 300 Committee Land Trust, Inc., or similar non-profit organization or governmental entity, dedicated to land conservation purposes, limiting the use of the property to the purposes for which it was acquired, as set forth in G.L. Ch. 44B, § 12(a).

Or do or take any other action on this matter. On request of the Board of Selectmen and the Community Preservation Committee.

*TONY ANDREWS FARM CONSERVATION RESTRICTION
Falmouth, MA*

VOTED: By a declared two thirds majority vote, a quorum being present on Tuesday, November 7, 2017 the Town voted to authorize the Board of Selectmen, to purchase all or a portion of land in Falmouth, Barnstable County, Massachusetts, to be under the care and control of the Falmouth Conservation Commission for conservation, agriculture and passive recreation purposes, and/or a portion thereof under care and control of the Board of Selectmen and held in the town's general inventory, being described as follows:

Parcels A and B shown on a plan entitled "Subdivision of Land of Tony Andrews & Marina F. Andrews in East Falmouth Mass." Dated May 4, 1978 and recorded in Barnstable County Registry of Deeds in Plan Book 329, Pages 9 and 10 (hereafter the "Andrews Plan") and property known as 394 Old Meetinghouse Road consisting of 36.71± acres collectively and commonly referred to as the Tony Andrews Farm together with any improvements thereon, also referred to as Assessors Parcels 21 08 016 000, 21 08 016A 000 and 21 08 016B 000. Also included is the fee interest in Berry Patch Lane subject to certain rights of access and egress to the adjoining property shown as Lots 1 through 6 on the Andrews Plan (the "Property").

And, further, that the Town vote to appropriate the sum of \$1,375,000.00 with \$800,000.00 from the Community Preservation Fund undesignated fund balance and \$575,000.00 from certified free cash for the acquisition of the foregoing land, including costs incidental and related thereto, and to authorize the Board of Selectmen or its designee to accept any gifts of property, real, personal or otherwise, in relation to the foregoing acquisition and to enter into any agreements and to execute all documents it deems advantageous on behalf of the Town, for partial or full reimbursements of the cost of acquisition.

And, further, that the Town vote to authorize the Board of Selectmen and the Town Manager to accept, on behalf of the Town, any and all grants for this purpose, and to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town to effect said purchase, for the acquisition within the scope of this Article, or take any other actions relative thereto.

And, further, that the Town vote to authorize the Board of Selectmen and Conservation Commission to grant a conservation restriction over all or a portion of the Property in perpetuity, in accordance with M.G.L. c. 184, §§ 31-33, to The 300 Committee Land Trust, Inc., or similar non-profit organization or governmental entity, dedicated to land conservation purposes, limiting the use of said property to the purposes for which it was acquired, as set forth in G.L. Ch. 44B, § 12(a).

And further that the Town vote to accept a gift of \$450,000 from The 300 Committee, Inc., for the purpose of this Article.

And further that the Town vote that all said appropriated sums shall be expended under the jurisdiction of the Town Manager and Community Preservation Committee

A TRUE COPY ATTEST

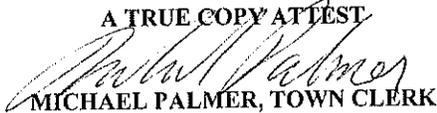

**MICHAEL PALMER, TOWN CLERK
FALMOUTH, MASSACHUSETTS**

EXHIBIT D

Copy of Recorded LAND GRANT PROJECT AGREEMENT

Bk 31095 Pg 247 #8406

02-21-2018 @ 03:34p

Old Meetinghouse Road Falmouth

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
DIVISION OF CONSERVATION SERVICES

Local Acquisitions for Natural Diversity (LAND) PROGRAM

PROJECT AGREEMENT

Made this 2nd day of January, 2018, between the Town of Falmouth, with an address of 59 Town Hall Square, Falmouth, MA 02540, hereinafter referred to as the PARTICIPANT, and the Commonwealth of Massachusetts acting by and through the Secretary of the Executive Office of Energy and Environmental Affairs, hereinafter referred to as the COMMONWEALTH, with an address of 100 Cambridge St., Suite 900, Boston, MA, 02114.

Premises: Approximately 33.5+/- acres of land including any buildings thereon located at Old Meetinghouse Road, in the Town of Falmouth, Barnstable County, Massachusetts. For Participant's Title, see:

Book /Page 31095 pg 237 + Bk 31095 pg 27 or

Land Court Certificate _____

In the ^{Barnstable} County Registry of Deeds / Land Court Registry District

WHEREAS, the PARTICIPANT has established a Conservation Commission under Massachusetts General Laws Chapter 40, § 8C and has made application to the COMMONWEALTH for assistance under the Massachusetts Local Acquisitions for Natural Diversity Program (LAND) pursuant to Massachusetts General Laws Chapter 132A, § 11, as amended, for a project briefly described as follows: Town of Falmouth LAND #22: This project shall consist of the acquisition in fee simple of 33.5+ acres of land located in the Town of Falmouth, known as the Tony Andrews Farm project, for agriculture, permanent conservation and public passive recreation purposes, by the Town of Falmouth, hereinafter referred to as the PROJECT.

WHEREAS, the COMMONWEALTH has reviewed said application and found the PROJECT to be in conformance with the purposes of Massachusetts General Laws Chapter 132A, § 11, as amended, and the LAND Program policies and regulation, 301 CMR 5.00.

TONY ANDREWS FARM CONSERVATION RESTRICTION
Falmouth, MA

WHEREAS, the COMMONWEALTH has approved said application and has obligated certain funds in the amount of four hundred thousand dollars (\$400,000), which funds are authorized and subject to 2008 Massachusetts Acts and Resolves, Chapter 312 and 2014 Massachusetts Acts and Resolves, Chapter 286.

WITNESSETH:

1. The COMMONWEALTH and the PARTICIPANT mutually agree to perform the terms and conditions of this Agreement in accordance with the Massachusetts LAND Program, its policies and applicable statutes and regulations, including 301 CMR 5.00, Massachusetts General Laws Chapter 132A, § 11, as amended, Massachusetts General Laws Chapter 40, Section 8C, the 2008 Massachusetts Acts and Resolves, Chapter 312, §2A Account 2000-7013 and 2014 Massachusetts Acts and Resolves, Chapter 286, §2, 2000-7066: local acquisitions for natural diversity (LAND) grant program.
2. The PARTICIPANT agrees to perform the PROJECT described above by authorizing its CONSERVATION COMMISSION to manage, maintain, and operate the PROJECT in accordance with the terms, conditions and obligations contained in the PARTICIPANT'S application(s), as approved, including any promises, conditions, plans, specifications, estimates, procedures, project proposals, maps, and assurances made a part thereof, and the PARTICIPANT'S award letter, and furthermore, in accordance with any special terms and conditions attached to and incorporated in this Agreement. No significant deviations from the PROJECT shall be undertaken without advance approval by the COMMONWEALTH.
3. The PARTICIPANT agrees that the facilities of the PROJECT shall be open to the general public and shall not be limited to residents of the PARTICIPANT. The PARTICIPANT shall prominently display on the PROJECT a sign, designated by the COMMONWEALTH, which sets forth the terms of public access and indicates that the PROJECT received LAND funds.
4. The PARTICIPANT hereby covenants and agrees that the Project, including the property and any and all associated facilities and improvements, shall be devoted to agriculture, conservation and passive recreation purposes in perpetuity, within the meaning of Article 97 of the Commonwealth's Declaration of Rights, and shall not be used for other purposes or otherwise disposed of except in accordance with the provisions of said Article 97. The PARTICIPANT hereby agrees that any property or facilities comprising the PROJECT will not be used for purposes other than those stipulated herein or otherwise disposed of unless the PARTICIPANT receives the appropriate authorization from the General Court, and the approval of the Secretary of Energy & Environmental Affairs.
5. The PARTICIPANT acknowledges that in the event that the PROJECT ceases to be used, either in whole or in part, for the purposes stated herein, all interest in the property shall revert to the Commonwealth, unless the Secretary demands specific performance of the grant contract, or determines, according to the process described in CMR 301 5.09, that replacement of the PROJECT as described in section 6 below is more appropriate.

*TONY ANDREWS FARM CONSERVATION RESTRICTION
Falmouth, MA*

6. The PARTICIPANT further agrees that, in the event the property or facilities comprised by the PROJECT are used for purposes other than those described herein, the PARTICIPANT shall provide other property and facilities of at least equal value and utility to be available to the general public for conservation and passive recreational purposes, under the care and control of its Conservation Commission, provided that the equal value and utility and the proposed use of said other property and facilities is specifically agreed to by the Secretary of Energy & Environmental Affairs.
7. Failure by the PARTICIPANT to comply with the terms and conditions of this Agreement or the policies or regulation of the LAND Program may, at the sole option of the COMMONWEALTH, suspend or terminate all obligations of the COMMONWEALTH hereunder.
8. PARTICIPANT and COMMONWEALTH acknowledge that the benefit desired by the COMMONWEALTH from the full compliance by the PARTICIPANT is the existence, protection, and the net increase of conservation land, and furthermore that such benefit exceeds to an immeasurable and unascertainable extent the dollar value of the funding provided by this Agreement. The PARTICIPANT agrees that payment of money damages by the PARTICIPANT to the COMMONWEALTH would be an inadequate remedy for a breach of this Agreement by the PARTICIPANT, and, therefore, the COMMONWEALTH may enforce the terms and conditions of this Agreement by requiring specific performance of the PARTICIPANT'S obligations.
9. The PARTICIPANT agrees to record a copy of this agreement at the appropriate Registry of Deeds or Land Court Registry District and to provide proof of such recording to the COMMONWEALTH. Said proof of recording of this Project Agreement shall include evidence that the Project Agreement has been marginally noted on or permanently referenced to any prior deed, restriction, conveyance or other instrument affecting the Project area. Failure to do so shall not impair the validity or enforcement of this agreement.

TONY ANDREWS FARM CONSERVATION RESTRICTION
Falmouth, MA

COMMONWEALTH OF MASSACHUSETTS

PARTICIPANT

BY


Matthew A. Beaton, Secretary
Or Designee
Executive Office of Energy and
Environmental Affairs

BY

Chief Executive Officer
Town of Falmouth

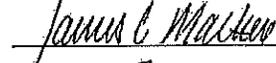
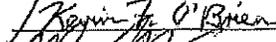
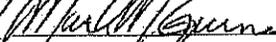
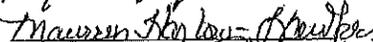
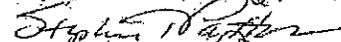
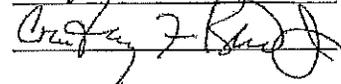
DATE:

1.22.18

DATE:

BY

Conservation Commission
Town of Falmouth

DATE:

12/22/18

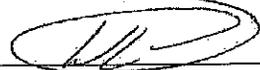
Attach hereto evidence of authority to execute this contract on behalf of the Town of Falmouth. In the case of a municipality, a certified copy of the vote or votes of the governing body authorizing the Tony Andrews Farm project, appropriating municipal funds therefor, and authorizing execution of this Project Agreement by the Officer, Board, or Commission whose signature(s) appears above.

TONY ANDREWS FARM CONSERVATION RESTRICTION
Falmouth, MA

COMMONWEALTH OF MASSACHUSETTS

PARTICIPANT

BY


Matthew A. Beaton, Secretary
Or Designee
Executive Office of Energy and
Environmental Affairs

BY


Chief Executive Officer
Town of Falmouth

DATE:

1-22-18

DATE:

December 29, 2017

BY

Conservation Commission
Town of Falmouth

DATE:

Attach hereto evidence of authority to execute this contract on behalf of the Town of Falmouth. In the case of a municipality, a certified copy of the vote or votes of the governing body authorizing the Tony Andrews Farm project, appropriating municipal funds therefor, and authorizing execution of this Project Agreement by the Officer, Board, or Commission whose signature(s) appears above.

COMMONWEALTH OF MASSACHUSETTS

Barnstable
County, ss:

On this 22nd day of DECEMBER, 2017 before me, the undersigned notary public,
personally appeared JULIAN M. SUSO proved to me through
satisfactory evidence of identification which was personal knowledge to be the person whose
name is signed on the processing or attached document; and acknowledged to me that he signed
it voluntarily for its stated purpose

Frank K. Duff

Notary Public

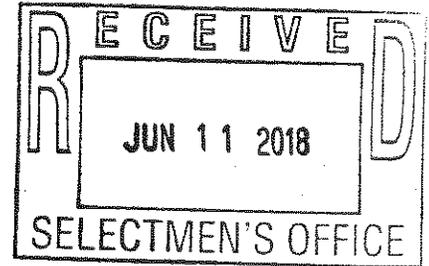


FRANK K. DUFF
Notary Public
Commonwealth of Massachusetts
My Commission Expires December 10, 2021



BARNSTABLE REGISTRY OF DEEDS
John F. Meade, Register

Page 5 of 5



Falmouth Police Department
Chief Edward A. Dunne

June 11, 2018

Ms. Susan Moran, Chairwoman
Board of Selectmen
Falmouth Town Hall
59 Town Hall Square
Falmouth, MA 02540

Subject: Acceptance of Grant Funding \$5,625.00
Executive Office of Public Safety and Security's Highway Safety Div.
FY 2018 Pedestrian and Bicycle Safety Enforcement and Equipment
Budget period: March 30, 2018 to September 30, 2018

Dear Board of Selectmen:

We have been designated to receive federal grant funds in the amount of \$5,625.00 to help fund enforcement and equipment for Pedestrian and Bicycle Safety. This money will allow us to conduct enforcement at our extremely busy bike path, beach areas and our business district in the center of town. This will help us address safety concerns at some of the crosswalks where cyclists fail to dismount for the crosswalks and where vehicles fail to yield for pedestrians.

We are requesting the Board of Selectmen to formally accept this grant.

Thank you in advance for your attention to this matter.

Sincerely,

Edward A. Dunne
Chief of Police

EAD/mar

Enclosure: Signed Standard Contract Form

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



RECEIVED MAR 26 2018

This form is jointly issued and published by the Executive Office for Administration and Finance (ANF), the Office of the Comptroller (CTR) and the Operational Services Division (OSD) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. Any changes to the official printed language of this form shall be void. Additional non-conflicting terms may be added by Attachment. Contractors may not require any additional agreements, engagement letters, contract forms or other additional terms as part of this Contract without prior Department approval. Click on hyperlinks for definitions, instructions and legal requirements that are incorporated by reference into this Contract. An electronic copy of this form is available at www.mass.gov/osc under [Guidance For Vendors - Forms](#) or www.mass.gov/osd under [OSD Forms](#).

CONTRACTOR LEGAL NAME: Town of Falmouth, Police Department (and d/b/a):		COMMONWEALTH DEPARTMENT NAME: Executive Office of Public Safety & Security MMARS Department Code: EPS	
Legal Address: (W-9, W-4,T&C): 340 Teaticket Highway, Falmouth, MA 02540		Business Mailing Address: 10 Park Plaza, Suite 3720, Boston, MA 02116	
Contract Manager: Lt. Sean Doyle		Billing Address (if different):	
E-Mail: sdoyle@falmouthpolice.us		Contract Manager: Diane Perrier	
Phone: 774-255-4524 x4505	Fax:	E-Mail: Diane.Perrier@state.ma.us	
Contractor Vendor Code: VC6000191790		Phone: 617-725-3301	Fax: 617-725-0260
Vendor Code Address ID (e.g. "AD001"): AD001 (Note: The Address ID must be set up for EFT payments.)		MMARS Doc ID(s): 2018FALMOUTHPEDBIKEX	
		RF/Procurement or Other ID Number: Grant Application	
<input checked="" type="checkbox"/> NEW CONTRACT		<input type="checkbox"/> CONTRACT AMENDMENT	
PROCUREMENT OR EXCEPTION TYPE: (Check one option only) <input type="checkbox"/> Statewide Contract (OSD or an OSD-designated Department) <input type="checkbox"/> Collective Purchase (Attach OSD approval, scope, budget) <input checked="" type="checkbox"/> Department Procurement (Includes State or Federal grants 815 CMR 2.00) (Attach RFR and Response or other procurement supporting documentation) <input type="checkbox"/> Emergency Contract (Attach justification for emergency, scope, budget) <input type="checkbox"/> Contract Employee (Attach Employment Status Form , scope, budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification, scope and budget)		Enter Current Contract End Date Prior to Amendment: _____, 20____. Enter Amendment Amount: \$ _____ (or "no change") AMENDMENT TYPE: (Check one option only. Attach details of Amendment changes.) <input type="checkbox"/> Amendment to Scope or Budget (Attach updated scope and budget) <input type="checkbox"/> Interim Contract (Attach justification for Interim Contract and updated scope/budget) <input type="checkbox"/> Contract Employee (Attach any updates to scope or budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification and updated scope and budget)	
The following COMMONWEALTH TERMS AND CONDITIONS (T&C) has been executed, filed with CTR and is incorporated by reference into this Contract. <input checked="" type="checkbox"/> Commonwealth Terms and Conditions <input type="checkbox"/> Commonwealth Terms and Conditions For Human and Social Services			
COMPENSATION: (Check ONE option): The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 9.00. <input checked="" type="checkbox"/> Rate Contract (No Maximum Obligation. Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) <input type="checkbox"/> Maximum Obligation Contract Enter Total Maximum Obligation for total duration of this Contract (or new Total if Contract is being amended). \$ 5,625.00			
PROMPT PAYMENT DISCOUNTS (PPD): Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting accelerated payments must identify a PPD as follows: Payment issued within 10 days ___ % PPD; Payment issued within 15 days ___ % PPD; Payment issued within 20 days ___ % PPD; Payment issued within 30 days ___ % PPD. If PPD percentages are left blank, identify reason: <input checked="" type="checkbox"/> agree to standard 45 day cycle <input type="checkbox"/> statutory/legal or Ready Payments (G.L.c. 29, § 23A); <input type="checkbox"/> only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See Prompt Pay Discounts Policy .)			
BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT: (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.) FFY2018 Pedestrian and Bicycle Safety Enforcement and Equipment Grant Program PS-18-02-30/FASTACT405h CFDA# 20-600 20,616			
ANTICIPATED START DATE: (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations: <input checked="" type="checkbox"/> 1. may be incurred as of the Effective Date (latest signature date below) and no obligations have been incurred prior to the Effective Date . <input type="checkbox"/> 2. may be incurred as of _____, 20____, a date LATER than the Effective Date below and no obligations have been incurred prior to the Effective Date . <input type="checkbox"/> 3. were incurred as of _____, 20____, a date PRIOR to the Effective Date below, and the parties agree that payments for any obligations incurred prior to the Effective Date are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.			
CONTRACT END DATE: Contract performance shall terminate as of <u>09/30</u> , 2018, with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.			
CERTIFICATIONS: Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor makes all certifications required under the attached Contractor Certifications (incorporated by reference if not attached hereto) under the pains and penalties of perjury, agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable Commonwealth Terms and Conditions , this Standard Contract Form including the instructions and Contractor Certifications , the Request for Response (RFR) or other solicitation, the Contractor's Response, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in 801 CMR 21.07 , incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.			
AUTHORIZING SIGNATURE FOR THE CONTRACTOR: X: <u>[Signature]</u> Date: <u>3-20-18</u> (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>Edward A. Dunne</u> Print Title: <u>Chief of Police</u>		AUTHORIZING SIGNATURE FOR THE COMMONWEALTH: X: <u>[Signature]</u> Date: <u>3-30-18</u> (Signature and Date Must Be Handwritten At Time of Signature) Print Name: <u>Angela F.F. Davis</u> Print Title: <u>Executive Director, Office of Grants & Research</u>	



**TOWN OF FALMOUTH
SPECIAL EVENT PERMIT**

NAME North Falmouth Village Association, Scott E. Muma, Race Coordinator

MAILING ADDRESS P.O. Box 732, North Falmouth, MA 02556

EVENT DAY & DATE Saturday, July 7, 2018

RAIN DATE None.

EVENT LOCATION North Falmouth Library Branch

EVENT TYPE 41st Annual Paul E. White Memorial Road Race

SET-UP ARRIVAL TIME 7:30 a.m. **EVENT HOURS** 7:30 a.m. – 12:00 p.m.

NUMBER OF ATTENDEES 400 **# OF VEHICLES** 40

ADDITIONAL DETAILS Parking will be in the parking lot next to the library and tennis courts; large majority of runners get dropped off. Four porta potties will be provided for the event. Four detail police officers will be hired for road control. Two EMT's from Fire Dept.

CONDITIONS:

1. Contact Falmouth Police Department Detail Sergeant thirty days before the event to arrange for adequate public safety and traffic control requirements.
2. Race organizers to police the areas affected to clean up litter or debris following the event.
3. Contact the Falmouth Fire Rescue Department regarding medical plan.

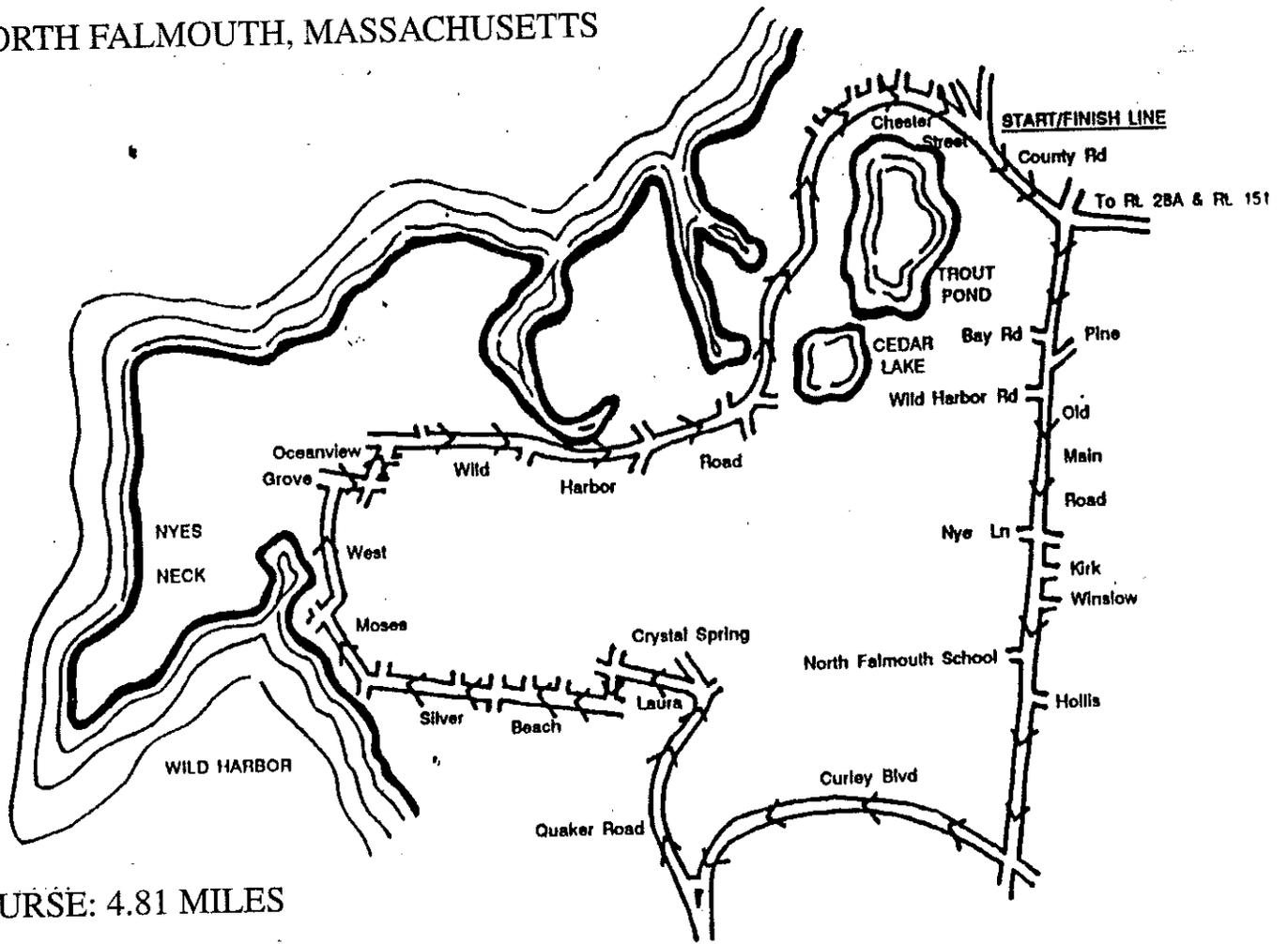
PERMIT FEE \$300.00 **FILING FEE** \$10.00
DEPOSIT \$300.00 (Deposit refundable at conclusion of event provided that no litter or damage has occurred)

BOARD OF SELECTMEN:

PAUL E. WHITE MEMORIAL RUN

(NOW SANCTIONED)

NORTH FALMOUTH, MASSACHUSETTS



COURSE: 4.81 MILES

Diane Davidson

From: Sean Doyle <sdoyle@falmouthpolice.us>
Sent: Thursday, June 14, 2018 6:39 PM
To: 'Diane Davidson'
Subject: RE: Special Events Applications

As long as the organizers work closely with the Detail Sergeants (as they have in the past), then this department does not have any issues with the Paul White Road Race.

Lt. Doyle

From: Diane Davidson [mailto:ddavidson@falmouthmass.us]
Sent: Wednesday, June 13, 2018 1:42 PM
To: Boyd Demello <bdemello@falmouthfire.us>; Brian Reid <breid@falmouthpolice.us>; Bruce Mogardo <bruce.mogardo@Falmouthmass.us>; Diane Davidson <ddavidson@falmouthmass.us>; Gregg Fraser <gregg.fraser@falmouthmass.us>; James F. Grady Jr. <jgrady@falmouthmass.us>; Jeremiah Pearson <jeremiah.pearson@falmouthmass.us>; Joe Olenick <jolenick@falmouthmass.us>; Julian M. Suso <jsuso@falmouthmass.us>; Mel Trott <mtrott@falmouthfire.us>; Olive Fitzpatrick <ofitzpatrick@falmouthmass.us>; Peter Johnson-Staub <peter.jstaub@falmouthmass.us>; Peter McConarty <pmcconarty@falmouthmass.us>; Rod Palmer <rod.palmer@falmouthmass.us>; Scott McGann <scott.mcgann@falmouthmass.us>; Sean Doyle <sdoyle@falmouthpolice.us>; Tim Smith <tsmith@falmouthfire.us>
Subject: Special Events Applications

Special Events Working Group,

Attached please find the following applications for special events:

Recurring:

1. Paul White Road Race – Sat., 7/7/18
2. Autumn Escape Bike Trek – Fri., 9/28/18
3. Falmouth in the Fall Road Race – Sun., 11/4/18

New:

4. Wedding Ceremony-Curran-Old Silver Beach-Sat., 8/11/18
5. Wedding Ceremony-Lemons-Old Silver Beach-Fri., 9/14/19

A Special Events Working Group meeting is scheduled for Tuesday, June 19, but with 3 recurring events and 2 weddings, maybe the group does not need to meet—but, please let me know if you think the group should meet to discuss the events and we will proceed. Otherwise, we can schedule the next quarterly meeting during September.

May I request your recommendations by Friday, June 29.

May I request your recommendations for the Paul White Road Race by Friday, June 15?

Thank you all,

Diane

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

Diane Davidson

From: Boyd Demello <bdemello@falmouthfire.us>
Sent: Wednesday, June 13, 2018 2:51 PM
To: 'Diane Davidson'; Timothy Smith
Subject: RE: Special Events Applications- Paul White Road Race

Diane,
No issues with the Paul White Road Race. We have been providing medical coverage for many years and will again this year. Mr. Muma coordinates with LT. O'Malley each year.

Boyd W. DeMello
Fire Prevention Inspector
Falmouth Fire Rescue Department
bdemello@falmouthfire.us
508-495-2534 - Office
[774-836-2436](tel:774-836-2436) - Cell Phone

CONFIDENTIALITY NOTICE: This message is privileged and confidential for the addressee(s) named above. If you are not the intended recipient, you are prohibited from disseminating, using, or copying the contents and should notify the sender immediately that you received this message in error.

From: Diane Davidson [mailto:ddavidson@falmouthmass.us]
Sent: Wednesday, June 13, 2018 1:42 PM
To: Boyd Demello <bdemello@falmouthfire.us>; Brian Reid <braid@falmouthpolice.us>; Bruce Mogardo <bruce.mogardo@Falmouthmass.us>; Diane Davidson <ddavidson@falmouthmass.us>; Gregg Fraser <gregg.fraser@falmouthmass.us>; James F. Grady Jr. <jgrady@falmouthmass.us>; Jeremiah Pearson <jeremiah.pearson@falmouthmass.us>; Joe Olenick <jolenick@falmouthmass.us>; Julian M. Suso <jsuso@falmouthmass.us>; Mel Trott <mtrott@falmouthfire.us>; Olive Fitzpatrick <ofitzpatrick@falmouthmass.us>; Peter Johnson-Staub <peter.jstaub@falmouthmass.us>; Peter McConarty <pmcconarty@falmouthmass.us>; Rod Palmer <rod.palmer@falmouthmass.us>; Scott McGann <scott.mcgann@falmouthmass.us>; Sean Doyle <sdoyle@falmouthpolice.us>; Tim Smith <tsmith@falmouthfire.us>
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5. Wedding Ceremony-Lemons-Old Silver Beach-Fri., 9/14/19

Diane Davidson

From: Joe Olenick <jolenick@falmouthmass.us>
Sent: Thursday, June 14, 2018 2:10 PM
To: 'Diane Davidson'
Subject: RE: Special Events Applications

Hi Diane, I am ok with these events. I will be on vacation for the next meeting. Please let me know if there is anything I can do. Thanks Joe

From: Diane Davidson <ddavidson@falmouthmass.us>
Sent: Wednesday, June 13, 2018 1:42 PM
To: Boyd Demello <bdemello@falmouthfire.us>; Brian Reid <breid@falmouthpolice.us>; Bruce Mogardo <bruce.mogardo@Falmouthmass.us>; Diane Davidson <ddavidson@falmouthmass.us>; Gregg Fraser <gregg.fraser@falmouthmass.us>; James F. Grady Jr. <jgrady@falmouthmass.us>; Jeremiah Pearson <jeremiah.pearson@falmouthmass.us>; Joe Olenick <jolenick@falmouthmass.us>; Julian M. Suso <jsuso@falmouthmass.us>; Mel Trott <mtrott@falmouthfire.us>; Olive Fitzpatrick <ofitzpatrick@falmouthmass.us>; Peter Johnson-Staub <peter.jstaub@falmouthmass.us>; Peter McConarty <pmcconarty@falmouthmass.us>; Rod Palmer <rod.palmer@falmouthmass.us>; Scott McGann <scott.mcgann@falmouthmass.us>; Sean Doyle <sdoyle@falmouthpolice.us>; Tim Smith <tsmith@falmouthfire.us>
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May I request your recommendations by Friday, June 29.

May I request your recommendations for the Paul White Road Race by Friday, June 15?

Thank you all,

Diane

*Diane S. Davidson
Office Manager/Licensing
Office of the Town Manager and Selectmen
Town of Falmouth
59 Town Hall Square*

Diane Davidson

From: Gregg Fraser <gregg.fraser@falmouthmass.us>
Sent: Wednesday, June 13, 2018 2:04 PM
To: 'Diane Davidson'
Subject: RE: Special Events Applications

Hello Diane,

MES has no referrals on any of these.

Thanks
Gregg

From: Diane Davidson <ddavidson@falmouthmass.us>
Sent: Wednesday, June 13, 2018 1:42 PM
To: Boyd Demello <bdemello@falmouthfire.us>; Brian Reid <braid@falmouthpolice.us>; Bruce Mogardo <bruce.mogardo@Falmouthmass.us>; Diane Davidson <ddavidson@falmouthmass.us>; Gregg Fraser <gregg.fraser@falmouthmass.us>; James F. Grady Jr. <jgrady@falmouthmass.us>; Jeremiah Pearson <jeremiah.pearson@falmouthmass.us>; Joe Olenick <jolenick@falmouthmass.us>; Julian M. Suso <jsuso@falmouthmass.us>; Mel Trott <mtrott@falmouthfire.us>; Olive Fitzpatrick <ofitzpatrick@falmouthmass.us>; Peter Johnson-Staub <peter.jstaub@falmouthmass.us>; Peter McConarty <pmcconarty@falmouthmass.us>; Rod Palmer <rod.palmer@falmouthmass.us>; Scott McGann <scott.mcgann@falmouthmass.us>; Sean Doyle <sdoyle@falmouthpolice.us>; Tim Smith <tsmith@falmouthfire.us>
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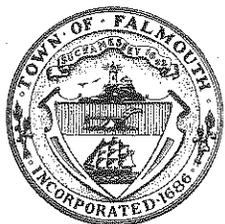
May I request your recommendations by Friday, June 29.

May I request your recommendations for the Paul White Road Race by Friday, June 15?

Thank you all,

Diane

Diane S. Davidson



TOWN OF FALMOUTH

Office of the Town Manager & Selectmen

59 Town Hall Square, Falmouth, Massachusetts 02540

Telephone (508) 495-7320

Fax (508) 457-2573

LIQUOR LICENSE HEARING

Notice is hereby given under Chapter 138 of the General Laws, as amended, that Silver Beach Pizza of Cape Cod, Inc.; DBA Silver Beach Pizza and Seafood has applied for a NEW Wine and Malt Common Victualler License to be exercised at 557 North Falmouth Highway, North Falmouth, MA.

A hearing will be held in the Selectmen's Meeting Room, Falmouth Town Hall on Monday, June 18, 2018 at 7:30 p.m. on the above application.

Licensing Board,
Falmouth Board of Selectmen

Publication Date: Friday, June 1, 2018

Copy to Abutters



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission

For Reconsideration

LOCAL LICENSING AUTHORITY REVIEW RECORD

ABCC License Number

Falmouth
City/Town

May 21, 2018
Date Filed with LLA

TRANSACTION TYPE (Please check all relevant transactions):

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

APPLICANT INFORMATION

Name of Licensee: Silver Beach Pizza of Cape Cod Inc D/B/A: Silver Beach Pizza & Seafood

ADDRESS: 557 North Falmouth Highway CITY/TOWN: Falmouth STATE: MA ZIP CODE: 02556

Manager: Luzia E Reardon

Granted under Special Legislation? Yes No

If Yes, Chapter _____ of the Acts of (year) _____

\$12 Restaurant (Type) Annual (Class) Wines and Malt Beverages (Category)

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

LOCAL LICENSING AUTHORITY DECISION

Please indicate the decision of the Local Licensing Authority: Approves this Application

Please indicate what days and hours the licensee will sell alcohol: Friday - Saturday 11 am - 9 pm; Sunday - Thursday 11 am - 8:30 pm

If Approving With Modifications, please indicate below what changes the LLA is making:

Please indicate if the LLA is downgrading the License Category (approving only Wines and Malts if applicant applied for All Alcohol): No

Changes to the Premises Description	Indoor Area Total Square Footage		Floor Number	Square Footage	Number of Rooms
Patio/Deck/Outdoor Area Total Square Footage	Number of Entrances				
Seating Capacity	Number of Exits				

Abutters Notified: Yes No

Date of Abutter Notification: June 1, 2018

Date of Advertisement: June 1, 2018

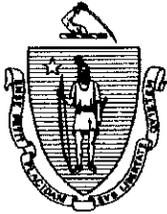
Please add any additional remarks or conditions here:

Check here if you are attaching additional documentation

The Local Licensing Authorities By:

Alcoholic Beverages Control Commission
Ralph Sacramone
Executive Director

June 18, 2018
Date APPROVED by LLA



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

APPLICATION FOR A RETAIL ALCOHOLIC BEVERAGES LICENSE

Please complete this entire application, leaving no fields blank. If field does not apply to your situation, please write N/A.

1. NAME OF PROPOSED LICENSEE (Business Contact)

This is the corporation or LLC which will hold the license, not the individual submitting this application. If you are applying for this license as a sole proprietor, not an LLC, corporation or other legal entity, you may enter your personal name here.

2. RETAIL APPLICATION INFORMATION

There are two ways to obtain an alcoholic beverages license in the Commonwealth of Massachusetts, either by obtaining an existing license through a transfer or by applying for a new license.

Are you applying for a new license New Transfer or the transfer of an existing license? If transferring, please indicate the current ABCC license number you are seeking to obtain:

If applying for a new license, are you applying for this license pursuant to special legislation? If transferring, by what method is the license being transferred?

Yes No Chapter Acts of

3. LICENSE INFORMATION / QUOTA CHECK

City/Town On/Off-Premises

TYPE	CATEGORY	CLASS
<input type="text" value="\$12 Restaurant"/>	<input type="text" value="Wines and Malt Beverages"/>	<input type="text" value="Annual"/>

4. APPLICATION CONTACT

The application contact is required and is the person who will be contacted with any questions regarding this application.

First Name: Middle: Last Name:

Title: Primary Phone:

Email:

5. OWNERSHIP Please list all individuals or entities with a direct or indirect, beneficial or financial interest in this license.

An individual or entity has a direct beneficial interest in a license when the individual or entity owns or controls any part of the license. For example, if John Smith owns Smith LLC, a licensee, John Smith has a direct beneficial interest in the license.

An individual or entity has an indirect beneficial interest if the individual or entity has 1) any ownership interest in the license through an intermediary, no matter how removed from direct ownership, 2) any form of control over part of a license no matter how attenuated, or 3) otherwise benefits in any way from the licensee's operation. For Example, Jane Doe owns Doe Holding Company Inc., which is a shareholder of Doe LLC, the license holder. Jane Doe has an indirect interest in the license.

A. All individuals listed below are required to complete a Beneficial Interest Contact - Individual form.
 B. All entities listed below are required to complete a Beneficial Interest Contact - Organization form.
 C. Any individual with any ownership in this license and/or the proposed manager of record must complete a CORI Release Form.

Name	Title / Position	% Owned	Other Beneficial Interest
Luzia E. Reardon	Officer	100%	
Silver Beach Pizza of Cape Cod Inc.	Other		

APPLICATION FOR A NEW RETAIL ALCOHOLIC BEVERAGES LICENSE

5. OWNERSHIP (continued)

Name	Title / Position	% Owned	Other Beneficial Interest

6. PREMISES INFORMATION

Please enter the address where the alcoholic beverages are sold.

Premises Address

Street Number: Street Name: Unit:

City/Town: State: Zip Code:

Country:

Description of Premises

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

Floor Number	Square Footage	Number of Rooms
1	2,400	1

Patio/Deck/Outdoor Area Total Square Footage

Indoor Area Total Square Footage

Number of Entrances

Number of Exits

Proposed Seating Capacity

Proposed Occupancy

Occupancy of Premises

Please complete all fields in this section. Documentation showing proof of legal occupancy is required.

Please indicate by what right the applicant has to occupy the premises:

Lease Beginning Term Landlord Name

Lease Ending Term Landlord Phone

Rent per Month Landlord Address

Rent per Year

If leasing or renting the premises, a signed copy of the lease is required.

If the lease is contingent on the approval of this license, and a signed lease is not available, a copy of the unsigned lease and a letter of intent to lease, signed by the applicant and the landlord, is required.

Please indicate if the terms of the lease include payments based on the sale of alcohol: Yes No

CONSENT OF DIRECTORS

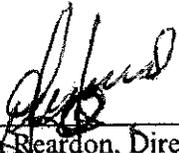
SILVER BEACH PIZZA OF CAPE COD, INC.

April 23, 2018

The undersigned, being all of the Directors of Silver Beach Pizza of Cape Cod, Inc., a Massachusetts Corporation, did take the following actions at a meeting of the Board in April, 2018 and adopted the following votes and direct the secretary to file this written consent with the records of the meetings of the Board of Directors of this Corporation:

VOTED: That the President, Luzia Reardon, is appointed as Manager of Silver Beach Pizza of Cape Cod, Inc.

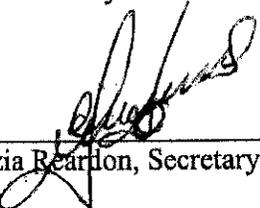
VOTED: That the President, Luzia Reardon, is authorized to apply for, and execute all applications and other documentation on behalf of the Corporation necessary to obtain an Alcoholic Beer and Wine License from the Town of Falmouth, subject to any limitations which may be imposed by the Directors.



Luzia Reardon, Director

CLERKS CERTIFICATE

The undersigned Luzia Reardon, Secretary of the Corporation does hereby certify that as of the date of this Vote and Consent Luzia Reardon is duly elected President of the Corporation.



Luzia Reardon, Secretary

Phyllis Downey

From: Sean Doyle <sdoyle@falmouthpolice.us>
Sent: Saturday, June 09, 2018 12:29 AM
To: 'Phyllis Downey'; 'Brian Reid'
Cc: 'Diane Davidson'
Subject: RE: correction! - FW: Application for Liquor License

After completing a CORI check on Luzia Reardon, this department does not have any issues with the application.

Lt. Doyle

From: Phyllis Downey [<mailto:phyllis.downey@falmouthmass.us>]
Sent: Wednesday, May 23, 2018 9:37 AM
To: Brian Reid <breid@falmouthpolice.us>; Sean Doyle <sdoyle@falmouthpolice.us>
Cc: Diane Davidson <ddavidson@falmouthmass.us>
Subject: correction! - FW: Application for Liquor License

Hello,

Please Note - The address below has been corrected to 557 North Falmouth Highway. I apologize for the inconvenience.

Phyllis

Phyllis Downey
Office of the Town Manager & Selectmen
508-495-7320

From: Phyllis Downey [<mailto:phyllis.downey@falmouthmass.us>]
Sent: Wednesday, May 23, 2018 9:28 AM
To: Brian Reid (breid@falmouthpolice.us) <breid@falmouthpolice.us>; Sean Doyle (sdoyle@falmouthpolice.us) <sdoyle@falmouthpolice.us>
Subject: Application for Liquor License

Capt. Reid,
Lt. Doyle,

Attached please find an application for a wine and malt license as follows:

1. Wine and Malt Common Victualler license: Silver Beach Pizza, located at ~~286 Grand Avenue~~ 557 North Falmouth Highway

May I request your recommendations by Thursday, June 14, 2018, as well as a CORI check on the manager?

Thank you,

Phyllis

Phyllis Downey

From: Phyllis Downey <phyllis.downey@falmouthmass.us>
Sent: Wednesday, May 23, 2018 2:16 PM
To: 'Tim Smith'
Cc: 'Diane Davidson'; 'Mel Trott'; 'Boyd Demello'; 'Rod Palmer'; 'Scott McGann'
Subject: RE: Application for Wine and Malt License

Will do.

Thank you very much.

Phyllis

Phyllis Downey

Office of the Town Manager & Selectmen
508-495-7320

From: Tim Smith [mailto:tsmith@falmouthfire.us]
Sent: Wednesday, May 23, 2018 2:14 PM
To: 'Phyllis Downey' <phyllis.downey@falmouthmass.us>
Cc: 'Diane Davidson' <ddavidson@falmouthmass.us>; Mel Trott <mtrott@falmouthfire.us>; 'Boyd Demello' <bdemello@falmouthfire.us>; 'Rod Palmer' <rod.palmer@falmouthmass.us>; 'Scott McGann' <scott.mcgann@falmouthmass.us>
Subject: RE: Application for Wine and Malt License

Phyllis,
Our Fire Prevention personnel wished to pass along that If this is a new license application, once the application is approved by the Board of Selectmen they will require a 304 certificate of compliance inspection from both the Fire Prevention Office and the Inspectional Services Office, prior to issuing the license.
If you have any further questions, Fire Prevention can provide further guidance.
Thank you.

Timothy Smith, Deputy Fire Chief
Falmouth Fire Rescue Department
Work: (508) 495-2514
Cell: (508) 274-6410

From: Phyllis Downey <phyllis.downey@falmouthmass.us>
Sent: Wednesday, May 23, 2018 9:33 AM
To: Palmer Rod <rod.palmer@falmouthmass.us>; David Carignan <davec@falmouthmass.us>; Tim Smith <tsmith@falmouthfire.us>
Cc: Diane Davidson <ddavidson@falmouthmass.us>
Subject: Application for Wine and Malt License

To All,

Phyllis Downey

From: Rod Palmer <rod.palmer@falmouthmass.us>
Sent: Wednesday, May 23, 2018 11:08 AM
To: 'Phyllis Downey'
Cc: Pamela Marshall
Subject: RE: Application for Wine and Malt License

The Falmouth Building Department has no objections to the application for 557 North Falmouth Highway. The Applicant would be subject to a building inspection as per Chapter 304 of the Acts of 2004 ,the application processing fee is \$80.00.

Rod Palmer
Building Commissioner

Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540

Tel 508-495-7470
Fax 508-548-4290

Kindly Remember that under MA General Laws most email correspondence is deemed a public record.

From: Phyllis Downey [mailto:phyllis.downey@falmouthmass.us]
Sent: Wednesday, May 23, 2018 9:33 AM
To: Palmer Rod <rod.palmer@falmouthmass.us>; David Carignan <davec@falmouthmass.us>; Tim Smith <tsmith@falmouthfire.us>
Cc: Diane Davidson <ddavidson@falmouthmass.us>
Subject: Application for Wine and Malt License

To All,

Attached please find an application for a wine and malt license as follows:

1. Wine and Malt Common Victualler license: Silver Beach Pizza, located at 557 North Falmouth Highway.

May I request your recommendations by Thursday, June 14, 2018, as well as a CORI check on the manager?

Thank you,

Phyllis

Phyllis Downey

From: Scott McGann <scott.mcgann@falmouthmass.us>
Sent: Wednesday, May 23, 2018 3:18 PM
To: Phyllis Downey
Subject: FW: Application for Wine and Malt License

Fyi thx

Scott McGann, R.S.
Health Agent/ Director
Falmouth Health Department
59 Town Hall Square
Falmouth, MA 02540
508-495-7485
<http://www.falmouthmass.us/273/Health-Department>

From: Linda Kinchla <lkinchla@falmouthmass.us>
Sent: Wednesday, May 23, 2018 10:27 AM
To: 'Scott McGann' <scott.mcgann@falmouthmass.us>
Subject: RE: Application for Wine and Malt License

We have a food Service Permit on file for them.

Linda Kinchla
Office Assistant
Falmouth Health Department
508-495-7488

From: Scott McGann [<mailto:scott.mcgann@falmouthmass.us>]
Sent: Wednesday, May 23, 2018 10:10 AM
To: Linda Kinchla <lkinchla@falmouthmass.us>
Subject: FW: Application for Wine and Malt License

Have these guys applied?

Scott McGann, R.S.
Health Agent/ Director
Falmouth Health Department
59 Town Hall Square
Falmouth, MA 02540
508-495-7485
<http://www.falmouthmass.us/273/Health-Department>



TOWN OF FALMOUTH

Office of the Town Manager & Selectmen

59 Town Hall Square, Falmouth, Massachusetts 02540
Telephone (508) 495-7320
Fax (508) 457-2573

LIQUOR LICENSE HEARING

Notice is hereby given under Chapter 138 of the General Laws, as amended, that JZ Restaurant has applied for an Alteration of Licensed Premises of its All Alcohol Common Victualler License located at 339 East Falmouth Highway, East Falmouth, MA.

A hearing will be held in the Selectmen's Meeting Room, Falmouth Town Hall on Monday, June 18, 2018 at 7:50 p.m. on the above application.

FALMOUTH BOARD OF SELECTMEN LICENSING BOARD

Susan L. Moran
Megan English Braga
Doug Jones
Samuel H. Patterson
Douglas C. Brown

Publication Date: Friday, June 8, 2018, Falmouth Enterprise

Copy to Abutters



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission

For Reconsideration

LOCAL LICENSING AUTHORITY REVIEW RECORD

ABCC License Number

Falmouth
City/Town

May 24, 2018 3:00 pm
Date Filed with LLA

TRANSACTION TYPE (Please check all relevant transactions):

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

APPLICANT INFORMATION

Name of Licensee JZ Restaurant, Inc. D/B/A

ADDRESS: 339 East Falmouth Highway CITY/TOWN: East Falmouth STATE MA ZIP CODE 02536

Manager Joshua Zamira

Granted under Special Legislation? Yes No

If Yes, Chapter of the Acts of (year)

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

LOCAL LICENSING AUTHORITY DECISION

Please indicate the decision of the Local Licensing Authority: Approves this Application

Please indicate what days and hours the licensee will sell alcohol:

If Approving With Modifications, please indicate below what changes the LLA is making:

Please indicate if the LLA is downgrading the License Category (approving only Wines and Malts if applicant applied for All Alcohol):

No

Changes to the Premises Description
 Indoor Area Total Square Footage
 Patio/Deck/Outdoor Area Total Square Footage
 Number of Entrances
 Seating Capacity
 Number of Exits

Floor Number	Square Footage	Number of Rooms

Abutters Notified: Yes No Date of Abutter Notification June 8, 2018 Date of Advertisement June 8, 2018

Please add any additional remarks or conditions here:

Check here if you are attaching additional documentation

The Local Licensing Authorities By:

Alcoholic Beverages Control Commission
Ralph Sacramone
Executive Director

June 18, 2018

Date APPROVED by LLA

Diane Davidson

From: Sean Doyle <sdoyle@falmouthpolice.us>
Sent: Saturday, June 09, 2018 12:29 AM
To: 'Phyllis Downey'; 'Brian Reid'
Cc: 'Diane Davidson'
Subject: RE: correction! - FW: Application for Liquor License

After completing a CORI check on Luzia Reardon, this department does not have any issues with the application.

Lt. Doyle

From: Phyllis Downey [mailto:phyllis.downey@falmouthmass.us]
Sent: Wednesday, May 23, 2018 9:37 AM
To: Brian Reid <breid@falmouthpolice.us>; Sean Doyle <sdoyle@falmouthpolice.us>
Cc: Diane Davidson <ddavidson@falmouthmass.us>
Subject: correction! - FW: Application for Liquor License

Hello,

Please Note - The address below has been corrected to 557 North Falmouth Highway. I apologize for the inconvenience.

Phyllis

Phyllis Downey
Office of the Town Manager & Selectmen
508-495-7320

From: Phyllis Downey [mailto:phyllis.downey@falmouthmass.us]
Sent: Wednesday, May 23, 2018 9:28 AM
To: Brian Reid (breid@falmouthpolice.us) <breid@falmouthpolice.us>; Sean Doyle (sdoyle@falmouthpolice.us) <sdoyle@falmouthpolice.us>
Subject: Application for Liquor License

Capt. Reid,
Lt. Doyle,

Attached please find an application for a wine and malt license as follows:

1. Wine and Malt Common Victualler license: Silver Beach Pizza, located at ~~286 Grand Avenue~~ 557 North Falmouth Highway

May I request your recommendations by Thursday, June 14, 2018, as well as a CORI check on the manager?

Thank you,

Phyllis

Diane Davidson

From: Tim Smith <tsmith@falmouthfire.us>
Sent: Wednesday, May 23, 2018 2:14 PM
To: 'Phyllis Downey'
Cc: 'Diane Davidson'; Mel Trott; 'Boyd Demello'; 'Rod Palmer'; 'Scott McGann'
Subject: RE: Application for Wine and Malt License

Phyllis,

Our Fire Prevention personnel wished to pass along that if this is a new license application, once the application is approved by the Board of Selectmen they will require a 304 certificate of compliance inspection from both the Fire Prevention Office and the Inspectional Services Office, prior to issuing the license. If you have any further questions, Fire Prevention can provide further guidance. Thank you.

Timothy Smith, Deputy Fire Chief
Falmouth Fire Rescue Department
Work: (508) 495-2514
Cell: (508) 274-6410

From: Phyllis Downey <phyllis.downey@falmouthmass.us>
Sent: Wednesday, May 23, 2018 9:33 AM
To: Palmer Rod <rod.palmer@falmouthmass.us>; David Carignan <davec@falmouthmass.us>; Tim Smith <tsmith@falmouthfire.us>
Cc: Diane Davidson <ddavidson@falmouthmass.us>
Subject: Application for Wine and Malt License

To All,

Attached please find an application for a wine and malt license as follows:

1. Wine and Malt Common Victualler license: Silver Beach Pizza, located at 557 North Falmouth Highway.

May I request your recommendations by Thursday, June 14, 2018, as well as a CORI check on the manager?

Thank you,

Phyllis

Phyllis Downey
Administrative Assistant
Office of the Town Manager & Selectmen
508-495-7320



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

APPLICATION FOR A RETAIL ALCOHOLIC BEVERAGES LICENSE

Please complete this entire application, leaving no fields blank. If field does not apply to your situation, please write N/A.

1. NAME OF PROPOSED LICENSEE (Business Contact)

This is the corporation or LLC which will hold the license, **not** the individual submitting this application. If you are applying for this license as a sole proprietor, **not** an LLC, corporation or other legal entity, you may enter your personal name here.

2. RETAIL APPLICATION INFORMATION

There are two ways to obtain an alcoholic beverages license in the Commonwealth of Massachusetts, either by obtaining an existing license through a transfer or by applying for a new license.

Are you applying for a new license New Transfer or the transfer of an existing license?
 If transferring, please indicate the current ABCC license number you are seeking to obtain:
 If applying for a new license, are you applying for this license pursuant to special legislation?
 Yes No Chapter Acts of
 If transferring, by what method is the license being transferred?

3. LICENSE INFORMATION / QUOTA CHECK

City/Town On/Off-Premises
 TYPE CATEGORY CLASS

4. APPLICATION CONTACT

The application contact is required and is the person who will be contacted with any questions regarding this application.
 First Name: Middle: Last Name:
 Title: Primary Phone:
 Email:

5. OWNERSHIP Please list all individuals or entities with a direct or indirect, beneficial or financial interest in this license.

An individual or entity has a **direct beneficial interest** in a license when the individual or entity owns or controls any part of the license. For example, if John Smith owns Smith LLC, a licensee, John Smith has a direct beneficial interest in the license.
 An individual or entity has an **indirect beneficial interest** if the individual or entity has 1) any ownership interest in the license through an intermediary, no matter how removed from direct ownership, 2) any form of control over part of a license no matter how attenuated, or 3) otherwise benefits in any way from the licensee's operation. For Example, Jane Doe owns Doe Holding Company Inc., which is a shareholder of Doe LLC, the license holder. Jane Doe has an indirect interest in the license.
 A. All individuals listed below are required to complete a Beneficial Interest Contact - Individual form.
 B. All entities listed below are required to complete a Beneficial Interest Contact - Organization form.
 C. Any individual with any ownership in this license and/or the proposed manager of record must complete a CORI Release Form.

Name	Title / Position	% Owned	Other Beneficial Interest
Joshua J Zamira	Officer	100	N/A

APPLICATION FOR A NEW RETAIL ALCOHOLIC BEVERAGES LICENSE

5. OWNERSHIP (continued)

Name	Title / Position	% Owned	Other Beneficial Interest

6. PREMISES INFORMATION

Please enter the address where the alcoholic beverages are sold.

Premises Address

Street Number: Street Name: Unit:

City/Town: State: Zip Code:

Country:

Description of Premises

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

Floor Number	Square Footage	Number of Rooms	Patio/Deck/Outdoor Area Total Square Footage	N/A
1	2896	2		

Indoor Area Total Square Footage	<input type="text" value="2896"/>
Number of Entrances	<input type="text" value="1"/>
Number of Exits	<input type="text" value="3"/>
Proposed Seating Capacity	<input type="text" value="70"/>
Proposed Occupancy	<input type="text" value="68"/>

Occupancy of Premises

Please complete all fields in this section. Documentation showing proof of legal occupancy of the premises is required.

Please indicate by what right the applicant has to occupy the premises: Landlord Name:

Lease Beginning Term: _____ Landlord Phone: _____

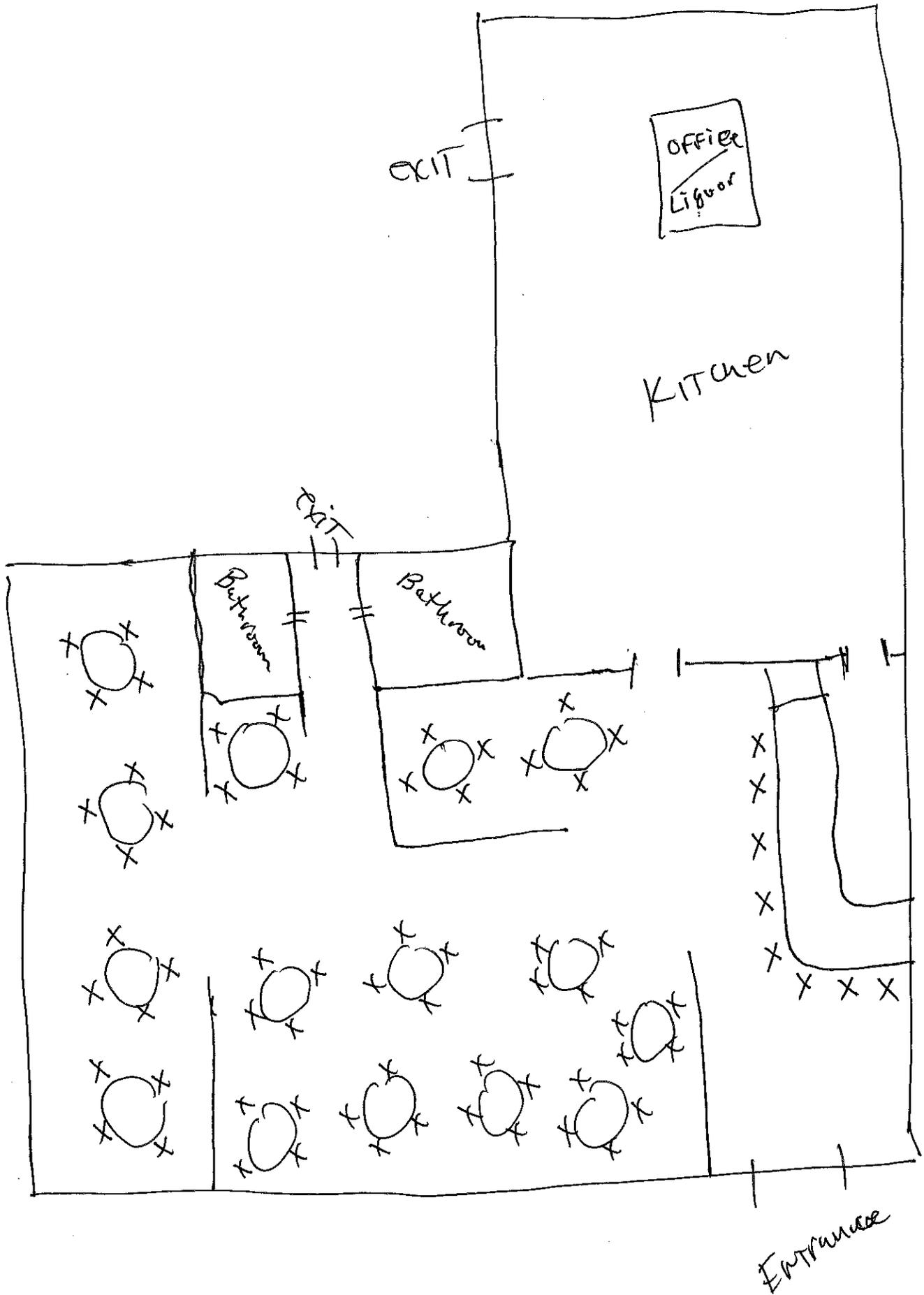
Lease Ending Term: _____ Landlord Address: _____

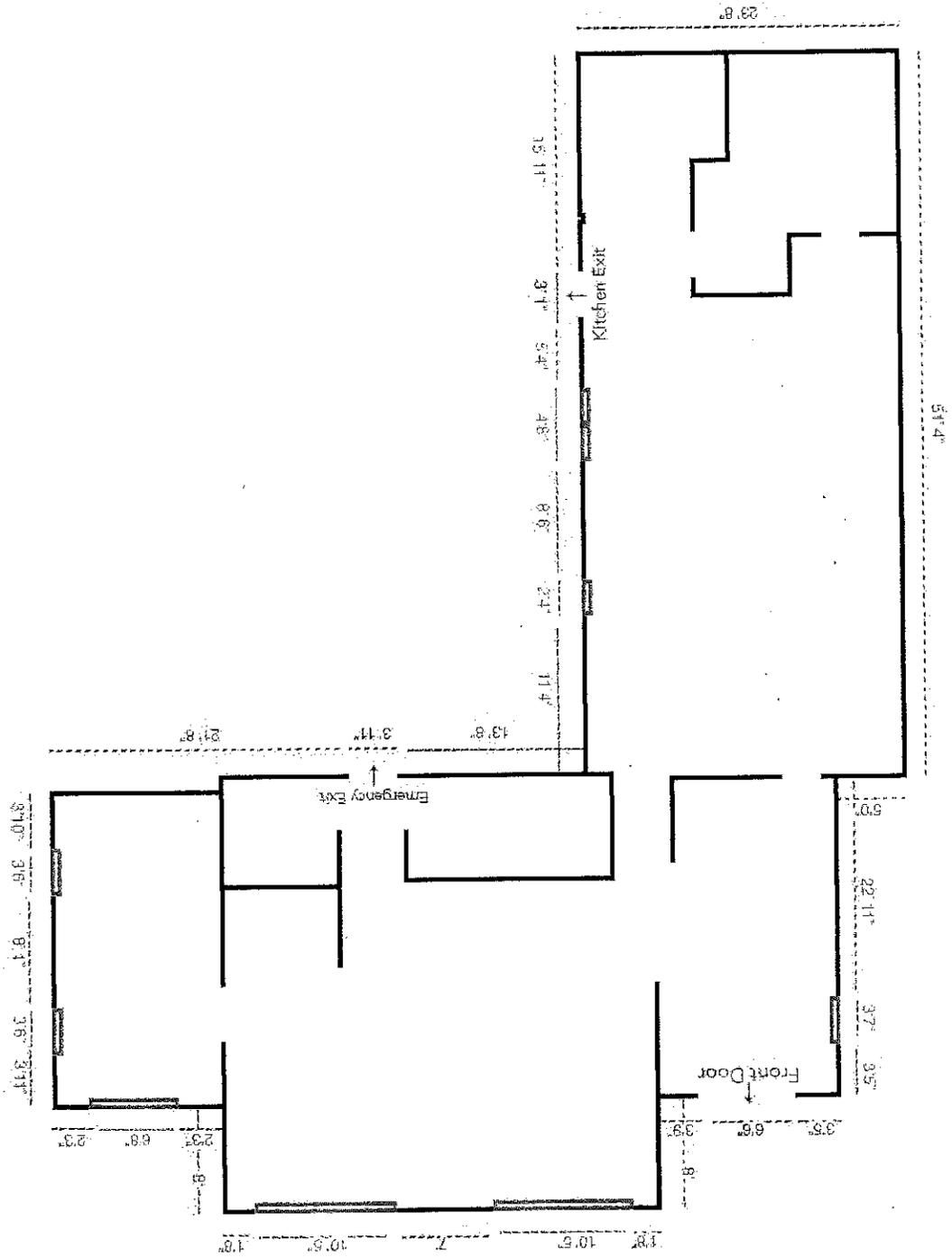
Rent per Month: _____

Rent per Year: _____

Please indicate if the _____nts based on the sale of alcohol: Yes No

If leasing or renting the premises, a signed lease is not available, a copy of the unsigned lease and a letter of intent to lease, signed by the applicant and the landlord, is required.





JZ Restaurant, Inc
36 Gia Ln
Mashpee MA,
02649

Certificate of Vote

This is to certify that at a special meeting of the officers of JZ Restaurant, Inc, held at 36 Gia Ln. Mashpee, MA on May 22, 2018 it was unanimously voted:

Joshua Zamira, as President of JZ Restaurant Inc to represent said corporation before the Town of Falmouth in furtherance of obtaining licenses and permits and more specifically to apply for a New Restaurant Year Round All Liquor License.

Joshua Zamira, as President of JZ Restaurant, Inc to represent said corporation before the Town of Falmouth in furtherance of obtaining licenses and permits and more specifically to apply for a new Common Victualler License.

Joshua Zamira, President

Phyllis Downey

From: Scott McGann <scott.mcgann@falmouthmass.us>
Sent: Wednesday, May 30, 2018 2:47 PM
To: Phyllis Downey
Subject: Re: Application for All Alcohol Common Victualler License JZ Restaurant

The potential restaurateurs stopped by the office last week to discuss. I provided them what they need to obtain a food service permit. I believe we have not received anything back to date.

If the proposed restaurant doesn't increase seating there are no septic issues other than ensuring the existing system is operating properly. A proposed increase in seats may result in an upgrade to the very old septic system.

Sent from my iPhone

On May 30, 2018, at 10:37 AM, Phyllis Downey <phyllis.downey@falmouthmass.us> wrote:

To All,

Attached please find an application for an all alcohol common victualler's license as follows:

1. All Alcohol Common Victualler license: JZ Restaurant, located at 339 East Falmouth Highway.

May I please request your recommendations by Thursday, June 14, 2018?

Thank you,

Phyllis

Phyllis Downey
Administrative Assistant
Office of the Town Manager & Selectmen
508-495-7320

<JZ Restaurant All.pdf>



TOWN OF FALMOUTH

ZONING BOARD OF APPEALS

59 TOWN HALL SQUARE, FALMOUTH, MA 02540
508-495-7460 – FAX 508-495-7463

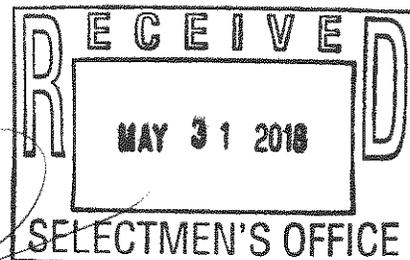
Memorandum

TO: Diane Davidson, Office Manager/Licensing

FROM: Sari D. Budrow, Zoning Administrator

RE: All Alcohol Common Victualler License
339 East Falmouth Highway, E. Falmouth – JZ Restaurant

DATE: May 31, 2018



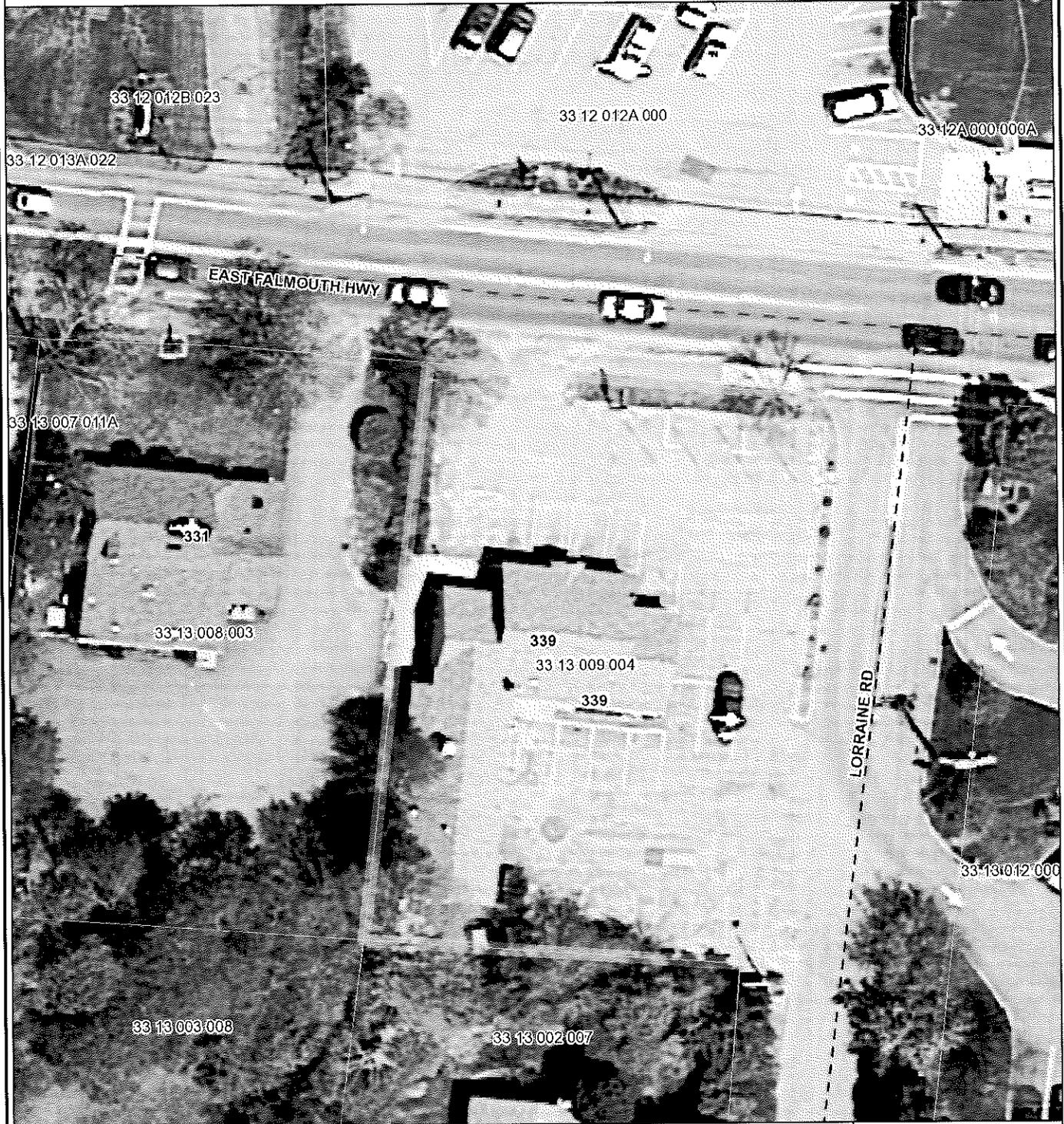
The subject property consists of approximately 14,040 square feet of Business 2 zoned land that is located within the Green Pond Coastal Pond Overlay District.

The property is located on a corner of East Falmouth Highway and Lorraine Road with two curb cuts – one off East Falmouth Highway and one off Lorraine Road (opposite of Dunking Donuts driveway entrance).

There are no special permits on subject property. The proposed seating for the restaurant is 70, which requires 35 parking spaces. There are approximately 23 parking spaces on site (including 1 handicap). The subject property has been consistently used as a restaurant and there have been no complaints that this office is aware of.

Other than as stated herein, the Board has no other concerns.

If you have any questions, please do not hesitate to contact me.



1" = 35 ft

- Parcels
- Road Ownership
- <all other values>
 - COUNTY; TOWN
 - PRIVATE
 - STATE
- Water Features
- POND
 - STREAM
 - Town Boundry

Disclaimer

The Town of Falmouth makes no claims, no representations and no warranties, express or implied, concerning the validity (express or implied), the reliability or the accuracy of the GIS data and/or GIS products furnished by the Town, including the implied validity of any uses of such data. Parcel lines are graphic representations only.

Planimetric features derived from 3/05 Aerials.

Prepared by Falmouth G.I.S.



TOWN OF FALMOUTH

Office of the Town Manager & Selectmen

59 Town Hall Square, Falmouth, Massachusetts 02540

Telephone (508) 495-7320

Fax (508) 457-2573

LIQUOR LICENSE HEARING

Notice is hereby given under Chapter 138 of the General Laws, as amended, that Tasty Oyster Inc. DBA Epic Oyster has applied for an Alteration of Licensed Premises of its All Alcohol Common Victualler License located at 70 County Road, North Falmouth, MA.

A hearing will be held in the Selectmen's Meeting Room, Falmouth Town Hall on Monday, June 18, 2018 at 7:40 p.m. on the above application.

FALMOUTH BOARD OF SELECTMEN
LICENSING BOARD

Susan L. Moran
Megan English Braga
Doug Jones
Samuel H. Patterson
Douglas C. Brown

Publication Date: Friday, June 8, 2018, Falmouth Enterprise

Copy to Abutters



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission

For Reconsideration

LOCAL LICENSING AUTHORITY REVIEW RECORD

02682-RS-0390

Falmouth

May 22, 2018

ABCC License Number

City/Town

Date Filed with LLA

TRANSACTION TYPE (Please check all relevant transactions):

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

APPLICANT INFORMATION

Name of Licensee: The Tasty Oyster, Inc. D/B/A: Epic Oyster

ADDRESS: 70 County Road CITY/TOWN: North Falmouth STATE: MA ZIP CODE: 02556

Manager: Sarah M Bogdan

Granted under Special Legislation? Yes No

If Yes, Chapter _____ of the Acts of (year) _____

§12 Restaurant Annual All Alcoholic Beverages
(i.e. restaurant, package store) (Annual or Seasonal) (i.e. Wines and Malts / All Alcohol)

LOCAL LICENSING AUTHORITY DECISION

Please indicate the decision of the Local Licensing Authority: Approves this Application

Please indicate what days and hours the licensee will sell alcohol: 8 am - 1 am Mondays - Saturdays; 11:30 am - 1 am Sundays

If Approving With Modifications, please indicate below what changes the LLA is making:

Please indicate if the LLA is downgrading the License Category (approving only Wines and Malts if applicant applied for All Alcohol):

No

Changes to the Premises Description

Patio/Deck/Outdoor Area Total Square Footage: 695

Seating Capacity: 53

Indoor Area Total Square Footage:
 Number of Entrances:
 Number of Exits:

Floor Number	Square Footage	Number of Rooms

Abutters Notified: Yes No Date of Abutter Notification: June 8, 2018 Date of Advertisement: June 8, 2018

Please add any additional remarks or conditions here:

Empty box for additional remarks or conditions.

Check here if you are attaching additional documentation

The Local Licensing Authorities By:

Alcoholic Beverages Control Commission
Ralph Sacramone
Executive Director

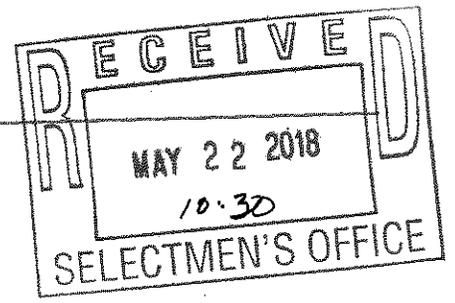
June 18, 2018

Date APPROVED by LLA

6/18/18 @ 7:40 pm

LAURA M. MOYNIHAN
Attorney at Law

17 Academy Lane, Suite 1
Falmouth, Massachusetts 02540
Telephone: 508-548-5558
Fax: 508-548-5553
Email: laura@lmoynihanlaw.com



May 21, 2018

Board of Selectman
Town of Falmouth
59 Town Hall Square
Falmouth MA 02540

**Re: Liquor License for The Tasty Oyster, Inc. – Application for Alteration of Licenses Premises
70 County Road, North Falmouth, MA**

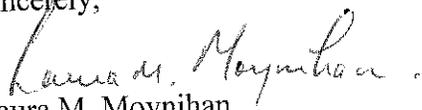
Dear Board of Selectman:

Enclosed please find an Application for Alteration of Licensed Premises relative to the All Alcoholic Restaurant liquor license for The Tasty Oyster, Inc. for restaurant premises at 70 County Road in North Falmouth known as "Epic Oyster". Also enclosed are the filing fee checks for the ABCC (\$200) and Town of Falmouth.

The Applicant is seeking approval to add an exterior licensed waiting area with 20 seats within 5 picnic tables, each seating 4 persons. This waiting area is proposed for patrons waiting to be seated within the interior of the restaurant. No food service is proposed within the waiting area. No changes to the building or licensed premises are proposed other than adding picnic tables outside.

Thank you for your assistance.

Sincerely,


Laura M. Moynihan

LMM/dem

cc: The Tasty Oyster, Inc.



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

AMENDMENT APPLICATION FOR AN ALTERATION OF PREMISES OR CHANGE OF LOCATION

Please complete this entire application, leaving no fields blank. If field does not apply to your situation, please write N/A.

1. NAME OF LICENSEE (Business Contact)	THE TASTY OYSTER, INC		
ABCC License Number	039000224	City/Town of Licensee	FALMOUTH

2. APPLICATION CONTACT					
The application contact is required and is the person who will be contacted with any questions regarding this application.					
First Name:	MARC	Middle:	J	Last Name:	WARNER
Title:	Member of the Board of Entity	Primary Phone:	[REDACTED]		
Email:	EPICOYSTER@YAHOO.COM				

3. BUSINESS CONTACT			
Please complete this section ONLY if there are changes to the Licensee phone number, business address (corporate headquarters), or mailing address.			
Entity Name:	[REDACTED]		
Primary Phone:	[REDACTED]	Fax Number:	[REDACTED]
Alternative Phone:	[REDACTED]	Email:	[REDACTED]

Business Address (Corporate Headquarters)			
Street Number:	23	Street Name:	HARBORVIEW DRIVE
City/Town:	EAST FALMOUTH	State:	MA
Zip Code:	02536	Country:	USA

Mailing Address		<input type="checkbox"/> Check here if your Mailing Address is the same as your Business Address	
Street Number:	70	Street Name:	COUNTY ROAD
City/Town:	NORTH FALMOUTH	State:	MA
Zip Code:	02556	Country:	USA

AMENDMENT APPLICATION FOR AN ALTERATION OF PREMISES OR CHANGE OF LOCATION

6. PREMISES INFORMATION

Please enter the address where the alcoholic beverages are sold.

Premises Address

Street Number: Street Name: Unit:

City/Town: State: Zip Code:

Country:

Description of Premises

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

Floor Number	Square Footage	Number of Rooms	
Interior Floor 1	995	4	Patio/Deck/Outdoor Area Total Square Footage <input style="width: 50px;" type="text" value="695"/>
Exterior Area 1	695	0 (Outside Area)	Indoor Area Total Square Footage <input style="width: 50px;" type="text" value="995"/>
			Number of Entrances <input style="width: 50px;" type="text" value="3"/>
			Number of Exits <input style="width: 50px;" type="text" value="3"/>
			Proposed Seating Capacity <input style="width: 50px;" type="text" value="53**"/>
			Proposed Occupancy <input style="width: 50px;" type="text" value="33*"/>

Occupancy of Premises

Please complete all fields in this section. Documentation showing proof of legal occupancy.

Please indicate by what right the applicant has to occupy the premises Landlord Name

Lease Beginning Term Landlord Phone

Lease Ending Term Landlord Address

Rent per Month

Rent per Year

Please indicate if the term: easings or renting the premises, a signed copy of the lease is required.

used on the sale of alcohol: Yes No



COUNTY ROAD (33' WIDE)

ROAD (STATE HIGHWAY LAYOUT DIED)

OLD MAIN ROAD (VARIABLE WIDTH)

CATCH BASIN

OUTSIDE SEATING AREA (685 SF)

SISTERS BUILDING (71' E, 31' S) (CRAWL SPACE)

CELL (CELLARY)

LOT 1
21,524 ± s.f.

ZONE PU

ZONE B3

ZONE B3

ZONE PU

ZONE B3

ZONE RB

SITE PLAN

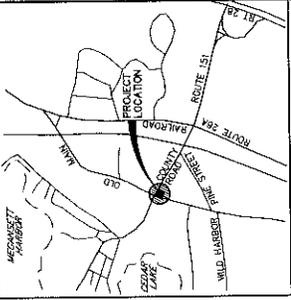
SCALE: 1" = 20'



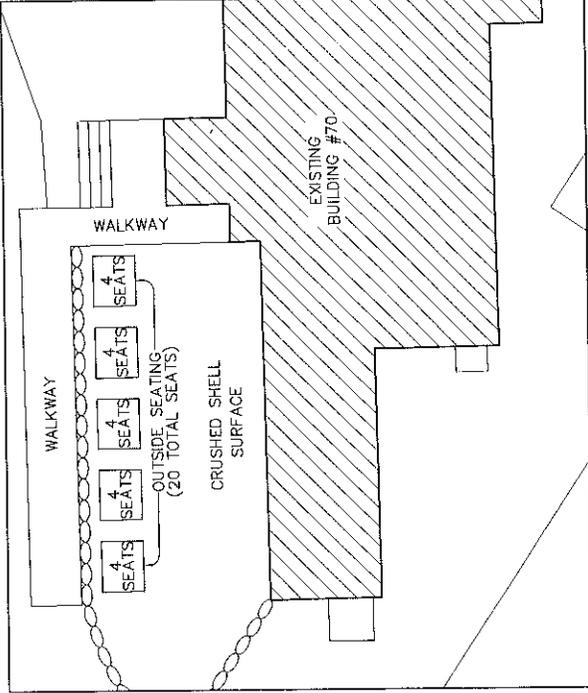
SCALE: 1 INCH = 20 FEET

GENERAL NOTES:

- BUILDING NUMBER: 70
- ASSESSOR'S NUMBER: 05A 05 001 000



LOCUS MAP
Scale: 1" = 2000'



DETAIL OF OUTSIDE SEATING

SCALE: 1" = 8'

SCHEMATIC SITE PLAN SHOWING OUTSIDE SEATING FOR #70 COUNTY ROAD

PREPARED FOR THE TASTY OYSTER, INC IN FALMOUTH MA

PLAN DATE: APRIL 19, 2018

PLAN SCALE: AS SHOWN



CIVIL ENGINEERING
 WASTEWATER DESIGN
 TITLE 9 PLOT PLANS
 LAND USE PLANNING

WETLANDS PERMITTING
 COASTAL ENGINEERING
 PERS AND DODS
 COMMERCIAL/RESIDENTIAL

Serving Cape Cod and Southeastern Massachusetts

17 ACADEMY LANE, SUITE 200 - FALMOUTH, MA - 02540 - 508.495.1225

PROJECT NUMBER: [] (DAD FILE NAME: WARNER SP 2018) DRAWN BY: L.M./D.J.M.M. SHEET 1 OF 1

**MINUTES OF
MEETING OF THE BOARD OF DIRECTORS
OF
THE TASTY OYSTER, INC.**

The undersigned, Sean Casey, being the duly elected Secretary/Clerk of **THE TASTY OYSTER, INC.**, a business corporation organized and existing under Chapter 156B of the laws of the Commonwealth of Massachusetts (the "Corporation"), does hereby certify that on May 21, 2018, at a duly announced and convened meeting of the Board of Directors of the Corporation at which meeting a quorum was present and voting throughout, the following resolutions were duly voted upon and adopted by the Board acting on behalf of the Corporation:

VOTED: That the Corporation make application to the Town of Falmouth and the Commonwealth of Massachusetts Alcohol Beverages Control Commission ("ABCC") for alteration of the alcoholic licensed premises with respect to a restaurant operated by the Corporation at premises known as "Epic Oyster" located at 70 County Road, North Falmouth, Massachusetts (the "Restaurant") for outside service of alcoholic beverages;

VOTED: That Marc J. Warner, as the President of the Corporation, shall be and is hereby authorized on behalf of the Corporation to take such actions as may be necessary or appropriate to such application for an all alcoholic liquor license for the Restaurant, and in furtherance of the foregoing, the Corporation, through its President, shall be empowered to execute and deliver any and all documents or instruments as shall be required to affect such purposes;

VOTED: That the Secretary/Clerk of the Corporation be and hereby is authorized and directed to certify that the foregoing votes are in conformity with the Articles of Organization and By-Laws of the Corporation;

VOTED: That the Directors of the Corporation, in connection with the actions which are the subject of the foregoing resolutions, do hereby further ratify and confirm all actions previously undertaken by the Officers of the Corporation in furtherance thereof.

May 22, 2018

Board of Selectmen
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540

Dear Board of Selectmen:

**Re: Application for Alteration of Licensed Premises for Liquor License of The Tasty Oyster, Inc. -
premises at 70 County Road, North Falmouth, MA**

This is to confirm that the undersigned supports the application of The Tasty Oyster, Inc., for alteration of licensed premises for its liquor license for the "Epic Oyster" restaurant premises at 70 County Road, North Falmouth. Since the restaurant commenced operations, it has been a benefit to the neighborhood and a significant improvement to the property. The undersigned has no objection to the outside service of alcoholic beverages to restaurant patrons while waiting for service inside

Thank you.

Sincerely,



Signature

Print Name: STEPHEN GOOD

Address: 80 COUNTY RD N. FALMOUTH

Diane Davidson

From: info@falmouthtaxi.com
Sent: Friday, June 15, 2018 10:30 AM
To: ddavidson@falmouthmass.us
Subject: Cancel Request

To whom it may concern,
I would like to withdraw my request for a hearing in front of the Board of Selectman.

Sincerely,
Adam Meehan
508-548-3100

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Board of Selectmen of the Town of Falmouth will hold a public hearing on Monday, May 21, 2018 at 8:00 PM in the Selectmen's Meeting Room, Town Hall, Falmouth, MA on the application of LaFrance Hospitality Corp. for a wastewater flow variance under Chapter 180, Section 56 of the Code of Falmouth, the so-called Flow Neutral By-law, for a proposed hotel development at the intersection of Main St. and Scranton Ave. in said Falmouth (parcels 47B 09 013 022 and 47B 09 010 002).

Per Order of Board of Selectmen

*Publication date: Friday, May 4, 2018, Falmouth Enterprise
Account #: 2056*

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

Presented to BOS for Discussion Purposes 6-4-18

Suggested Process:

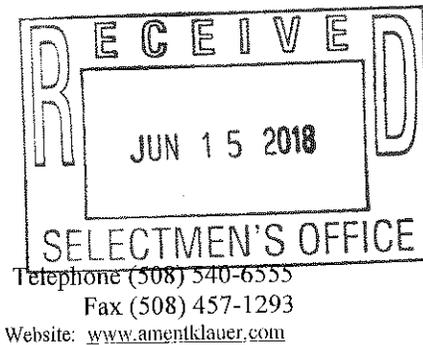
1. BOS receives confirmation from Board of Health that proposed development *can* be accommodated with an on-site Title 5 system as well as confirmation from wastewater superintendent that sufficient capacity exists in the treatment facility.
2. BOS holds Public Hearing on proposed development.
3. Priority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

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

AMENT KLAUER LLP

Attorneys at Law
39 Town Hall Square
Falmouth, MA 02540

Robert H. Ament, Esq.
Kevin P. Klauer II, Esq.



June 15, 2018

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

Re: Request filed March 9, 2018, for a Variance under the Flow Neutral Bylaw
Lafrance Hospitality - Proposed hotel on Main Street at Scranton Avenue

Dear Julian:

The referenced request will be further considered by the Selectmen Monday evening. Since the hearing opened on May 21, 2018, the Selectmen have adopted Guidelines relative to their granting variances under the Flow Neutral Bylaw. The Guidelines establish as priority areas Economic Development, Affordable Housing, Mixed Use Development in the Business Redevelopment Zone and Municipal Use. This letter is to document how the proposed redevelopment qualifies for a variance under the guidelines.

The proposed hotel, with an independent restaurant and/or other commercial space, will provide year-round economic benefits to the Falmouth Community. As stated in a letter dated June 4, 2018, from the Falmouth Chamber of Commerce to the Selectmen, today there are only about half the number of hotel rooms in Falmouth that there once were, a huge reduction for a town that depends on tourism and business and conference visitors not only in the summer but throughout the year. There has not been an entirely new hotel in Falmouth in decades, and it is generally acknowledged that a new hotel proximate to downtown and the Inner Harbor will be advantageous. In previous correspondence I noted that the municipal tax revenue from the hotel, just real estate taxes and room taxes, may exceed \$200,000 annually, and there will be additional state and municipal revenue from meals taxes and other expenditures made by hotel guests. We doubt that any other use of the subject property would generate nearly as much revenue to the Town as the proposed hotel and restaurant. The hotel will be in a prime Main Street location that needs redevelopment. In conformance with Business Redevelopment District zoning, the new design, unlike the current condition, will present an attractive façade and streetscape on the corner lot, with no parking in front of the building.

The proposed redevelopment will be reviewed by the Cape Cod Commission as a Development of Regional Impact (DRI). As such, the issue of affordable housing must be addressed. For a commercial DRI, the Cape Cod Commission Regional Policy Plan requires an affordable housing mitigation payment based on a calculation that considers the size of the development and the number of jobs created that will pay less than the current regional average

Julian Suso, Town Manager
June 15, 2018
Page 2

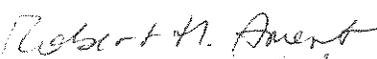
wage. The applicant will explore whether the DRI mitigation may be satisfied in full or in part by the actual provision of affordable housing units. That option is not offered in the Regional Policy Plan Minimum Performance Standards for commercial development, but Section ED2.3 of the Regional Policy Plan encourages commercial developments to provide housing for a percentage of the year-round employees. The applicant will consider providing one or more staff housing units within walking distance of the hotel site, but this will depend in part on the number of hotel rooms approved and what mitigation credits are allowed by the Commission for existing and past development of the property.

The design and permitting process of the hotel project is still in an early stage. The project plans, including an effective strategy to address affordable housing requirements, are still being developed. Richard Lafrance believes that the hotel staff will mostly be current residents seeking employment, not newcomers from out of the area, and that the hotel development will not worsen affordable housing problems that already exist in Falmouth.

The developer commits to returning to the Selectmen to seek a Municipal Endorsement under the Economic Development Minimum Performance Standards of the Regional Policy Plan, Section ED1.3, and the Selectmen will then have an opportunity to consider the applicant's efforts. Through the Municipal Endorsement process, the Selectmen can consider whether in terms of affordable housing as well as other issues the project is consistent with the Town's Local Comprehensive Plan and capital facilities and infrastructure planning. The project requires not only DRI approval by the Cape Cod Commission, but also Site Plan Review by the Falmouth Planning Board and a special permit from the Falmouth Zoning Board of Appeals. The special permit process requires consideration of the effect of the project on the adequacy of the supply of affordable housing in the Town (Code of Falmouth Section 240-216.G). The Selectmen's interest in affordable housing, as a waiver consideration under the Flow Neutral Bylaw Guidelines, will be addressed in the permitting process that can follow the Selectmen's granting of the requested waiver allowing connection to the municipal sewer.

Lafrance Hospitality is hopeful that the Selectmen will vote to grant the requested variance on Monday evening, so that the design and permitting process can continue.

Very truly yours,


Robert H. Ament -gmb-

RHA/gmb

cc: Richard Lafrance
Sean Lafrance
Mark Bogosian, Longfellow Design Build
Matt Costa, Cape & Islands Engineering
Kevin P. Klauer II, Esq.



Town of Falmouth

Department of Public Works

Peter M. McConarty, P.E., P.L.S.
Deputy Director of Public Works

416 Gifford Street
Falmouth, MA 02350
Cape Cod

Telephone: (508) 457-2543
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June 18, 2018

To: Board of Selectmen

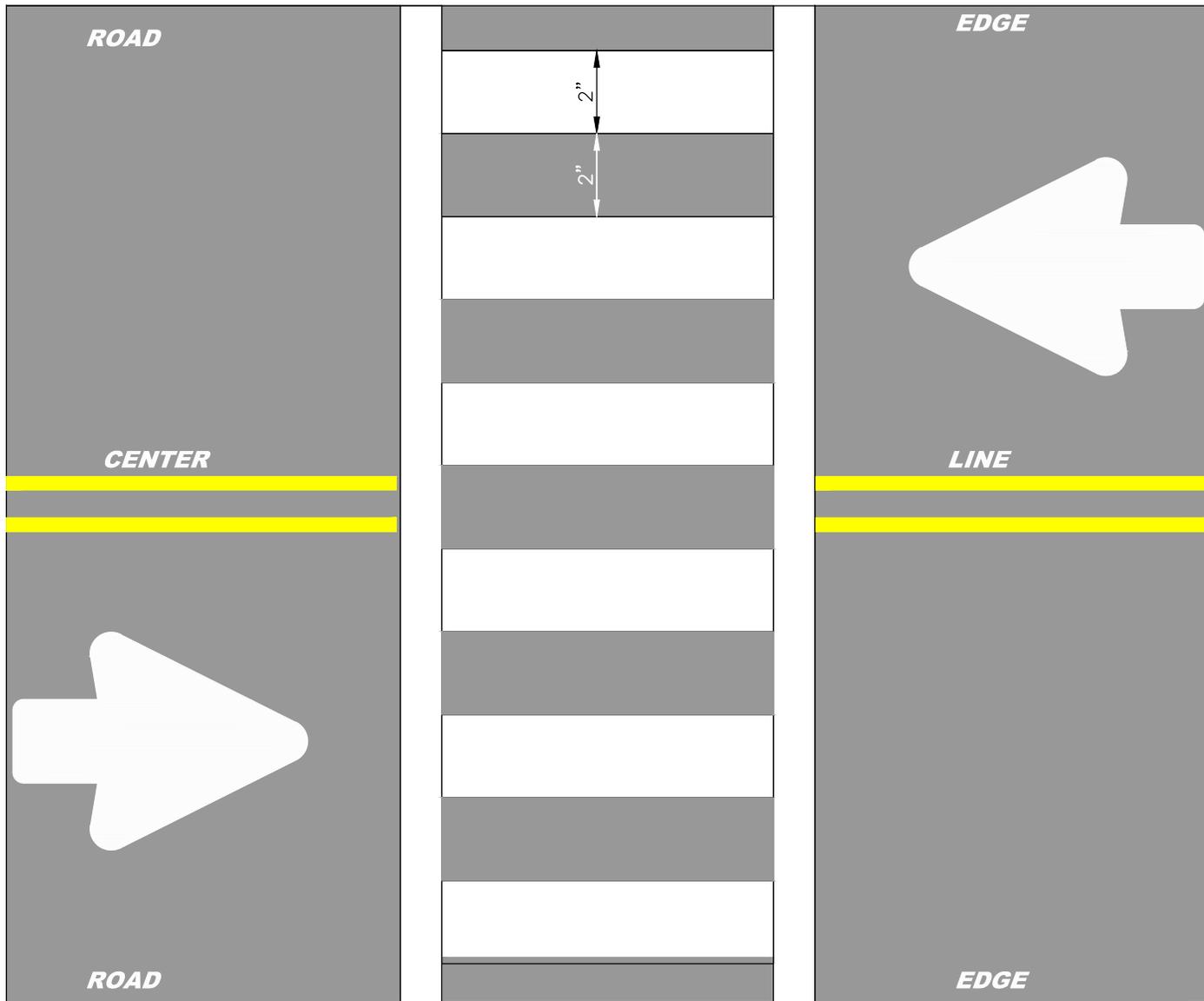
From: Peter M. McConarty, Deputy Director of Public Works

Re: Standardized Uniform Crosswalk Markings at all Public Roadway Locations.

Dear members of the Board,

Public Works is looking to standardize crosswalk markings on all public roadways. Attached is a typical detail plan showing the new crosswalk markings at all locations. Throughout Town there are several types of crosswalk paint configurations that are confusing to motorists and pedestrians alike. I will be presenting this in more detail at Monday's BOS meeting.

Also attached is a memorandum to all Federal Lands Highway Division Engineers and Division Administrators from the U.S. Department of Transportation stating the issuance of an official interpretation on the uses of colored pavement for crosswalks, medians, islands, etc.



DATE	BY	REVISION

TOWN OF FALMOUTH
DEPARTMENT OF
PUBLIC WORKS
ENGINEERING DIVISION
416 GIFFORD STREET
FALMOUTH, MA 02540
508-457-2543



STANDARDIZED CROSSWALK DETAIL

DESIGN: PMM DATE : JUNE 18, 2018

DRAWN: PMM SCALE: N.T.S.

CHECKED: TOF DRAWING: Crosswalk Detail Plan.Dwg

SHEET
1 OF 1

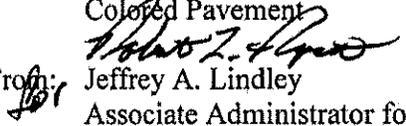


U.S. Department
of Transportation
Federal Highway
Administration

Memorandum

Subject: **INFORMATION:** MUTCD – Official
Ruling 3(09)-24(I) – Application of
Colored Pavement

Date: **AUG 15 2013**

From: 
Jeffrey A. Lindley
Associate Administrator for Operations

In Reply Refer To:
HOTO-1

To: Federal Lands Highway Division Engineers
Division Administrators

Purpose: Through this memorandum, the Federal Highway Administration's (FHWA) Office of Transportation Operations (HOTO) is issuing an Official Interpretation of Chapter 3G of the *Manual on Uniform Traffic Control Devices for Streets and Highways* (MUTCD) on the approved uses of colored pavement. For recordkeeping purposes, this Official Ruling has been assigned the following number and title: "3(09)-24(I) – Application of Colored Pavement."

Background: The FHWA is concerned that considerable ambiguity continues regarding how colored pavement can be used, especially between the white transverse lines of a legally marked crosswalk.

Colored pavements consist of differently colored road paving materials, such as colored asphalt or concrete, or paint or other marking materials applied to the surface of a road or island to simulate a colored pavement. Colored pavement is a traffic control device when it attempts to communicate with any roadway user or when it incorporates retroreflective properties. Colored pavement can also be a purely aesthetic treatment. When used in this manner, colored pavement is not a traffic control device provided that it does not attempt to communicate with the motorist or incorporate elements of retroreflectorization.

Colored Pavement in Crosswalks: In the late 1990s, the marketplace introduced and promoted aesthetic treatments for urban streetscape environments that included the opportunity to install a range of colors and a multitude of patterns. The most popular opportunity to implement these treatments was between the legally marked transverse lines of crosswalks. This was typically done as part of larger efforts by cities to enhance the aesthetics of an area that could include decorative luminaires, street furniture, sidewalk art, etc. These crosswalk treatments were publicized and marketed as a method to increase conspicuity of the crosswalk that would translate into increased safety and a reduction of pedestrian deaths. In December 2001, the FHWA issued its first Official Ruling¹

¹ MUTCD Official Ruling 3-152 (I) as Memorandum of Action, December 7, 2001

regarding the use of these aesthetic treatments, which concluded that crosswalk enhancements of this type had no such discernible effect on safety or crash reduction.

The marketplace looked to capitalize on advancements in pavement retroreflectivity in the mid-2000s, and further advocated for these aesthetic treatments on public streets as a way to increase crosswalk visibility. This included the benefits of the increased recognition of crosswalks both during the day and at night since the materials were designing retroreflective properties into the aesthetic treatments. In 2004 and in 2005, the FHWA issued two separate but related Official Rulings^{2,3} concluding that incorporating retroreflectivity into an aesthetic crosswalk treatment renders it an official traffic control device. Further, these Official Rulings continued to discourage implementation of such treatments and also concluded that these enhancements still had no increased effect on safety or contributed to a reduction in pedestrian deaths.

The evolution of crosswalk treatments continued into the form of “crosswalk art” because it was becoming a common misconception that as long as the white transverse lines were present—thereby legally marking the crosswalk—then the agency was free to treat the interior portion of the crosswalk as it desired. In 2011, the FHWA issued an additional Official Ruling⁴ that crosswalk art—defined as any freeform design to draw attention to the crosswalk—would degrade the contrast of the white transverse lines against the composition of the pavement beneath it. In deviating from previous Official Rulings on the matter that concluded an increased factor of safety and decreased number of pedestrian deaths were not evident after installation, this 2011 Official Ruling stated that the use of crosswalk art is actually contrary to the goal of increased safety and most likely could be a contributing factor to a false sense of security for both motorists and pedestrians.

The FHWA’s position has always been, and continues to be that subdued-colored aesthetic treatments between the legally marked transverse crosswalk lines are permissible provided that they are devoid of retroreflective properties and that they do not diminish the effectiveness of the legally required white transverse pavement markings used to establish the crosswalk. Examples of acceptable treatments include brick lattice patterns, paving bricks, paving stones, setts, cobbles, or other resources designed to simulate such paving. Acceptable colors for these materials would be red, rust, brown, burgundy, clay, tan or similar earth tone equivalents. All elements of pattern and color for these treatments are to be uniform, consistent, repetitive, and expected so as not to be a source of distraction. No element of the aesthetic interior treatment is to be random or unsystematic. No element of the aesthetic interior treatment can implement pictographs, symbols, multiple color arrangements, etc., or can otherwise attempt to communicate with any roadway user.

Patterns or colors that degrade the contrast of the white transverse pavement markings establishing the crosswalk are to be avoided. Attempts to intensify this contrast by increasing or thickening the width of the transverse pavement markings have been observed in the field. These attempts to increase contrast are perceived to be efforts to circumvent the contrast prerequisite so that an intentional noncompliant alternative of an aesthetic interior pattern or color can be used. Further techniques to install an empty buffer

² MUTCD Official Ruling 3-169 (I) – Section 3B.19 Retroreflective Colored Pavement, September 1, 2004

³ MUTCD Official Ruling 3-178 (I) – Retroreflective Colored Pavement – Additional Clarification, April 27, 2005

⁴ MUTCD Official Ruling 3(09)–8 (I) – Colored Pavement Treatments in Crosswalks, May 3, 2011.

space between an aesthetic treatment and the interior edge of the white transverse crosswalk markings have also been observed in the field. This strategy is also perceived to be an attempt to circumvent FHWA's prior position on contrast. However, an empty buffer space between a subdued-colored, uniform-patterned aesthetic treatment can be implemented to enhance contrast between the aesthetic treatment and the white transverse pavement markings. When used properly, buffer spaces can be an effective tool to disseminate a necessary contrast in order to visually enhance an otherwise difficult to discern white transverse crosswalk marking, provided that the aesthetic treatment conforms to the conditions in the preceding paragraph.

Colored Pavement in Medians: Several agencies nationwide have used aesthetic colored pavement in medians that separate opposite directions of travel. These treatments are typically simulated red brick patterns or pavers. This is allowable if the median is closed to traffic. Where the center portion of the roadway functions to facilitate turns or operates as a two-way left turn lane, aesthetic treatments cannot be used in that center area in accordance with Paragraph 3 of Section 3G.01 in the MUTCD. Further, provisions elsewhere in Part 3 of the MUTCD require or recommend the turning functions of turn lanes or two-way left turn lanes to be marked with pavement word markings or arrows where applicable. The use of aesthetic colored patterns or pavers in these lanes simulates a supplemental background to standard turn markings and is an attempt to enhance conspicuity of the median thereby serving as communication with the motorist. This practice to use aesthetic treatments is disallowed since the median is open to traffic.

Colored Pavement for Islands: Where an island is designated as a traffic-control device, curbs, pavement edges, pavement markings, channelizing devices, or other devices are used. Islands are most commonly used to separate traffic movements or to provide pedestrian refuge. Regardless of whether the island is raised or flush with the roadway surface, islands are a potential for providing aesthetic qualities. Islands that separate movements of traffic and choose to incorporate colored pavement into interior sections or to the top surface of their design are to comply with Item A or B of Paragraph 3 of Section 3G.01. This would be applicable when the island is used to address a need to facilitate traffic that would otherwise have difficulty navigating the roadway if the island was absent.

Islands that are intentionally aesthetic in nature only are to be designed similar to those aesthetic treatments for crosswalks as described above. The most common applications of these purely aesthetic treatments are pedestrian refuge islands and textured raised buffers between a bikeway and a motorized vehicular lane.

Colored Pavement for Bicycle Lanes: Green colored pavement is approved for use in bicycle lanes only to enhance the conspicuity of where bicyclists are required to operate, and areas of the bicycle lane where bicyclists and other roadway traffic might have potentially conflicting weaving or crossing movements. Approval to use green colored pavement shall be in accordance with Paragraph 17 of Section 1A.10 in the 2009 MUTCD.

The FHWA issued an Interim Approval (IA-14) for the use and application of green colored pavement on April 15, 2011. The information provided in the IA-14 memorandum remains in effect.

The use of green colored pavement in a bicycle facility other than a legally marked bicycle lane is either not approved or is experimental. FHWA's Bicycle and Pedestrian Web site (http://www.fhwa.dot.gov/environment/bicycle_pedestrian/guidance/design_guidance/mutcd_bike.cfm) can be helpful in determining what is or is not approved and what is experimental. Agencies that desire to use bicycle facilities that are experimental are required to submit their request for approval in accordance with paragraphs 3, 4 and 8 through 10 of Section 1A.10 in the MUTCD.

The FHWA is aware that agencies might be using green colored pavement to supplement, fill in or outline parking stalls for electric vehicle charging stations in order to express the agency's commitment to environmentally friendly initiatives. Use of green colored pavement for this purpose is not allowed. Although the applicability of the MUTCD may be limited in certain settings involving parking stalls, agencies are encouraged to adhere to the MUTCD with respect to disallowing green colored pavement in parking facilities for the purpose of maintaining uniformity among similar facilities.

Colored Pavement on Freeways and Expressways: The FHWA is aware of agencies nationwide using colored pavement on higher speed facilities as a method to visually differentiate the shoulder or special-use lanes from the general-purpose lanes, to demarcate the exit gore area, or to differentiate a ramp terminal from the mainline facility. The FHWA maintains the position that contrasting techniques on high-speed facilities have no other intention than to communicate with the motorist, regardless of whether elements of retroreflectivity are implemented for the colored pavement.

Additionally, the 2011 edition of the American Association of State Highway and Transportation Officials' *A Policy on the Geometric Design of Highways and Streets* discusses various methods of contrasting the shoulder with the adjacent pavement traveled way. The policy states that with regard to bituminous pavements, "the use of edge lines as described in the Manual on Uniform Traffic Control Devices... reduces the need for shoulder contrast." Edge lines separating shoulders from the traveled way on Interstate routes have been required by the MUTCD since 1971, supplanting the practice of using contrasting material for shoulders when an edge line was optional. Therefore, there should be little need for such a contrast that cannot be accommodated by the allowable pavement colors prescribed by the MUTCD.

If a need to provide contrast on a high-speed facility has been determined, then that contrast can be accomplished by a number of alternatives. Asphalt mixtures can be tinted to provide a shade of grey. White colored pavement can also be implemented. Paragraph 3 of Section 3G.01 in the MUTCD allows the use of white colored pavement for exit gore areas and right-hand shoulders. In the event that the main traveled way is concrete, an asphalt top layer could be applied to the shoulder to provide contrast.

Colored Pavement for Public Transit Systems: The use of red colored pavement for public transit systems such as streetcar and/or bus-only lanes is currently experimental. The use of colored pavement in these settings requires approval from the FHWA's Office of Transportation Operations. Agencies that desire to experiment with colored pavement should only do so where an engineering study can determine that increased travel speeds will be expected by the public transit vehicle, reduced overall service time through the corridor will be expected by the public transit vehicle, and the implementation of the

colored pavement to a converted general purpose lane in the traveled way will not adversely affect the traffic flow in the remaining general purpose lanes.

Blue Colored Pavement: Blue is not a colored pavement and is not to be used as such in accordance with Paragraph 3 of Section 3G.01. Blue as it applies to a pavement marking is exclusively reserved for the background color in the international symbol of accessibility parking symbol (see Figure 3B-22) and for the supplemental pavement marking lines that define legal parking spaces reserved for use only by persons with disabilities as provided in Paragraph 5 of Section 3A.05.

Applying blue colored pavement to entire stalls or entire areas of parking reserved for persons with disabilities is to be avoided. Although the applicability of the MUTCD may be limited in certain settings involving parking stalls, agencies are encouraged to adhere to the MUTCD with respect to blue colored pavement in parking facilities for the purpose of maintaining uniformity among similar facilities.

Purple Colored Pavement: Purple is not approved for use as a colored pavement in any application, including toll facility environments. Purple as a pavement marking color is permitted in accordance with Paragraphs 5 and 6 of Section 3E.01 of the MUTCD.

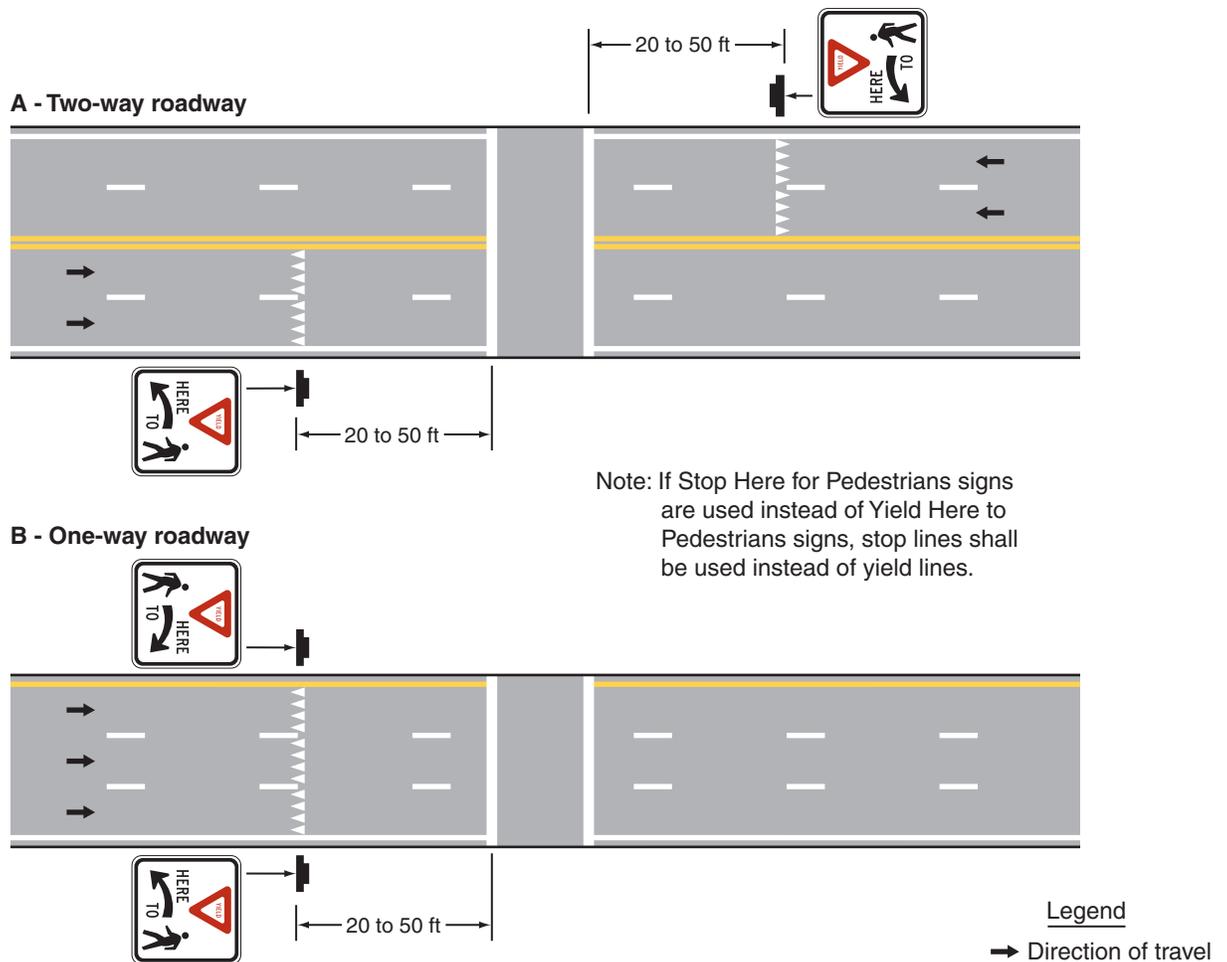
Chromaticity Coordinates: The acceptable ranges of chromaticity coordinates that define the standard colors for pavement markings are found in the Appendix to Subpart F of 23 CFR 655—Alternate Method of Determining the Color of Retroreflective Sign Materials and Pavement Marking Materials.

Acceptable ranges for the chromaticity coordinates defining the color green for use as a pavement marking are provided in the IA-14 memo dated April 15, 2011.

Conclusion: Chapter 3G of the 2009 MUTCD contains provisions regarding the use of colored pavements. If colored pavement is used to regulate, warn, or guide traffic or otherwise attempts to communicate with the roadway user, the colored pavement constitutes a traffic control device. Agencies cannot intentionally exclude elements of retroreflectivity as part of a systematic process to classify the color pavement as a purely aesthetic treatment in order to circumvent the provisions of Chapter 3G.

Paragraph 3 of Section 3G.01 in the MUTCD limits the use of colored pavement used as a traffic control device to the colors yellow and white. Interim Approval IA-14 permits the use of green colored pavement for marked bicycle lanes. All other colors for use on highway pavement in the right-of-way are either disallowed or are experimental as described above, unless the colored pavement is a purely aesthetic treatment and makes no discernible attempt to communicate with a roadway user.

cc:
Associate Administrators
Chief Counsel
Chief Financial Officer
Directors of Field Services
Director of Technical Services

Figure 3B-17. Examples of Yield Lines at Unsignalized Midblock Crosswalks**Section 3B.18 Crosswalk Markings**

Support:

- 01 Crosswalk markings provide guidance for pedestrians who are crossing roadways by defining and delineating paths on approaches to and within signalized intersections, and on approaches to other intersections where traffic stops.
- 02 In conjunction with signs and other measures, crosswalk markings help to alert road users of a designated pedestrian crossing point across roadways at locations that are not controlled by traffic control signals or STOP or YIELD signs.
- 03 At non-intersection locations, crosswalk markings legally establish the crosswalk.

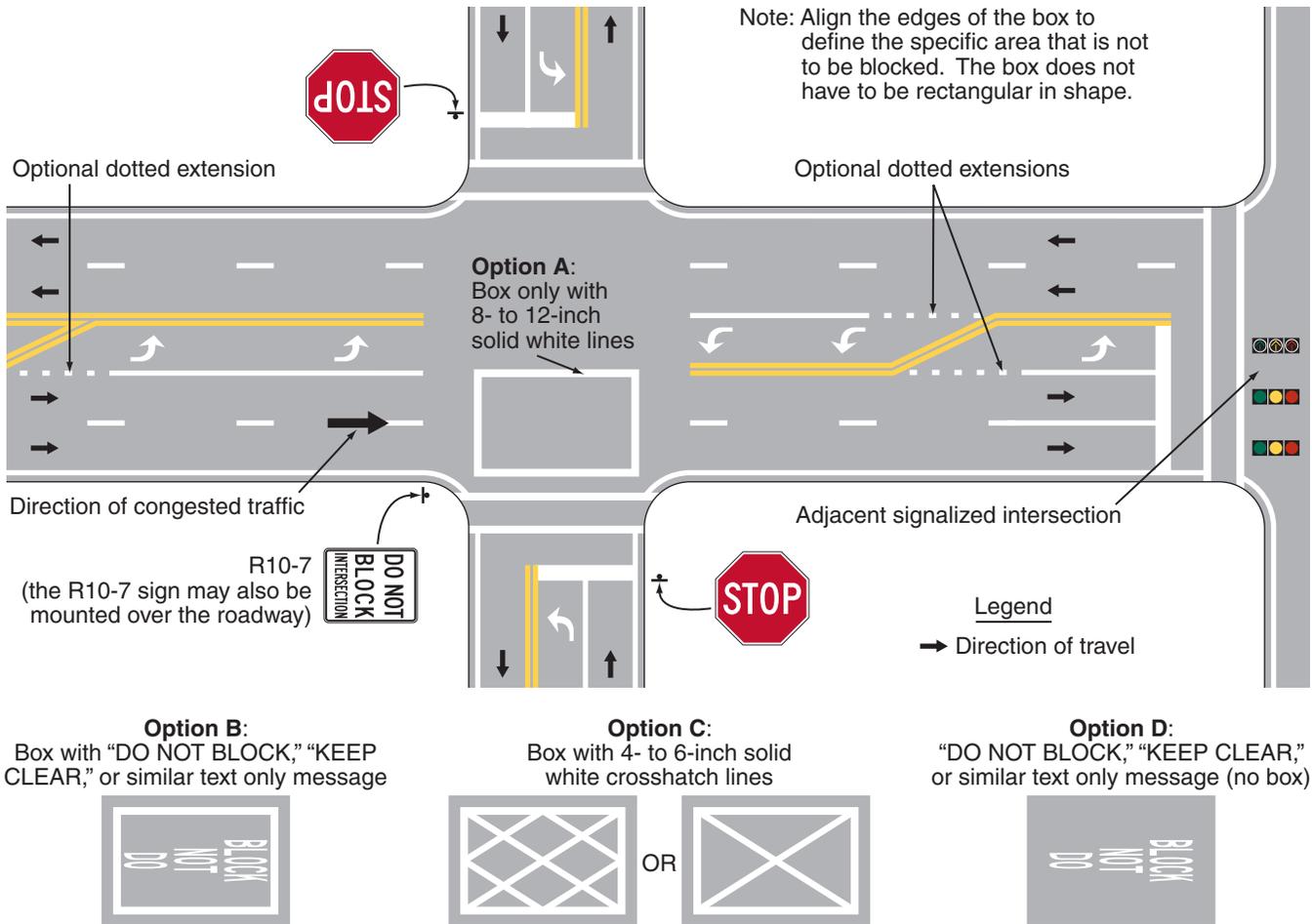
Standard:

- 04 **When crosswalk lines are used, they shall consist of solid white lines that mark the crosswalk. They shall not be less than 6 inches or greater than 24 inches in width.**

Guidance:

- 05 *If transverse lines are used to mark a crosswalk, the gap between the lines should not be less than 6 feet. If diagonal or longitudinal lines are used without transverse lines to mark a crosswalk, the crosswalk should be not less than 6 feet wide.*
- 06 *Crosswalk lines, if used on both sides of the crosswalk, should extend across the full width of pavement or to the edge of the intersecting crosswalk to discourage diagonal walking between crosswalks (see Figures 3B-17 and 3B-19).*
- 07 *At locations controlled by traffic control signals or on approaches controlled by STOP or YIELD signs, crosswalk lines should be installed where engineering judgment indicates they are needed to direct pedestrians to the proper crossing path(s).*

Figure 3B-18. Do Not Block Intersection Markings

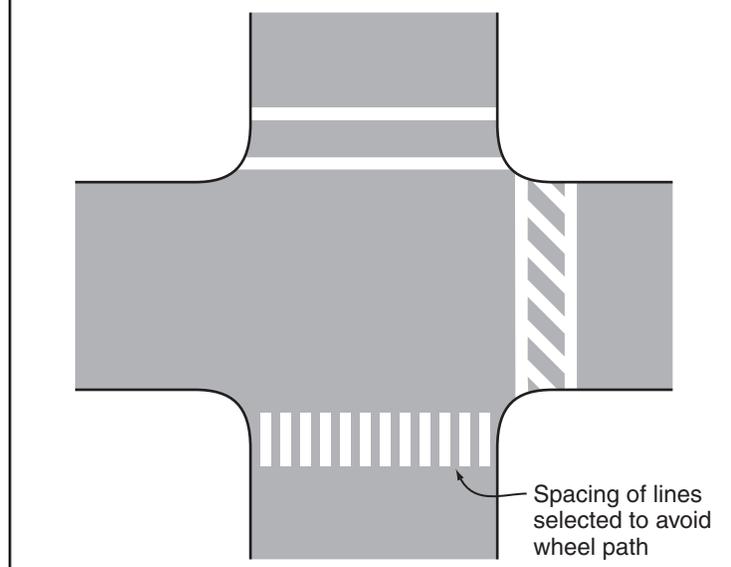


08 *Crosswalk lines should not be used indiscriminately. An engineering study should be performed before a marked crosswalk is installed at a location away from a traffic control signal or an approach controlled by a STOP or YIELD sign. The engineering study should consider the number of lanes, the presence of a median, the distance from adjacent signalized intersections, the pedestrian volumes and delays, the average daily traffic (ADT), the posted or statutory speed limit or 85th-percentile speed, the geometry of the location, the possible consolidation of multiple crossing points, the availability of street lighting, and other appropriate factors.*

09 *New marked crosswalks alone, without other measures designed to reduce traffic speeds, shorten crossing distances, enhance driver awareness of the crossing, and/or provide active warning of pedestrian presence, should not be installed across uncontrolled roadways where the speed limit exceeds 40 mph and either:*

- A. *The roadway has four or more lanes of travel without a raised median or pedestrian refuge island and an ADT of 12,000 vehicles per day or greater; or*
- B. *The roadway has four or more lanes of travel with a raised median or pedestrian refuge island and an ADT of 15,000 vehicles per day or greater.*

Figure 3B-19. Examples of Crosswalk Markings



Support:

- 10 Chapter 4F contains information on Pedestrian Hybrid Beacons. Section 4L.03 contains information regarding Warning Beacons to provide active warning of a pedestrian's presence. Section 4N.02 contains information regarding In-Roadway Warning Lights at crosswalks. Chapter 7D contains information regarding school crossing supervision.

Guidance:

- 11 *Because non-intersection pedestrian crossings are generally unexpected by the road user, warning signs (see Section 2C.50) should be installed for all marked crosswalks at non-intersection locations and adequate visibility should be provided by parking prohibitions.*

Support:

- 12 Section 3B.16 contains information regarding placement of stop line markings near crosswalk markings.

Option:

- 13 For added visibility, the area of the crosswalk may be marked with white diagonal lines at a 45-degree angle to the line of the crosswalk or with white longitudinal lines parallel to traffic flow as shown in Figure 3B-19.

- 14 When diagonal or longitudinal lines are used to mark a crosswalk, the transverse crosswalk lines may be omitted. This type of marking may be used at locations where substantial numbers of pedestrians cross without any other traffic control device, at locations where physical conditions are such that added visibility of the crosswalk is desired, or at places where a pedestrian crosswalk might not be expected.

Guidance:

- 15 *If used, the diagonal or longitudinal lines should be 12 to 24 inches wide and separated by gaps of 12 to 60 inches. The design of the lines and gaps should avoid the wheel paths if possible, and the gap between the lines should not exceed 2.5 times the width of the diagonal or longitudinal lines.*

Option:

- 16 When an exclusive pedestrian phase that permits diagonal crossing of an intersection is provided at a traffic control signal, a marking as shown in Figure 3B-20 may be used for the crosswalk.

Guidance:

- 17 *Crosswalk markings should be located so that the curb ramps are within the extension of the crosswalk markings.*

Support:

- 18 Detectable warning surfaces mark boundaries between pedestrian and vehicular ways where there is no raised curb. Detectable warning surfaces are required by 49 CFR, Part 37 and by the Americans with Disabilities Act (ADA) where curb ramps are constructed at the junction of sidewalks and the roadway, for marked and unmarked crosswalks. Detectable warning surfaces contrast visually with adjacent walking surfaces, either light-on-dark, or dark-on-light. The "Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG)" (see Section 1A.11) contains specifications for design and placement of detectable warning surfaces.

Section 3B.19 Parking Space Markings**Support:**

- 01 Marking of parking space boundaries encourages more orderly and efficient use of parking spaces where parking turnover is substantial. Parking space markings tend to prevent encroachment into fire hydrant zones, bus stops, loading zones, approaches to intersections, curb ramps, and clearance spaces for islands and other zones where parking is restricted. Examples of parking space markings are shown in Figure 3B-21.

Standard:

- 02 **Parking space markings shall be white.**

