

**TOWN OF FALMOUTH**  
**SELECT BOARD**  
**AGENDA**  
**MONDAY, AUGUST 24, 2020 – 7:00 P.M.**  
**SELECT BOARD MEETING ROOM**  
**TOWN HALL**  
**59 TOWN HALL SQUARE, FALMOUTH, MA 02540**

*In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the August 24, 2020 public meeting of the Falmouth Select Board shall be physically closed to the public to avoid group congregation.*

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

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

**AGENDA**

**7:00 p.m. OPEN SESSION**

1. Call to Order
2. Pledge of Allegiance
3. Recognition
4. Announcements
5. Public Comment

**7:15 p.m. SUMMARY OF ACTIONS**

1. Administrative Orders
  - a. Vote to participate in the Commercial property Assessed Clean Energy Program (the PACE Program) as provided in G.L. c. 23M, s. 1 et. seq.
  - b. Approve Conservation Restriction associated with The 300 Committee's purchase of a 10.2 acre conservation restriction on the Pariah Dog Farm located at 279 Trotting Park Road, Falmouth
  - c. Vote to approve expenditure from the Beach Department Donation Account in the amount of \$500.00 for the Dr. David Garber "Dare to be Great" award given to a lifeguard

- d. Vote to accept donation in the amount of \$15,000.00 from an anonymous donor to the Conservation Department donation account for the Coonamessett Greenway Heritage Trail (and Gateway) and future river restoration projects
- e. Vote to authorize issuance of request for proposal for lease of Emerald House, 67 Davisville Road, East Falmouth

2. Special Events

Previously approved with new proposals:

- a. Ride for Homes - Habitat for Humanity of Cape Cod – Bourne to Woods Hole to Bourne entirely on bike path in Falmouth – Sunday, 9/13/20 – 7:00 a.m. – 9:30 a.m.
- b. Pedal to Parcels – The 300 Committee Land Trust – Tony Andrews Farm start/finish – guided bicycle tour of conservation lands – Sunday, 9/20/20 – 9:00 a.m. – 12:00 p.m.
- c. Kirwin/Murray Tour de Falmouth - Falmouth Housing Corp. – Surf Drive Beach start/finish – Sunday, 10/11/20 – 7:00 a.m. – 12:30 p.m.

New application and proposal:

- a. Where are the Wings? - Wings for Falmouth Families – Town-wide scavenger hunt – Saturday, 9/26/20, 9:00 a.m. – 2:00 p.m.

**7:30 p.m. PUBLIC HEARINGS**

1. Flow Neutral Bylaw – Evaluation of Request for Variance – Ament Klauer LLP, representing Fashion Foods LLC – Lot 1B Worcester Court at Spring Bars Road, Falmouth (Parcel 39 15 048 001B)

**7:45 p.m. BUSINESS**

1. Discussion/update on COVID-19 issues
2. Update/discussion on civil service
3. Request for sign variance for off-premise promotional sign at 319 Currier Road, Falmouth – Kevin Pacheco Vivid Event Productions – Drive-in Movies at Cape Cod Fairgrounds
4. Approve request for variance from sign code – Falmouth Community Services Campus, 744 – 790 Main Street, Town of Falmouth
5. Farming Falmouth request for Memorandum of Understanding for use of part of Tony Andrews Farm property
6. Discuss Size and Composition of the Transportation Management Committee
7. Minutes of Meetings:
  - a. Public Session – April 6, 2020; July 2, 2020; July 27, 2020; August 10, 2020
  - b. Executive Session – August 10, 2020 and vote to release/not to release
8. Individual Select Board Member's Reports
9. Town Manager's Report

Megan English Braga, Chair  
Select Board

## Diane Davidson

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**From:** Frank Duffy  
**Sent:** Thursday, August 6, 2020 10:03 AM  
**To:** Diane Davidson; Julian Suso; Peter Johnson-Staub  
**Cc:** Irie Mullin; Jennifer Mullen  
**Subject:** RE: Energy Committee Virtual Zoom Meeting

Notice: Vote to participate in the Commercial Property Assessed Clean Energy Program (the PACE Program) as provided in G.L. c. 23M, s. 1 et seq.

**Vote:** In accordance with General Laws c. 23M, s. 2, I move that the Town of Falmouth participate in the Commercial Property Assessed Clean Energy Program (the PACE Program) as provided in G.L. c. 23M, s. 1 et seq. to enable qualifying commercial or industrial property to participate in the commercial sustainable energy program administered by the Massachusetts Development Finance Agency (MDFA) and the town shall be authorized to assess, collect, remit and assign betterment assessments for energy improvements for a benefited property within the town in accordance with the provisions of the PACE Program.

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Frank K. Duffy, Town Counsel  
Town of Falmouth  
157 Locust Street  
Falmouth, MA 02540  
(508) 548-8800 fax (508) 540-0881

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**From:** Diane Davidson  
**Sent:** Wednesday, August 5, 2020 4:45 PM  
**To:** Frank Duffy  
**Cc:** Julian Suso  
**Subject:** FW: Energy Committee Virtual Zoom Meeting

Hi Frank,

I have this vote penciled in on the August 10 agenda. Will this document be ready for the 10<sup>th</sup> or should I move it to the August 24<sup>th</sup> meeting?

Thank you,

Diane

**From:** Julian Suso  
**Sent:** Tuesday, July 21, 2020 10:20 AM  
**To:** Frank Duffy <frank.duffy@falmouthma.gov>  
**Cc:** Jennifer Mullen <jennifer.mullen@falmouthma.gov>; Thomas Bott <thomas.bott@falmouthma.gov>; Irie Mullin <irie.mullin@falmouthma.gov>; Diane Davidson <diane.davidson@falmouthma.gov>  
**Subject:** FW: Energy Committee Virtual Zoom Meeting

Frank,  
Having discussed this further with Jennifer, I am asking that you please proceed to prepare the vote for Select Board consideration of this PACE program. Kindly forward to me and copy Diane Davidson as well. Ideally, this will be taken up at an SB meeting in August (thanks Diane for the agenda assistance).  
Julian

**From:** Julian Suso  
**Sent:** Tuesday, July 21, 2020 9:18 AM  
**To:** Frank Duffy <frank.duffy@falmouthma.gov>; Jennifer Mullen <jennifer.mullen@falmouthma.gov>  
**Cc:** Thomas Bott <thomas.bott@falmouthma.gov>; Irie Mullin <irie.mullin@falmouthma.gov>  
**Subject:** RE: Energy Committee Virtual Zoom Meeting

Thank you Frank. Jennifer – I welcome your thoughts as to the Finance Departments ability to facilitate this initiative should the Select Board determine to proceed.  
Julian

**From:** Frank Duffy <frank.duffy@falmouthma.gov>  
**Sent:** Tuesday, July 21, 2020 8:59 AM  
**To:** Julian Suso <julian.suso@falmouthma.gov>; Jennifer Mullen <jennifer.mullen@falmouthma.gov>  
**Cc:** Thomas Bott <thomas.bott@falmouthma.gov>; Irie Mullin <irie.mullin@falmouthma.gov>  
**Subject:** RE: Energy Committee Virtual Zoom Meeting

Julian: I have reviewed the material re: G.L. c. 23M known as the PACE Act. PACE = Mass. Property Assessed Clean Energy Program.

The PACE program authorizes the state, acting through the Mass. Development Finance Agency, to arrange for loans to qualified commercial and industrial property owners for energy improvements. Multi-family housing with more than 5 units also qualify for loans. The improvements are energy efficiency upgrades, renewable energy and extension of natural gas distribution systems. The loans are long term loans by commercial lenders. The property owners repay the loans through a betterment assessment on the real property. The town collects the betterment payments each year and remits them to Mass. Development which distributes them to repay the lenders. There is an administrative burden on the municipality which Mass. Developments says is offset by job creation and business growth in the community.

The PACE program requires a municipality to vote to participate in the program. The vote is taken by the Select Board. The statute specifies a vote with specific language.

If the PACE program appeals to Falmouth this office will prepare the vote for consideration and action by the Select Board.

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Frank K. Duffy, Town Counsel  
Town of Falmouth  
157 Locust Street

## Diane Davidson

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**From:** jwhritenour 300committee.org <jwhritenour@300committee.org>  
**Sent:** Tuesday, August 18, 2020 11:14 AM  
**To:** Diane Davidson; Megan English Braga  
**Cc:** Jonathan Polloni; Peter Johnson-Staub; fduffy@falmouthma.gov  
**Subject:** Fw: Conservation Restriction for 279 Trotting Park Road, Pariah Dog Farm  
**Attachments:** EEA approval 8-13-20.pdf; CON COM certificate 8-12-20.pdf; CHURCHILL CR 279 TROTting PARK.pdf; M. Churchill signature page.pdf

Dear Megan and Diane:

The 300 Committee Land Trust is filing the attached Conservation Restriction (CR) for Select Board approval on 8-24-20. We had filed a draft copy of this CR with the Town during the MA Executive Office of Energy and Environmental Affairs final legal review. The EEA issued their letter of approval for this CR on 8-13-20.

This Conservation Restriction will permanently protect a 10.45 acre-portion (of the 12.29 acre parcel) for working farmland. The 300 Committee intends to record this Conservation Restriction on or before September 10, 2020 after completing the closing for the \$200,000 CR purchase. The USDA Natural Resources Conservation Services is providing a \$133,250 grant towards this purchase. The remaining funds will be raised privately by The 300 Committee.

The attachments include:

- Final Conservation Restriction document as executed by The 300 Committee Land Trust and Matthew Churchill (owner), please note Matthew Churchill's signature page is attached here as a separate PDF file.
- Conservation Commission Municipal Certificate dated 8-12-20
- State letter of approval for CR dated 8-13-20

The 300 Committee will need to provide a copy of the Selectmen's signature page to the State as soon as possible after approval. I will reach out to Diane to coordinate how best to handle that part.

Please reach out with any questions you may have on this. Mr. Churchill's attorney Jonathan Polloni is copied on this email as well. We will plan to sign on the Select Board Zoom meeting on Monday 8-24.

Thank you,  
Jessica

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



*The Commonwealth of Massachusetts*  
*Executive Office of Energy and Environmental Affairs*  
100 Cambridge Street, Suite 900  
Boston, MA 02114

Charles D. Baker  
GOVERNOR

Karyn E. Polito  
LIEUTENANT GOVERNOR

Kathleen A. Theoharides  
SECRETARY

Tel: (617) 626-1000  
Fax: (617) 626-1181  
<http://www.mass.gov/eea>

Mark Robinson  
Executive Director  
The Compact  
PO Box 443  
Barnstable 02630-

**Re: Draft Conservation Restriction Approved**  
*CR Reference No.:* 16868  
*CR Number:* FALMOUTH #0427  
*CR Address:* 279 TROTting PARK ROAD  
*Town:* FALMOUTH

August 13, 2020

Dear Mark:

Please find a copy of the conservation restriction that has been reviewed by EEA legal and cleared for local signatures attached to this email. Do not make any substantive changes without informing us. Minor changes such as formatting or to correct typos or misspellings do not require notification.

Please proceed with obtaining signatures of the Grantor, Grantee, and municipality. Once obtained, please **e-mail me ([john.gioia@mass.gov](mailto:john.gioia@mass.gov)) a PDF of the executed document in its entirety**. Please ensure the final signature pages and exhibits are complete with all dates filled in and signatures properly notarized. Please also carefully review the MA Deed Indexing Standards (2018) to ensure the CR will be accepted for recording. Once received, the CR will be forwarded to Secretary Theoharides for final review. Once signed, we will return the Secretary's signature page to you in the manner indicated on your application form, or contact you for return mailing instructions if necessary. Please note that we will not forward a CR to the Secretary if any of the signatures of the Grantor, Grantee, and municipality are more than one year old.

I look forward to finalizing this. Please remember to use the CR Reference Number and CR Number given above in all correspondence or inquiries.

Sincerely,

A handwritten signature in black ink, appearing to read "John Gioia".

John Gioia  
Division of Conservation Services  
100 Cambridge Street, Suite 900  
Boston, MA 02114

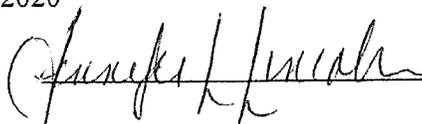
**MUNICIPAL CERTIFICATION**

(We) the undersigned Conservation Commission of the Town of Falmouth (the certifier) hereby certify that the proposed conservation restriction (CR) is in the public interest in that it will permanently protect a 10.45-acre portion (the Premises) of the approximately 12.29-acre property located at 279 Trotting Park Road, Falmouth, MA. The public benefit and conservation values include the following:

- **Open space protection** – The Premises contributes to the protection of the scenic and natural character of East Falmouth.
- **Protection of working farmland** – this CR will ensure that open, cultivated fields contained on the Premises will be permanently available for agriculture activities that are consistent with the protection of conservation values on the premises.
- **Soils** – 98% of the Premises is categorized as USDA Prime Farmland Soils. Prime Farmland soil has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops. It has the soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to accepted farming methods, including water management. Prime Farmland soil generally has an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, soil containing acceptable acidity, alkalinity, salt, and sodium, and contains few or no rocks.
- **Consistency with Clearly Delineated Town of Falmouth Conservation Policy** – Protection of the Premises will further the Town of Falmouth’s documented goals regarding conservation of land and protection of “remaining farmlands [which] are critical to our community’s resilience and open space network.
- **Water Supply Protection** – The Premises falls partially within a Water Resource Protection District, therefore permanent extinguishment of development rights on the Premises through this CR will assist with resource protection efforts.

Date: August 12, 2020

Signed:



Name

Conservation  
Administrator

Title

**NOTES:**

This certification by the conservation commission may be submitted separately from the application and filed with the submission of the executed conservation restriction, it being recognized that the applicant may want to submit the application with a draft copy of the conservation restriction for review prior to actual submission of the executed document.

Conservation restriction lands which overlap municipal boundaries must be approved and certified by the appropriate officials of both municipalities.

The commissioners’ certification should state why the property is significant and why the conservation restriction is important.

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*FALMOUTH, MA*

**GRANTOR: Matthew B. Churchill**

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

**ADDRESS OF PREMISES: 279 Trotting Park Road, Falmouth, MA 02536**

**FOR GRANTOR'S TITLE SEE: Barnstable County Registry of Deeds Book 26499, Page 56 & Book 30852, Page 77.**

**CONSERVATION RESTRICTION**

**MATTHEW B. CHURCHILL**, individually, of 279 Trotting Park Road, East Falmouth, Barnstable County, Massachusetts, 02536, being the sole owner, for my successors and assigns ("Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grants with QUITCLAIM COVENANTS to **THE 300 COMMITTEE LAND TRUST, INC.**, a Massachusetts charitable corporation, having an office and mailing address at 157 Locust Street, Falmouth, Barnstable County, Massachusetts, 02540, their permitted successors and assigns ("Grantee"), and with a right of enforcement to the United States of America ("United States"), acting by and through the United States Department of Agriculture ("USDA") Natural Resources Conservation Service ("NRCS") on behalf of the Commodity Credit Corporation ("CCC"), for Two Hundred Thousand and 00/100 Dollars (\$200,000.00), IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION and AGRICULTURAL PURPOSES, the following Conservation Restriction on land located in Falmouth, containing a 10.45 acre portion of an approximately 12.29-acre parcel of land ("Premises"), which Premises is more particularly described in Exhibit A and shown in the attached reduced copies of recorded survey plans in Exhibit B and Exhibit C, all of which are incorporated herein and attached hereto. The area shown on Exhibit B and Exhibit C as the Residential Envelope is excluded from the Premises.

**I. PURPOSES:**

This Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purpose of this Conservation Restriction is to assure that the Premises will be maintained in perpetuity for conservation and agricultural purposes, in a natural, scenic and undeveloped condition, and to prevent any use or change that would impair or interfere with its conservation, agricultural and preservation values ("conservation values").

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**Conservation Land Tax Credit: "CLTC" Program.** This Conservation Restriction on the Premises is utilizing, in part, the Conversation Land Tax Credit Program authorized under the Chapter 509 Acts of 2008 Sections 1-4 as amended by Chapter 409 Acts of 2010 Sections 4-13 of the Massachusetts General Court.

**The conservation values include the following:**

- Open Space Protection. The Premises contributes to the protection of the scenic and natural character of East Falmouth and the protection of the Premises will enhance the open-space value of these and nearby lands. The Premises is proximate to several parcels already conserved, including an abutting parcel owned by the Town, totaling more than six acres.
- Soils. The Premises includes approximately ten acres of Prime Farmland soils, which constitutes nearly 100% of the Premises. Prime Farmland soil has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops. It has the soil quality, growing season, and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to accepted farming methods, including water management. Prime Farmland soil generally has an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, soil containing acceptable acidity, alkalinity, salt, and sodium, and contains few or no rocks.
- Working Farmland. This Conservation Restriction will ensure that the open, cultivated fields contained on the Premises will be permanently available for agriculture activities that are consistent with the protection of conservation values present on the Premises.
- Consistency with Clearly Delineated Barnstable County Conservation Policy. Protection of the Premises will assist in achieving Barnstable County conservation goals. In July 1991, the Barnstable County Assembly of Delegates, pursuant to the Cape Cod Commission Act (Chapter 716 of the Acts of 1989), adopted a *Regional Policy Plan*, amended in 1996, 2002 2009, and 2012, which provided, *inter alia* (references are to the 2012 Plan):
  - "To preserve and enhance rural land uses, including agriculture, that are environmentally compatible with the Cape's natural resources in order to maintain opportunities to enjoy the traditional occupations, economic diversity, and scenic resources associated with rural lands, and to support activities that achieve greater food independence for Cape Cod" (Land Use Goal LU3, pp.18);
  - "Open space has helped define Cap 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, pp. 62);

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- 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, pp. 64);
- “The Cape Cod Commission will continue to inventory the region’s distinctive cultural landscapes, including historic agricultural lands, and will make recommendations to preserve these significant resources through land protection, preservation or conservation restrictions, educational efforts to increase public awareness, and other means” (Heritage Preservation and Community Character Goal HPCC1-C1, pp. 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, pp. 18);
- 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 (pp. 18); and,
- Land Use Goal 1.3.2: Development unrelated to agricultural operations shall be designed so as to avoid or minimize development on lands capable of sustained agricultural production as evidenced by soils, recent agricultural use, and/or surrounding agricultural use (pp. 25).

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

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

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

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

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

- Consistency with Clearly Delineated Federal Conservation Policy. Protection of the Premises meets the definition of “conservation purposes” as defined in 26 CFR 1.170A-14(d)(1), because its conservation would: promote protection of neighboring state-recognized habitats as well as the ecosystem contained on and contiguous to the Premises; preserve open space and maintain the scenic and rural character of the farm for enjoyment by the public; and permanently protect Prime Farmland soil.
- Consistency with Clearly Delineated State Conservation Policy. The Premises possesses significant open space, natural, aesthetic, ecological, plant and wildlife habitat, solid and water resource quality, watershed, and scenic values (collectively “Conservation Values”) of great importance to the Grantee and the people of Falmouth and the Commonwealth of Massachusetts.

Additionally, 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, including: (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.

- Historical Purposes. This Conservation Restriction will ensure that the Premises not only remains protected open space, but that the Premises will be available for Agricultural Activities as defined herein which are consistent with maintaining its conservation value. Farming is an historical land use on Cape Cod, particularly in East Falmouth, where the Town and State recently pooled monies to purchase and maintain the 90-year old, working Tony Andrews Farm, a heritage that will be preserved with this Conservation Restriction.

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All of the Premises lies within the Agriculture B zoning district, intended by the Town to promote farming as a preferred land use.

- Water Resource Protection. The Premises falls partially within a Water Resource Protection District. Therefore, permanent protection from further human development of the Premises with this Conservation Restriction will assist in maintaining water resources.
- Statewide Land Conservation Plan. The Premises falls 100% within the Statewide Land Conservation Plan mapped area, meaning it was identified by the state as ideal for conservation land.

These and other conservation values of the Premises, as well as its current uses and state of improvement, are described in a Baseline Documentation Report (“Baseline Report”) prepared by Grantee with the cooperation of the Grantor, consisting of maps, photographs, and other documents and on file with the Grantee and referenced herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury and U.S. Department of Agriculture regulations, and (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant other than the Baseline Report, should the Baseline Report be unavailable or if it does not adequately address the issues presented.

**II. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES**

**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 and uses which are prohibited on, above, and below the Premises:

- (1) Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, sign, fence, billboard or other advertising display, antenna, utility pole, tower, solar panel, solar array, conduit, line or other temporary or permanent structure or facility on, above or under the Premises;
- (2) Mining, excavating, dredging 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 area;
- (3) Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings generated off-site, waste or other substance or material whatsoever or the installation of underground storage tanks;

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- (4) Cutting, removing or otherwise destroying trees, grasses or other vegetation;
- (5) Application or use of fertilizers or pesticides unrelated to permitted agricultural use;
- (6) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, wildlife habitat, or archaeological conservation;
- (7) Hunting, owing to state safety setbacks, trapping, or camping;
- (8) Use, parking or storage of vehicles including motorcycles, mopeds, all-terrain vehicles, trail bikes, or any other motorized vehicles on the Premises except for vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) in carrying out their official duties or as necessary for the mobility impaired;
- (9) Subdivision or 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), and no portion of the Premises may be used towards building or development requirements on this or any other parcel;
- (10) The use of the Premises for business or industrial uses, except that Agricultural Activities as defined in Section II. B(14) below will be permitted, and the Grantor may market and sell items produced and harvested from the Premises;
- (11) The use of the Premises for residential and related accessory purposes.
- (12) Any other use of the Premises or activity which is inconsistent with the purpose of this Conservation Restriction or which would impair its conservation values.

**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 impair the conservation values or purposes of this Conservation Restriction.

- (1) Vegetation Management. The selective minimal removing of brush, pruning and cutting to prevent, control or remove hazards, disease, insect or fire damage, or to preserve the present condition of the Premises, including vistas as documented in the Baseline Report, woods roads, fence lines and trails and meadows;
- (2) Non-Native or Nuisance Species. The removal of non-native or invasive species, the interplanting of native species, and the control of species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
- (3) Use of Pesticides. The Grantor reserves the right to use pesticides, designed and applied to affect the target species and minimize impact to adjacent non-target species, preferably

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applied by hand. Any employment of pesticides for agricultural or other permitted uses will be in conformance with best management practices.

- (4) Right to Conduct Agricultural Activities on Entirety of Premises. The Grantor reserves the right to conduct Agricultural Activities, as described more fully below in Section II. B(14), on the entirety of the Premises. The Grantor further reserves the right to conduct clearing of vegetation necessary to render the entire Premises available for Agricultural Activities. Currently, a majority of the Premises is used for Agricultural Activities.
- (5) Use of the Premises for Non-Agricultural Activities. In the event that the Grantor decides not to pursue Agricultural Activities as defined in Section II.B(14), Grantor in consultation with Grantee shall prepare and deliver within eighteen (18) months from the 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 Activities on the Premises as defined in Section II. B(14).
  - a. All structures used for Agricultural Activities as defined in Section II. B(14) shall be secured for possible future use. Said structures shall be removed if no longer needed to support Agricultural Activities 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.
- (6) Composting. The stockpiling and composting of stumps, trees, brush, limbs, and similar biodegradable materials originating on the Premises, provided that such stockpiling and composting is in locations where the presence of such activities will not impair the conservation values (including scenic values) of this Conservation Restriction. All exercise of this reserved right shall take into account sensitive areas and avoid harm to nesting species during nesting season;
- (7) Wildlife Habitat Improvement. With the prior approval of Grantee, measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare or endangered species including selective planting of native trees, shrubs and plant species;
- (8) Pest Control. The Grantor reserves the right to engage in trapping for pest control purposes.
- (9) Archaeological Investigations. The right to conduct archaeological activities, including without limitation archaeological research, surveys, excavation and artifact retrieval, but only (a) after written notification to and approval by Grantee, and (b) in accordance with an archaeological field investigation plan prepared by or on behalf of the Grantor and approved in advance of such activity, in writing, by the Massachusetts Historic Commission ("MHC") State Archaeologist as required by Massachusetts General Laws. A copy of the results of any scientific investigation on the Premises is to be provided to the Grantee. Plans for restoration of the site of any archaeological activity shall be submitted

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to the Grantee in advance of restoration, and such restoration shall be conducted only in accordance with a plan approved by the Grantee.

Activities detrimental to archeological and historic resources, including but not limited to earth moving and the alteration of historic stone walls/cellar holes/features, shall not be deemed to be detrimental to archeological and historic resources if a description of the proposed activity and its location is submitted in writing (e.g., on a Project Notification Form) with a plan of land (or assessors map) and a USGS map with the Premises outlined thereon, to MHC and MHC issues a letter stating that the proposed activity is not within a resource area or is determined to not have an adverse effect on said resources. Grantor and Grantee shall make every reasonable effort to prohibit any person from conducting archaeological field investigation on the Premises, including metal detecting, digging, or artifact collecting, without approval of the MHC State Archaeologist (or appropriate successor official), and shall promptly report any such prohibited activity to the MHC State Archaeologist (or appropriate successor official). Grantor and Grantee shall include the prohibition against digging, artifact collecting, or metal detecting in any list of rules for visitors to the Premises;

- (10) Trails. The marking, clearing and maintenance of existing trails as shown in the Baseline Report. With prior approval of the Grantee, 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 six (6) feet; and trails, carpaths or vehicle tracks needed for agricultural use shall not need Grantee approval;
- (11) Signs. The erection, maintenance and replacement of signs with respect to trespass, trail access, identity and address of the occupants, sale of the Premises, the Grantee's interest in the Premises, including signs addressing Agricultural Activities, any gift, grant, or other applicable source of support for the conservation of the Premises, and the protected conservation values;
- (12) Fences. Subject to Grantee's prior approval, Grantor reserves the right to erect and maintain open-faced (i.e., sight-pervious) fences, such as wooden split rail, for property boundary delineation, safety reasons, and trail demarcation, so long as the dimensions and design of said fences do not impede free wildlife passage; enclosure fencing needed for Agricultural Activities is allowed and need not meet these design standards;
- (13) Site Restoration. Any work undertaken in conjunction with the Reserved Rights described in this Paragraph B shall seek to minimize disturbance to the Conservation Values and other natural features within the Premises that may be impacted as a result of exercising of any of the Reserved Rights described herein. Upon completion of any site work performed in conjunction with the Reserved Rights described in this Paragraph B, any disturbed areas shall be restored substantially to the conditions with respect to soil material, grade, and vegetated ground cover as documented in the Baseline Report, as applicable, or in conformance with the conditions with respect to soil material, grade, and

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vegetated ground cover that existed prior to said work, if said work is done in any area not documented in the Baseline Report.

- (14) Agricultural Activities. Conducting or permitting others to conduct personal or commercial agricultural activities that maintain or improve soil productivity, soil health, and water retention, and that do not deplete any natural resources found on the Premises. As used herein, "Agricultural Activities" shall mean the following:
- a. the growing, production, raising, keeping, storing, processing, marketing, and selling of crops, livestock, and livestock products;
  - b. the installation of fencing or other similar infrastructure to manage livestock or protect agricultural resources;
  - c. the installation and maintenance of an irrigation system that serves only the Premises;
  - d. 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 any such motorized equipment is only for the purposes of Agricultural Activities undertaken on the Premises;
  - e. with the Grantee's prior approval, the construction, use, maintenance, repair, relocation, and replacement of minor and temporary structures, without cement, subsurface, or other permanent foundations that result in the excavation or disturbance of the soil, only to the extent necessary, effective, and efficient to engage in Agricultural Activities provided that said structures shall, in aggregate, not cover an area greater than two percent (2%) of the portion of the Restricted Area which limitation shall not apply to greenhouses with no foundation or flooring;
  - f. the removal of trees, saplings, shrubs, stumps, and roots preliminary to and including the preparation of surface topography and soils for the purposes of accommodating and instituting Agricultural Activities as described above (hereinafter "Land Conversion"), provided that any such Land Conversion does not convert any land classified as wetlands by the Massachusetts Department of Environmental Protection ("Mass DEP") or the US Fish and Wildlife Service, or any land classified as Priority Habitat of Rare Species by the Massachusetts Natural Heritage and Endangered Species Program, and further provided that any such Land Conversion in excess of one (1) acre over any given five (5) year period is described in the Farm Plan (as described below);
  - g. activities in which the general public is invited onto the Premises for activities or events that are in support of the Agricultural Activities, for which the Grantor may charge a fee (hereinafter "Agri-tourism Events"), including the use of tent(s) in connection with such gatherings in accordance with the Town of 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. Vehicle parking shall be permitted to accommodate public visitation for Agri-tourism Events provided that all vehicle parking and use are limited to the Accessory Building Envelope;

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- h. as used herein, crops, livestock, and livestock products include, but are not limited to:
  - i. vegetable crops;
  - ii. fruits, nuts, seeds, and berries;
  - iii. horticultural specialties, including but not limited to seeds, nursery stock, ornamental shrubs, ornamental trees, Christmas trees, and flowers;
  - iv. livestock and livestock products, such as meat, eggs, dairy, bones, wool, and other fibers;
  - v. fungal products;
  - vi. additional agricultural products shall be permitted and may be broadly interpreted to include products produced on the Premises from soil, water, sunshine, and other natural resources found or produced on the Premises, except as noted below;

Any Agricultural Activities shall be done in accordance with a Farm Conservation Plan ("Farm Plan" or "ALE Plan") as referenced in Exhibit D 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, is approved by the Grantee and the United States, and is updated every ten (10) years or less.

- (15) Right to Lease the Premises for Agricultural Uses. The Grantor reserves the right to lease all or part of the Premises to a third party to conduct Agricultural Activities as defined in Section II. B(14) above. All leases for Agricultural Activities shall incorporate the terms of this Conservation Restriction and be limited by its prohibitions and benefitted by its reserved rights. No more than one lease shall be granted at any one time. Additionally, all such future leases shall comply with Article 97 of the Amendments to the Massachusetts Constitution, if applicable.
- (16) Permits, Regulations, Laws. The exercise of any right reserved by Grantor under this Paragraph B and Paragraph C below shall be in compliance with zoning, the Wetlands Protection Act, and all other applicable federal, state and local laws, rules, regulations, and permits, unless specifically exempted as permissible agricultural uses under zoning. 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.
- (17) Best Management Practices. The exercise of any right reserved by Grantor under this Paragraph B and Paragraph C below shall follow, when available and if applicable, 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), including but not limited to those promulgated by the U.S. Natural Resources Conservation Service.

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**C. Areas and Envelopes on the Premises**

**a) Accessory Building Envelope.**

Within the Premises there is an area shown on Exhibit C as the "Accessory Building Envelope". This Accessory Building Envelope currently contains a small shed, a concrete pad, and a portion of a plastic covered agricultural structure, shown on the plan in Exhibit C as "Farm Stand", "Conc Pad", and "Plastic Covered Agricultural Structure", respectively. Within this Accessory Building Envelope, the Grantor reserves the right to conduct or permit the following activities and uses in addition to the Reserved Rights described in Section II. B. and otherwise subject to this Conservation Restriction:

1. The right to construct, maintain, improve, replace, or relocate a barn for storage of machinery and equipment associated with Agricultural Activities as described Section II. B(14) above, as well as crops, livestock, livestock products and other items associated with Agricultural Activities as described in Section II. B(14);
2. The right to construct, maintain, improve, replace, or relocate a retail farmstand for the purpose of selling to the public items produced on the Premises as a result of Agricultural Activities as described in Section II. B(14);
3. The right to maintain, repair, replace, or relocate, within the Accessory Building Envelope, the shed and concrete pad;
4. The right to use, maintain, improve, replace, or relocate the existing driveway, yard, parking area, well, and septic system (hereinafter "Improvements") but not to locate Improvements outside of the Accessory Building Envelope unless a qualified professional determines that there is no feasible location for any such improvement within the Accessory Building Envelope, such a finding not to consider financial feasibility, and the Grantee approves of any such Improvement to be located outside of the Accessory Building Envelope, and provided that any of these Improvements serve only the permitted uses within the Accessory Building Envelope; and,
5. Agricultural Activities as described in Section II.B(14) are allowed in the Accessory Building Envelope, except that any temporary structures within the Accessory Building Envelope shall not count towards the 2% limitation in Section II.B(14) e.

**b) Restricted Area**

Within the Premises there is an area shown on Exhibit C as the "Restricted Area". This Restricted Area is intended to provide for the allowed Agricultural Activities on the Premises and the Grantor may exercise any of the Reserved Rights described in Section II.B within the Restricted Area. No habitable living spaces may be created or maintained in the Restricted Area. The Grantor reserves the right to construct, maintain, improve, replace, or relocate structures and facilities in the Restricted Area as described in Section II. B(14)(e.) related to conducting Agricultural Activities as described in Section II. B(14), subject to the limitation on impervious surfaces contained in Section II.B(14)(e).

**D. Notice and Approval.**

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1. Procedure for Notice and Approval. Whenever notice to or approval by Grantee is required, Grantor shall notify Grantee, by a method requiring proof of receipt, in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question. 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 sixty (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 impair the purposes of this Conservation Restriction.
2. Deemed Approval. Subject to any applicable law or regulation, failure of Grantee to respond in writing within sixty (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 sixty (60) days in the notice, the requested activity is not prohibited herein, and the activity will not impair the conservation values or purposes of this Conservation Restriction.
3. Deemed Denial. Section II(D)(2) shall not apply to Section II(C), in which case failure of Grantee to respond in writing within sixty (60) days shall be deemed to constitute denial by Grantee of the request as submitted.

**III. LEGAL REMEDIES OF THE GRANTEE**

**A. 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. Prior to resorting to legal means to enforce any violations of this Conservation Restriction, the Grantee shall first notify the Grantor and request the Grantor to remedy the violation; if the violation is not remedied within sixty (60) days, then the parties shall make a good faith effort to mediate the dispute before litigation is commenced, provided the Grantor ceases the violation immediately upon receipt of notice of the violation and is making a good faith effort to remedy the violation.

Grantee shall not, however, have the right to bring an action against Grantor with respect to a violation of this Conservation Restriction by trespassers or other third persons whose entry on the Premises is not authorized or not voluntarily acquiesced in by Grantor; Grantor agrees that Grantor

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will not voluntarily acquiesce in any violation of this Conservation Restriction by trespassers or such other third persons; and Grantor further agrees that Grantor will make reasonable efforts to deter such activities and to remedy the violation and will cooperate with Grantee to enforce this Conservation Restriction against trespassers and such other third persons.

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.

**B. 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.

**C. 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.

**D. 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.

**IV. ACCESS**

The Grantor hereby grants to the Grantee, or its duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction. The Grantor also grants to the Grantee, after notice of a violation and failure of the Grantor to cure said violation, the right to enter the Premises for the purpose of taking any and all actions with respect to the Premises as may be necessary or appropriate to remedy or abate any violation hereof, including but not limited to the right to perform a survey of boundary lines.

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There is no access to the Premises granted to the general public by the terms of this Conservation Restriction, except as specifically allowed by the Grantor.

**V. EXTINGUISHMENT**

A. 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 V(B), 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. Grantee shall use its share of the proceeds in a manner consistent with the conservation purpose set forth herein.

B. Proceeds. Grantor and Grantee agree that the donation of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is at least equal to sixty-five and two-tenths percent (65.2%) of the fair market value of the Conservation Restriction determined at the time of sale. Such proportionate value of the Grantee's property right shall remain constant.<sup>1</sup> Any proceeds will be distributed only after complying with the terms of any gift, grant, or other funding requirements including the terms of the Natural Resources Conservation Service Agricultural Conservation Easement Program Grant included in Exhibit D.

C. 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 V(B), 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.

**VI. DURATION & ASSIGNABILITY**

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

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<sup>1</sup> *The Grantee purchased this Conservation Restriction from the Grantor at a bargain-sale value of \$200,000. The fair market value of the Conservation Restriction determined at the time of this bargain sale was appraised to be \$307,000. \$200,000 is 65.2% of \$307,000.*

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

C. Running of the Benefit. The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, except 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 Property, 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 Massachusetts General Laws. Any assignment will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

**VII. 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.

**VIII. 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.

**IX. 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

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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 Massachusetts General Laws in order to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

**X. LIMITATIONS ON AMENDMENT**

A. Background; Acting in Good Faith. Grantor and Grantee have been informed that the Internal Revenue Service (“IRS”) is concerned about the possibility of the parties thereto amending conservation restrictions in the future in a manner that fails to protect the conservation values of the subject property in perpetuity. Accordingly, Grantor and Grantee have agreed to include a suitably restrictive amendment clause in the Conservation Restriction to address IRS concerns.

B In General. Grantor and Grantee recognize that natural conditions, landscapes, and technologies change over time (including best practices of open space stewardship techniques), and, in an abundance of caution, have determined, in good faith, to articulate herein the limited parameters of any permissible amendment hereto. The intent of Grantor and Grantee is that (except in a case involving solely the correction of a drafting mistake, or mapping error, or in a situation involving solely adding additional property to the existing encumbered property) any such amendment would be executed only in rare instances and unusual circumstances not envisioned by either party at the time of this grant, consistent with and true to the perpetual protection of the conservation values of the Premises and the conservation objectives of this Conservation Restriction, and consistent with the goals and provisions of Sections 31-33 of Chapter 184 of the Massachusetts General Laws and the goals and provisions of Section 170(h) of the Internal Revenue Code of 1986. Further, it may be necessary at some point to amend this Conservation Restriction in response to changes over time specifically to ensure the perpetual protections of the conservation values of the Premises. This section is accordingly carefully limited so as to ensure: (i) that the conservation values of the Premises and the conservation objectives of this Conservation Restriction are protected in perpetuity, and (ii) that any amendment shall not in any way impair the perpetual protection of the conservation values of the Premises. Nothing in this section shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

C. Limitations on Amendment. This Conservation Restriction shall be amended only upon the written agreement of Grantor and Grantee, and Grantee’s sole and absolute discretion, and subsequent review and approval from the Town of Falmouth and the Massachusetts Secretary of Energy and Environmental Affairs, but only if such amendment:

- i. does not constitute private inurement or give rise to an impermissible private benefit under Section 501(c)(3) and other applicable provisions of the Internal Revenue Code of 1986 or the law of the Commonwealth of Massachusetts, based on an appraisal of the economic impact of the proposed amendment by an appraiser selected by Grantee;
- ii. has a neutral or positive effect on the conservation values of the Premises, based on an evaluation of the effect of the proposed amendment on the conservation values by an independent and qualified person selected by Grantee;

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- iii. is consistent with the conservation objectives of this Conservation Restriction and the perpetual protection of the conservation values of the Premises;
- iv. does not affect the perpetual nature of this Conservation Restriction; and,
- v. complies with Sections 31-33 of Chapter 184 of the Massachusetts General Laws and Section 170(h) of the Internal Revenue Code of 1986.

Further, no amendment shall be permitted that: (a) does not comply with the provisions of this Section X; (b) would involve the removal of any portion of the Premises from this Conservation Restriction; or (c) would alter or remove the restrictions on assignment of this Conservation Restriction under the provisions of Section VI, or the provision on extinguishment contained in Section V. In the case of any amendment, all of these requirements and restrictions contained in this Section X must be satisfied.

D. Updated Baseline Report. In the event Grantor and Grantee agree to an amendment pursuant to the provisions of this Section X, an addendum to the Baseline Report shall be prepared and shall be acknowledged by Grantor and Grantee as memorializing the condition of the Premises as of the date of the amendment. Notwithstanding the foregoing, an addendum to the Baseline Report shall not be required for any amendment that involves solely the correction of a drafting mistake or mapping error.

E. Costs. If Grantor requests an amendment to this Conservation Restriction, Grantor shall be responsible for all reasonable and customary costs related to Grantee's evaluation of said request and the amendment's execution and, if applicable, any necessary agency or judicial proceeding, including reasonable attorney's fees and staff, contractor, legal, and consultant costs incurred by Grantee, and any costs associated with the preparation of the updated Baseline Report prepared pursuant to Section X(D).

F. Court Approval Required. A proposed amendment that is agreed to by Grantor and Grantee but nevertheless exceeds the scope of the limited discretion granted under this Section X is not permitted unless ordered by a final non-appealable judgment of a court with jurisdiction.

G. Administrative Approvals Required. Any amendment shall be approved by the Town of Falmouth and the Massachusetts Secretary of Energy and Environmental Affairs pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

H. Compliance with Article 97 of the Amendments to the Massachusetts Constitution, Gifts, or Funding Requirements. Any amendment shall comply with the provisions of Article 97 of the Amendments to the Massachusetts Constitution, and any gifts, grants, or funding requirements, as applicable.

I. Amendments Must Be Recorded. Any amendment shall be recorded in the Barnstable County Registry of Deeds in a timely manner at the Grantor's cost.

J. Compliance with ALE Terms. Any amendment must be approved by the United States in accordance with section II.5 of Exhibit D.

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**XI. EFFECTIVE DATE**

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

**XII. 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: Matthew B. Churchill  
279 Trotting Park Road  
East Falmouth, MA 02536

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.

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**XIII. GENERAL PROVISIONS**

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

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

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

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

**XIV. MISCELLANEOUS**

A. Pre-Existing Public Rights. Approval of this Conservation Restriction pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws by any municipal officials and by the Secretary 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.

B. Homestead. The Grantor hereby releases, agrees to waive, subordinate, and release any and all Massachusetts General Law Chapter 188 Homestead rights it may have in favor of this Conservation Restriction with respect to any portion of the Premises affected by this Conservation Restriction, and hereby agrees to execute, deliver and/or record any and all instruments necessary to effectuate such waiver, subordination and release. In all other respects, the Grantor reserves and retains any and all Homestead rights, subject to this Conservation Restriction, pursuant to Section 10(e) of Chapter 188 of the Massachusetts General Laws.

C. Subordination. The Grantor shall record at the 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.

*PARIAH DOG FARM CONSERVATION  
RESTRICTION*

*FALMOUTH, MA*

D. Agricultural Conservation Easement Program. This Conservation Restriction, or Agricultural Land Easement, is being acquired with funds provided, in part, under the Agricultural Conservation Easement Program (“ACEP”). Exhibit D is attached hereto and incorporated herein by reference and will run with the land in perpetuity. As required by 16 U.S.C. Section 3865 et seq. and 7 CFR Part 1468, and as a condition of receiving ACEP funds, all present and future use of the Premises identified in Exhibits A, B and C is and will remain subject to the terms and conditions described forthwith in this Addendum, entitled “Minimum Deed Terms For The Protection of Agricultural Use” in Exhibit D that is appended to and made a part of this Conservation Restriction. In the event that any terms or conditions of this Conservation Restriction are in conflict with or inconsistent with the terms or conditions of the Agricultural Land Easement (“ALE”) described in Exhibit D, the ALE shall control.

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

Signature pages:

Grantor – Matthew B. Churchill

Grantee Acceptance – The 300 Committee Land Trust, Inc.

Approval by Select Board

Approval of the Secretary of Energy and Environmental Affairs

Exhibits:

Exhibit A: Legal Description of Premises

Exhibit B: Reduced Copy of Plan of Premises

Exhibit C: Sketch Plan Showing Restricted Area and Envelopes

Exhibit D: Minimum Terms for Agricultural Land Easements

PARIAH DOG FARM CONSERVATION  
RESTRICTION

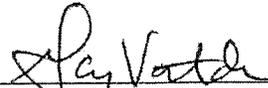
FALMOUTH, MA

ACCEPTANCE OF GRANT

This Conservation Restriction from Matthew B. Churchill was accepted by The 300 Committee Land Trust, Inc. this 13<sup>th</sup> day of August, 2020.

By:   
Anne-Marie Runfola

Its: President, duly authorized

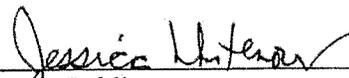
By:   
Gary Vostok

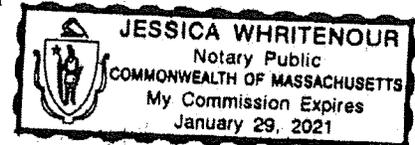
Its: Treasurer, duly authorized

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this 13<sup>th</sup> day of August, 2020, before me, the undersigned notary public, personally appeared Anne-Marie Runfola, President, The 300 Committee Land Trust, Inc., and Gary Vostok, Treasurer, The 300 Committee Land Trust, Inc., and proved to me through satisfactory evidence of identification which was personal knowledge to be the persons whose names are signed on the proceeding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose on behalf of said corporation.

  
Notary Public  
My Commission Expires:



*PARIAH DOG FARM CONSERVATION  
RESTRICTION*

*FALMOUTH, MA*

**APPROVAL OF SELECT BOARD**

We, the undersigned, being a majority of the Select Board of the Town of Falmouth, hereby certify that at a public meeting duly held on \_\_\_\_\_, 2020, the Board of Selectmen voted to approve the foregoing Conservation Restriction from Matthew B. Churchill to The 300 Committee Land Trust, Inc., in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

**SELECT BOARD:**

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**COMMONWEALTH OF MASSACHUSETTS**

Barnstable, ss:

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned notary public, personally appeared \_\_\_\_\_, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

*PARIAH DOG FARM CONSERVATION  
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*FALMOUTH, MA*

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

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction from Matthew B. Churchill to The 300 Committee Land Trust, Inc., has been approved in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

Dated: \_\_\_\_\_, 2020

\_\_\_\_\_  
Kathleen A. Theoharides  
Secretary of Energy and Environmental Affairs

**COMMONWEALTH OF MASSACHUSETTS**

MIDDLESEX, ss:

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned notary public, personally appeared Kathleen A. Theoharides, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

*PARIAH DOG FARM CONSERVATION  
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*FALMOUTH, MA*

**EXHIBIT A**

Description of the Premises

The Premises subject to this Conservation Restriction is a 10.45 acre portion of an approximately 12.289-acre parcel of land located in the Town of Falmouth, Barnstable County, Commonwealth of Massachusetts, shown as Lot 1 on a plan of land entitled "Plan of Land, Trotting Park Road, Falmouth, Massachusetts," dated June 15, 2018, prepared by BSS Design, Engineering and Surveying, 164 Katharine Lee Bates Road, Falmouth, Massachusetts, 02540, and recorded herewith in the Barnstable County Registry of Deeds in Book 676, Page 2, a reduced copy of which is attached hereto as Exhibit B.

Within the Premises are two distinct areas, the Accessory Building Envelope, and the Restricted Area, to which various terms and conditions of this Conservation Restriction apply. See Exhibit C for a reduced copy of a recorded plan of land showing such areas, which is to be recorded herewith in the Barnstable County Registry of Deeds in Plan Book \_\_\_\_\_, Page \_\_\_\_\_.

For Grantor's title, see deeds recorded with the Barnstable County Registry of Deeds in Book 26499, Page 56, and Book 30852, Page 77.

Town of Falmouth Assessors Map: Map 34-02, Parcels 2 and 3 (now, one parcel)

Street Address: 279 Trotting Park Road, Falmouth, Massachusetts, 02536.

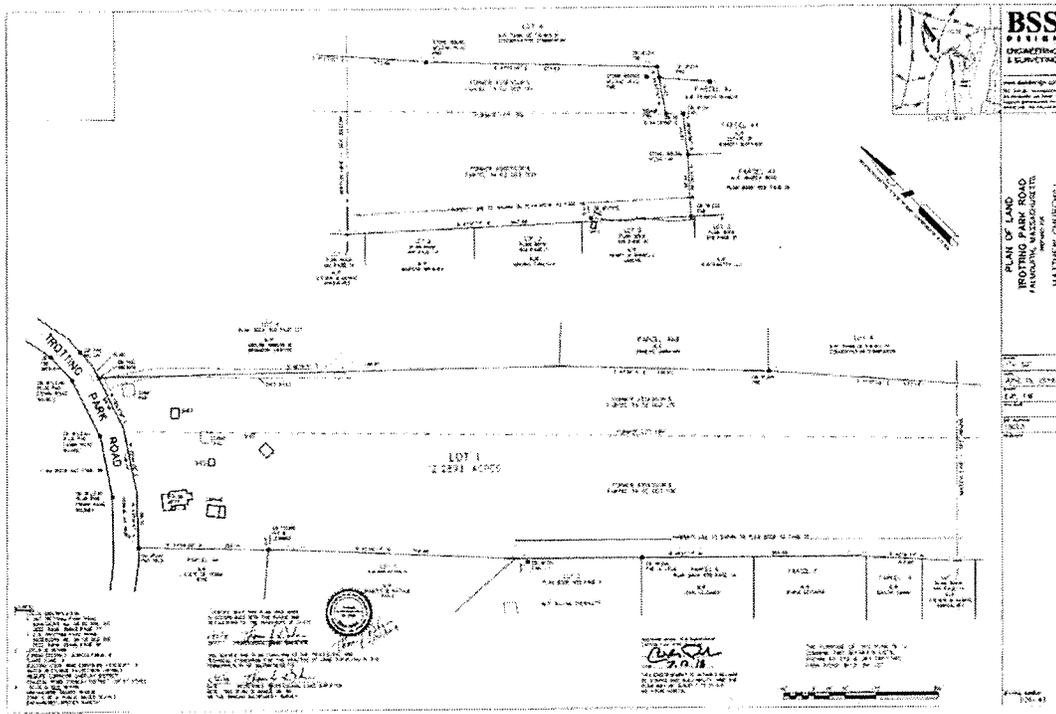
PARIAH DOG FARM CONSERVATION  
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EXHIBIT B

Reduced Copy of Plan of Premises (Lot 1)

For official full size plan see Barnstable County Registry of Deeds Plan Book 676, Page 2.

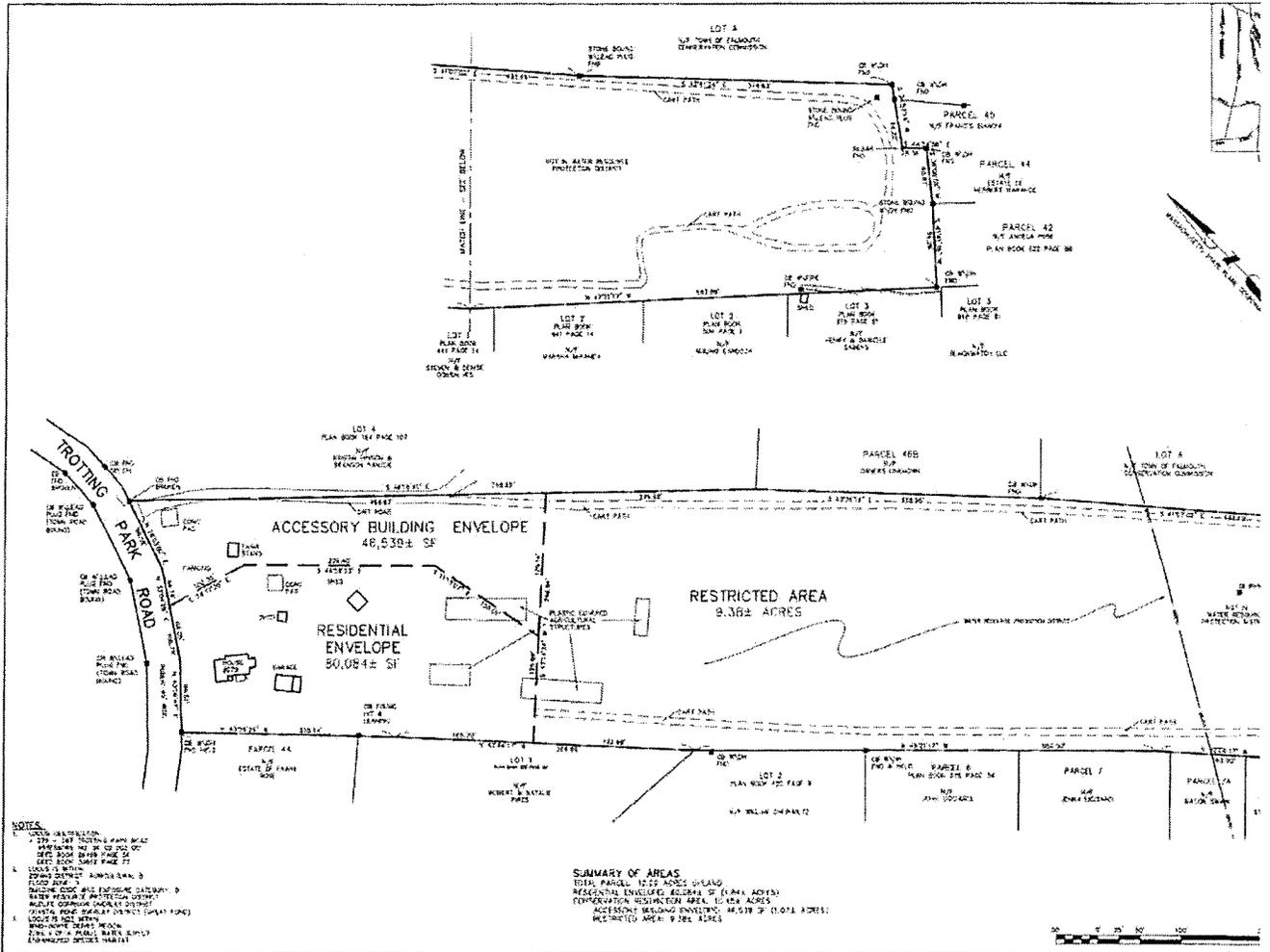


**PARIAH DOG FARM CONSERVATION  
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**EXHIBIT C**

**Reduced copy of Sketch Plan Showing Restricted Area and Building Envelopes  
(to be recorded separately)**



## **EXHIBIT D**

### **MINIMUM TERMS FOR AGRICULTURAL LAND EASEMENTS**

The Agricultural Conservation Easement Program, 16 U.S.C. Section 3865 et seq., facilitated and provided funding for the purchase of an Agricultural Land Easement (“ALE”), also referred to herein as the “Conservation Restriction,” on real property described in Exhibit A, B, and C hereafter referred to as the “Premises”, for the purpose of protecting the agricultural use and future viability, and related conservation values, by limiting non-agricultural uses of the Premises.

**MATTHEW B. CHURCHILL**, (“Grantor”), **THE 300 COMMITTEE LAND TRUST, INC.**, (“Grantee”), and the **UNITED STATES OF AMERICA** (“United States”), acting by and through the United States Department of Agriculture (“USDA”) Natural Resources Conservation Service (“NRCS”) on behalf of the Commodity Credit Corporation (“CCC”) (jointly referred to as the “Parties”) acknowledge that the ALE or Conservation Restriction is acquired by the Grantee to protect the agricultural use and future viability, and related conservation values, by limiting nonagricultural uses of the Premises. Baseline conditions of the Protected Property are set forth in the Baseline Documentation Report, a copy of which is maintained in the files of the Grantee.

In order to ensure compliance with the Agricultural Conservation Easement Program, 16 U.S.C. Section 3865 et seq. and 7 CFR Part 1468, the following rule of interpretation will govern any and all inconsistencies between the ALE and this Exhibit. Notwithstanding any other provision of the ALE, the Parties agree that all present and future use of the Protected Property is and will remain subject to all of the following terms and conditions identified in Section I and II. If the terms and conditions in Section I and II are inconsistent with terms and conditions in other sections of the ALE, Section I and II will control; provided however, if other sections of the ALE have terms and conditions that are consistent with, but more restrictive to the rights of the Grantor than the terms and conditions in Section 1, Paragraphs 1, 2, and 3, those more restrictive terms and conditions will control. If other sections of the ALE are more restrictive to the rights of the Grantor than Section I Paragraph 4 and 5 and Section II, then Section I Paragraph 4 and 5 and Section II will control.

#### **SECTION I – MINIMUM CONSERVATION DEED RESTRICTIONS**

Even if the Premises consists of more than one parcel for real estate tax or any other purpose or if it was acquired previously as separate parcels, it will be considered one parcel for purposes of this Easement, and the restrictions and covenants of this Easement will apply to the Protected Property as a whole.

The terms and conditions of the ALE run with the land and are binding upon the Grantor and Grantee and their respective heirs, successors, agents, assigns, lessees, and any other person claiming under them must comply with all terms and conditions of this easement, including the following:

PARIAH DOG FARM CONSERVATION  
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**1. Agricultural Land Easement Plan.** As required by 16 U.S.C. Section 3865a, agricultural production and related uses of the Premises are subject to an ALE Plan, as approved by NRCS, to promote the long-term viability of the land to meet the ALE purposes. The ALE Plan must also be approved by the Grantor and the Grantee. Grantor agrees the use of the property will be subject to the ALE Plan.

The ALE Plan is incorporated by reference and must not include any provisions inconsistent with the conservation purposes of this ALE. The Grantee and Grantor agree to update the ALE Plan in the event the agricultural uses of the Protected Property change. A copy of the current ALE Plan is kept on file with the Grantee.

The Grantee must take all reasonable steps to secure compliance with the ALE Plan. In the event of substantial or ongoing noncompliance with the ALE Plan or the requirement to update the ALE Plan, NRCS may notify the Grantee. NRCS will give the Grantee and Grantor a reasonable amount of time, not to exceed 180 days, to take corrective action. If Grantee fails to enforce the terms of the ALE, including, but not limited to compliance with the ALE Plan, the United States may exercise its right of enforcement.

**2. Limitation on Impervious Surfaces.** Impervious surfaces will not be permitted, except within the Accessory Building Envelope, and except for less than two percent (2%) of the Restricted Area,<sup>2</sup> all as shown in Exhibit C, excluding NRCS-approved conservation practices. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Premises, including, but not limited to, buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. This limitation does not include public roads or other roads owned and controlled by parties with rights superior to those rights conveyed to Grantee by this ALE.

**3. Limitations on Non-agricultural Uses.** Any activities inconsistent with the purposes of the ALE are prohibited. The following activities are inconsistent with the purposes of ALE and are specifically prohibited, subject to the qualifications stated below:

(A) *Subdivision* – Separate conveyance of a portion of the Protected Property or division or subdivision of the Protected Property is prohibited.

(B) *Industrial or Commercial Uses* – Industrial or commercial activities on the Premises are prohibited except for the following:

- (i) agricultural production and related uses conducted as described in the ALE Plan;
- (ii) the sale of excess power generated in the operation of renewable energy structures and associated equipment or other energy structures

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<sup>2</sup> There are currently two structures in the Restricted Area totaling 3400 square feet, according to survey plan in Exhibit C, which is less than 1% (0.8%) of the 9.38 acres of Restricted Area.

PARIAH DOG FARM CONSERVATION  
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that Grantee approves in writing as being consistent with the conservation purposes of this Easement;

- (iii) temporary or seasonal outdoor activities or events that do not harm the agricultural use, future viability, and related conservation values of the Premises herein protected;
- (iv) commercial enterprises related to agriculture or forestry including but not limited to agri-tourism, processing packaging, and marketing of farm or forest products, farm machinery repair, and farm wineries;
- (v) small-scale commercial enterprises compatible with agriculture or forestry, including but not limited to cafes, shops, and studios for arts or crafts.

*(C) Construction on the Premises* -- All new structures and improvements must be located within the Accessory Building Envelope, except as allowed in the Restricted Area as described hereinabove in Section 1. (2) of the ALE and as shown in EXHIBIT C, which is appended to and made a part of the ALE.

Agricultural structures and utilities to serve approved buildings or structures, including on-farm energy structures allowed under **Section I, Paragraph (4)(C)** that neither individually nor collectively have an adverse impact on the agricultural use and future viability and related conservation values of the Premises, may be built in the Restricted Area with prior written approval of the Grantee provided that the utilities or agricultural structures are consistent with the ALE Plan described Section I, Paragraph 1.

New roads may be constructed if they are approved in advance by Grantee, within impervious surface limits, and necessary to carry out the agricultural operations or other allowed uses on the Premises.

Maintenance of existing roads documented in the Baseline Documentation Report is allowed; however, existing roads may not be widened or improved unless widening and improving is within impervious surface limits, approved in advance by Grantee, and necessary to carry out the agricultural operations or other allowed uses on the Premises.

Fences may be maintained and replaced and new fences installed if they are necessary for agricultural operations on the Premises or to mark boundaries of the Premises.

*(D) Granting of Easements for Utilities and Roads* – The granting or modification of easements for utilities and roads is prohibited when the utility or road will adversely impact the agricultural use and future viability and related conservation values of the Premises as determined by the Grantee in consultation with the Chief of NRCS.

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(E) *Surface Alteration* – Grading, blasting, filling, sod farming, earth removal, or any other activity that will disturb the soil surface or materially alter the topography, surface or subsurface water systems, or wetlands of the Premises is prohibited, except as follows:

- (i) dam construction in accordance with an ALE plan to create ponds for agricultural use, fire protection, or wildlife enhancement, including enhancement through wetland restoration, enhancement or creation;
- (ii) erosion and sediment control pursuant to a plan approved by the Grantee;
- (iii) soil disturbance activities required in the construction of approved buildings, structures, roads, and utilities provided that the required alteration has been approved in writing by Grantee as being consistent with the conservation purpose of this Easement; or
- (iv) Agricultural activities conducted in accordance with the ALE Plan.

(F) *Oil, Gas, or Mineral Exploration and Extraction* – Mining or extraction of soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Grantor as of the date of this ALE or later acquired by Grantor, using any surface mining, subsurface mining, or dredging method, from the Premises is prohibited.

If a third party owns or leases the oil, natural gas, or any other mineral substance at the time this ALE is executed, and their interests have not been subordinated to this ALE, the Grantor must require, to the greatest extent possible, that any oil, natural gas, and mineral exploration and extraction conducted by such third party is conducted in accordance with this Paragraph (F).

**4. Preserving Agricultural Uses.** The provisions of this ALE and associated exhibits will not be interpreted to restrict the types of agricultural operations that can function on the Premises, so long as the agricultural operations are consistent with the long-term viability of the Premises, ALE Plan and ALE purposes, and do not violate federal laws, including federal drug laws. No uses will be allowed that decrease the ALE's protection for the agricultural use and future viability, and related conservation values of the Premises. Allowed uses of the Premises include the specific uses allowed in Section I, Paragraph (3)(B)(i)-(v) and the following activities, subject to the qualifications stated below:

(A) *Agricultural Production* — The production, processing, and marketing of agricultural crops and livestock is allowed provided it is conducted in a manner consistent with the of the ALE Plan described in Section I, Paragraph 1.

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(B) *Forest Management and Timber Harvest* – Forest management and timber harvesting is allowed, provided it is carried out to the extent possible, in accordance with current, generally accepted best management practices for the sites, soils, and terrain of the Premises. In addition, if the Premises contains forty (40) contiguous acres of forest or 20 percent (20%) of the Premises is forestland, then forest management and timber harvesting must be performed in accordance with a written forest management plan. The forest management plan must be prepared by a professional resources manager, in consultation with the Grantee. A forest management plan will not be required for the following allowed noncommercial activities: (i) cutting of trees for the construction of allowed roads, utilities, buildings, and structures on the Premises, (ii) cutting of trees for trial clearing, (iii) cutting of trees for domestic use as firewood or for other domestic uses by Grantor, (iv) removal of trees posing an imminent hazard to the health or safety of persons or livestock, or (v) removal of invasive species.

(C) *On-Farm Energy Production* – Renewable energy production is allowed for the purpose of generating energy for the agricultural needs of the Premises. Renewable energy sources must be built and maintained within impervious surface limits, limited to the Accessory Building Envelope, and with minimal impact on the conservation values of the Premises and consistent with the purposes of the ALE.

**SECTION II – PROTECTION OF THE UNITED STATES' INTERESTS**

**1. United States Right of Enforcement.** Pursuant to 16 U.S.C. Section 3865 et seq., the United States is granted the right of enforcement that it may exercise only if the terms of the ALE are not enforced by the holder of the ALE. The Secretary of the United States Department of Agriculture (the Secretary) or his or her assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the Grantee, or its successors or assigns, fails to enforce any of the terms of this ALE, as determined in the sole discretion of the Secretary.

In the event the United States exercises this right of it is entitled to recover any and all administrative and legal costs associated with any enforcement or remedial action related to the enforcement of this Easement from the Grantor, including, but not limited to, attorney fees and expenses related to Grantor's violations. In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement of this Easement from the Grantee, including, but not limited to, attorney fees and expenses related to Grantee's violations or failure to enforce the Easement against the Grantor up to the amount of the United States contribution to the purchase of the ALE.

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*FALMOUTH, MA*

The Grantee will annually monitor compliance and provide the United States with an annual monitoring report that documents that the Grantee and Grantor are in compliance with the ALE and ALE Plan. If the annual monitoring report is insufficient or is not provided annually, or if the United States has evidence of an unaddressed violation, as determined by the Secretary, the United States may exercise its right of inspection. For purposes of inspection and enforcement of the ALE, the ALE Plan, and the United States Cooperative Agreement with the Grantee, the United States will have reasonable access to the Premises with advance notice to Grantee and Grantor or Grantor's representative.

In the event of an emergency, the United States may enter the Premises to prevent, terminate, or mitigate a potential or unaddressed violation of these restrictions and will give notice to Grantee or Grantor or Grantor's representative at the earliest practicable time.

**2. General Disclaimer and Grantor Warranty.** The United States, its employees, agents, and assigns disclaim and will not be held responsible for Grantee's or Grantor's negligent acts or omissions or Grantee's or Grantor's breach of any representation, warranty, covenant, or agreements contained in this ALE Deed, or violations of any Federal, State, or local laws, including all Environmental Laws including, without limitation, those that give rise to liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which the United States may be subject or incur relating to the Premises.

Grantor must indemnify and hold harmless the United States, their employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which United States may be subject or incur relating to the Premises, which may arise from, but are not limited to, Grantor's negligent acts, omissions, or breach of any representation, warranty, covenant, agreements contained in this Agricultural Land Easement Deed or violations of any Federal, State, or local laws, including Environmental Laws.

**3. Environmental Warranty.** Grantor warrants that it is in compliance with and will remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with, or any liability under, any Environmental Law relating to the operations or conditions of the Premises. Grantor further warrants that it has no actual knowledge of an undisclosed release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable Federal and State law.

Furthermore, Grantor warrants the information disclosed to Grantee and United States regarding any past violations or non-compliance with Environmental Laws and associated

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remedial actions, or any past releases of Hazardous Materials and any associated remedial actions is complete and accurate.

Moreover, Grantor hereby promises to hold harmless and indemnify Grantee and the United States against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any hazardous materials on, at, beneath or from the Premises, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Premises. Grantor's indemnification obligation will not be affected by any authorizations provided by Grantee or the United States to Grantor with respect to the Premises or any restoration activities carried out by Grantee at the Premises; provided, however, that Grantee will be responsible for any Hazardous Materials contributed after this date to the Premises by Grantee.

"Environmental Law" or "Environmental Laws" means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection, and similar environmental health, safety, building, and land use as may now or at any time hereafter be in effect.

"Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution, or substance that may pose a present or potential hazard to human health or the environment.

**4. Extinguishment, Termination, and Condemnation.** The interests and rights under this Agricultural Land Easement may only be extinguished or terminated with written approval of the Grantee and the United States. Due to the federal interests in this ALE, the United States must review and approve any proposed extinguishment, termination, or condemnation action that may affect its federal interest in the Premises.

With respect to a proposed extinguishment, termination, or condemnation action, the Grantee and the United States stipulate that the fair market value of the ALE is sixty-five and two-tenths percent (65.2%)<sup>3</sup>, hereinafter the "Proportionate Share," of the fair market value of this Conservation Restriction or ALE. The Proportionate Share will remain constant over time.

If this ALE is extinguished, terminated, or condemned, in whole or in part, then the Grantor must reimburse Grantee and the United States an amount equal to the Proportionate Share of the fair market value of the land unencumbered by this ALE. The fair market value will be

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<sup>3</sup> The Grantee purchased this Conservation Restriction or ALE at the bargain sale price of \$200,000. At the time of the sale, the Premises was appraised as having a fair market value of \$307,000. \$200,000 is 65.2% of 307,000.

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determined at the time all or a part of this ALE is terminated, extinguished, or condemned by an appraisal that meets the Uniform Standards of Professional Appraisal Practice (USPAP) or Uniform Acquisition Standards or Federal Land Acquisition (UASFLA). The appraisal must be completed by a certified general appraiser and be approved by the Grantee and the United States.

The allocation of the Proportionate Share between the Grantee and the United States will be as follows: (a) to the Grantee or its designee, 33.4 percent of the Proportionate Share; and (b) to the United States 66.6 percent of the Proportionate Share.<sup>4</sup> Until such time as the Grantee and the United States receive the Proportionate Share from the Grantor or the Grantor's successor or assign, the Grantee and the United States each have a lien against the Protected Property for the amount of the Proportionate Share due each of them. If proceeds from termination, extinguishment, or condemnation are paid directly to Grantee, the Grantee must reimburse the United States for the amount of the Proportionate Share due to the United States.

**5. Amendment.** This ALE may be amended only if, in the sole and exclusive judgment of the Grantee and United States, by and through the Chief of NRCS, such amendment is consistent with the purposes of this ALE and complies with all applicable laws and regulations. The Grantee must provide timely written notice to the Chief of NRCS of any proposed amendments. Prior to the signing and recordation of the amended ALE, such amendments must be mutually agreed upon by the Grantee, Grantor, and United States, by and through the Chief of NRCS, and in accordance with Section X of this Conservation Restriction. Any proposed amendment that is recorded without the prior approval of the United States is null and void.

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<sup>4</sup> The 300 Committee Land Trust, Inc. contributed \$66,750 towards the \$200,000 purchase price, or 33.4%. The United States contributed \$133,250 towards the \$200,000 purchase price, or 66.6%.

PARIAH DOG FARM CONSERVATION RESTRICTION

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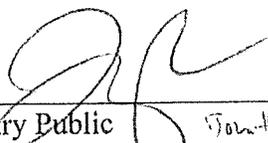
WITNESS my hand and seal this 17 day of August, 2020.

  
Matthew B. Churchill

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

On this 17 day of August, 2020, before me, the undersigned notary public, personally appeared Matthew B. Churchill, and proved to me through satisfactory evidence of identification which was MA DL 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 Jonathan de Brito  
My Commission Expires: 6-11-2021

## Diane Davidson

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**From:** Maggie Clayton  
**Sent:** Tuesday, August 18, 2020 6:04 PM  
**To:** Diane Davidson  
**Subject:** Item for Select Board Agenda

Hi, Diane:

This is a written request to the Select Board for permission to withdraw \$500 from Beach Donations Account (28-632-5655-4830) for the Dr. David Garber "Dare to be Great" Award given to a lifeguard during our annual banquet. The funds for this award from David's Old Silver Swim, Inc. c/o Robert Catalano were approved for deposit by the Board on 6/1/2020, and Schedule of Departmental Payments to the Treasurer (Form 9-10) was signed off by Tracey Cecil on 6/3/2020.

The Beach Department Senior Staff voted for Bridget Buckley to be the recipient of the award for 2020. She is in her 8<sup>th</sup> year of employment with the Town, a graduate of Bridgewater State University, and was the Head Lifeguard at M.B.L./Stoney Beach this year. She has held a leadership position as a lifeguard the last 5 summers.

Please let me know if you need anything else for this process.

Thank you in advance for your consideration,

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

Memo

To: Select Board, Town Administration, and Finance Department

From: Elizabeth Gladfelter *ehg*

Re: Donation of \$15,000.00 to the Conservation Department

Date 20 August 2020

An anonymous donor wishes to contribute \$15,000.00 to the Conservation Department to be spent as follows for the Coonamessett Greenway Heritage Trail (and Gateway) and future river restoration projects:

1. For any contingency funding needed for the Gateway to the Greenway project construction contract.
2. Any funds not required for the construction contract would be available to the Conservation Department for additional improvements to the Coonamessett Greenway Heritage Trail and/or for matching funds for grant applications to continue restoration efforts at the Coonamessett River.



DRAFT ONLY 8/21/2020

**Town of Falmouth  
Request for Proposals  
Emerald House  
67 Davisville Road, East Falmouth, MA 02536**



**Issued:  
September 2020**

**Town of Falmouth  
Request for Proposals  
Emerald House**

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## I. Background Information & Town Goals

The Town of Falmouth (Town), through its Select Board, seeks proposals from qualified organizations and individuals to lease an historic structure known as the 'Emerald House' and associated parking area located 67 Davisville Road for philanthropic or educational purposes.

The Town has determined that this solicitation and the contract awarded pursuant to it are subject to the provisions of the Uniform Procurement Act, Massachusetts General Laws, Chapter 30B, Section 16. Therefore, the relevant provisions of Massachusetts General Law are incorporated by reference in this Request for Proposals (RFP).

**A walk-through of the property and the facilities will be held at 9:00am on September \_\_\_\_\_, 2020.** It is strongly recommended that any respondent intending to submit a proposal be at this walk-through. We will send a notice out to all parties requesting bid documents when we have this information.

Questions regarding this proposal should be directed in writing to Peter Johnson-Staub, Assistant Town Manager [townmanager@falmouthma.gov](mailto:townmanager@falmouthma.gov) by \_\_\_\_\_, 2020. This RFP may be amended, based on questions proposed by potential respondents. Any revisions to this RFP shall be provided to all potential respondents no later than \_\_\_\_\_, 2020. Proposals in strict conformance with the requirements of this RFP must be received at the Town Manager's office no later than 12:00pm on October \_\_\_\_\_, 2020 to be considered.

The Town of Falmouth acquired the parcel of land on which the Emerald House is located in 1996 as authorized by a Town Meeting vote on November 6, 1995. This RFP seeks parties interested in using the historic structure with associated parking area but not the remainder of the 4.67 acre parcel as shown on the map in Attachment F. The Town's primary objective with this RFP and subsequent lease is to ensure the structure is utilized in a manner that allows for continued public access to the interior of the historic structure. The potential uses of the structure are quite limited by zoning (Public Use) and lack of accessibility to the bathroom and second floor. Given these goals and limitations, it is understood that the market value of the lease is less than what it would be for a typical residential or commercial lease.

The Lessee will maintain the property in an aesthetically pleasing manner similar to current conditions while preserving public access to adjacent Town land which is anticipated to be used for community gardens, an accessible play space and possibly for affordable housing.

The Town has identified the following goals for this RFP and lease of the Emerald House:

- Promote public access to the interior of the historic structure;
- Compatibility with existing and planned adjacent uses including school grounds, community gardens, accessible play space and potential future affordable housing;
- Honor the history of Portuguese ancestry and farming at the property;
- Compliance with applicable zoning see Public Use Article VII §§240-29 through §§240-33 of the Falmouth Town Code
- Seek a Lessee who is interested in a lease of up to 20 years;
- Minimize Town costs associated with the property; and
- Include educational opportunities for town residents, particularly school age children, to learn about the history of the property

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The Town is seeking to lease the Property for a five (5) year term with an option to extend the lease for three additional five (5) year terms, for a total of up to twenty (20) years, at the Town’s sole discretion.

The response to this request for proposals shall include:

1. A separate technical proposal that shall respond to the request for information specified in sections titled Minimum Criteria and Proposal Submissions below; and
2. A separate price proposal that shall show the respondent’s proposed annual lease payment for each year and itemize any non-residential building improvements or equipment respond requests the Town supply.

The Town reserves the right to reject any and all bids as determined to be in the best interest of the Town, to waive minor informalities, and to award the contract as decided to be in the best interest of the Town taking into consideration the technical and price proposals submitted. The Town reserves the right to request further information to clarify proposals.

**Submission Instructions:**

Respondents are required to submit: <u>one (1) original and four (4) copies of the "Technical Proposal" for a total of five (5), and in a separately sealed envelope, one (1) original "Price Proposal".</u> The Respondent is also asked, but not required, to include one (1) electronic version (PDF version on thumb drive) in a third sealed envelope. All Technical Proposal and Price Proposal forms and certifications are due on the proposal date as part of a complete submission package. Proposals are to be submitted and addressed as follows:		
	<b>Technical Proposal</b>	<b>Price Proposal</b>
Mailing Address	Town Manager’s Office 59 Town Hall Square Falmouth, MA 02540	
Please note the envelopes (packages) may be sent in a single envelope (package, box, carton, etc.) provided that all the separate envelopes are individually sealed and clearly marked as noted.		
Proposal Identification on the Outside of the Sealed Envelope	<b>Town of Falmouth                  Emerald House Lease –                  TECHNICAL PROPOSAL</b>	<b>Town of Falmouth                  Emerald House Lease –Price                  PROPOSAL</b>
Bids Due	<b>Proposals must be received no later than _____, 2020 at 12:00 p.m.</b> LATE PROPOSALS WILL NOT BE ACCEPTED.	
Bid Bond (Bid Deposit)	A <b>Bid Bond</b> is NOT required.	
Delivery will be at the expense of the Respondent. Any and all damages that may occur due to packaging or shipping will be the sole responsibility of the Respondent.		

## II. LEGAL AD:

### **Request for Proposal for Lease of Town Land for Philanthropic or Educational Use**

The Town of Falmouth invites proposals for lease of an historic structure known as the 'Emerald House' and associated parking area located on 67 Davisville Road, East Falmouth for philanthropic or educational purposes. The Town's primary objective with this RFP and subsequent lease is to ensure the structure is utilized in a manner that allows for continued public access to the interior of the historic structure. Bid documents will be available starting at 12:00PM, \_\_\_\_\_, 2020 by contacting Peter Johnson-Staub, Assistant Town Manager at [townmanager@falmouthma.gov](mailto:townmanager@falmouthma.gov) (508) 495-7320. Sealed proposals must be prepared and submitted in strict accordance with the instructions and requirements contained in this Request for Proposals (RFP) and must be received no later than 12:00PM on \_\_\_\_\_, 2020, at:

Town Manager's Office  
59 Town Hall Sq.,  
Falmouth, MA 02540.

Late, emailed, faxed or unsigned proposals will not be accepted.

The Town of Falmouth reserves the right to waive any informalities and to accept or reject any and all proposals in the best interest of the Town.

- Newspaper Postings: \_\_\_\_\_, 2020 and \_\_\_\_\_, 2020
- Central Register Postings: \_\_\_\_\_, 2020

### III. PROPERTY DESCRIPTION

The Emerald House property that is offered for lease under this RFP consists of a structure of with a finished area of approximately 1,000 square feet and the adjacent parking area. The Town will consider proposals that include use of the shed and garage located beside the parking area but reserves the right to exclude this ancillary structures from the lease.

### IV. GENERAL INFORMATION

The lessee shall operate under the terms of the Lease Agreement that is attached hereto as Attachment G. It is the obligation of prospective lessees to review the terms of the lease prior to submitting a proposal.

1. The lessee shall be required to comply with applicable zoning and building code. The subject parcel is zoned Public Use. See Article VII §§240-29 through §§240-33 of the Falmouth Town Code for full details on allowed uses. Of particular relevance to the Town's objectives for this RFP are the highlighted uses below:

§ 240-30 Permitted community service uses:

- A. Churches, schools, libraries, museums, parish houses, hospitals, sanatoria, educational, research and philanthropic institutions, cemeteries, group day-care homes and child day-care centers.
2. As detailed in the lease agreement, lessee shall be required to obtain and keep in force the following insurance at its sole expense: Comprehensive General Liability, Automobile Liability, Workers Compensation, and such other insurance coverages as the Lessor deems appropriate considering the Lessee's proposed use of the property.

Prior to entering into the Lease Agreement, the lessee shall provide to the Town evidence satisfactory to the Town that (1) a current criminal offender record information (CORI) investigation has been conducted for each officer and employee of the lessee who will work on the project, and (2) the results of which indicate no reason to prohibit the subject officer or employee from working on the project. The Town shall assist the lessee to obtain appropriate Sexual Offender Record Information for each officer and employee of the lessee through the Town's access to the CORI system.

### V. TECHNICAL PROPOSAL

The technical proposal shall include the following:

1. Respondent information - Name, address, telephone number and email address of the individual submitting the proposal who will serve as the organization's primary contact with the Town. The proposal shall be signed by a duly authorized representative of the applicant organization.

## DRAFT ONLY 8/21/2020

2. A statement that the respondent has visited the subject site and is fully acquainted with the conditions as they exist.
3. A Business Plan to include but not be limited to:
  - a. A description of respondent's ownership structure (i.e. sole proprietor, partnership, corporation, etc.)
  - b. The names of: 1) The of principal(s) of the respondent's organization (i.e. identify sole proprietor, partners, or officers of corporation); 2) The individual(s) who will make operational decisions for lessee;
  - c. A description of the qualifications and experience of each individual listed under section 3. b. above;
  - d. At least 2 references with contact information who can attest to the qualifications of each individual listed under section 3. b. above;
  - e. A description of the philanthropic purpose of the respondent;
  - f. A description of the proposed uses of the structure including public access and any ancillary private offices;
  - g. Estimated expenses;
  - h. Estimated fee revenue and funding sources to support required expenses with sufficient explanation to convey an understanding of how revenue will be generated;
  - i. A description of loans required to meet business plan and evidence of ability to secure such loans;
  - j. A description of personal/organizational financial resources available to support business plan with supporting documentation to evidence cash reserves, and/or ability to secure a line of credit of a specified amount;
  - k. Confirm ability to provide security deposit of \$1,000.
4. Identification of exceptions taken to any part of this RFP and lease agreement and a statement why.

## **VI. Proposal Evaluation**

1. Rule for Award: The most advantageous proposal from a responsive and responsible proposer, taking into consideration all Comparative Evaluation Criteria set forth below, will be selected. An Evaluation Committee, appointed by the Town Manager, will review all proposals and recommend to the Town Manager the proposal it deems most advantageous, taking into consideration the evaluation of the technical proposals, non-monetary benefits to the community, the quality of the references (minimum of 3), and the price proposals. The Town reserves the right to interview finalists. While price proposals will be considered in the final award, it is expressly noted that the Town may not award the lease to the proposal with the highest proposed rent. The Evaluation Committee shall waive minor informalities as defined by Chapter 30B or allow the proposer to correct them. The Evaluation Committee shall assign a composite rating to each proposal and submit the ratings to the Town Manager. The Town Manager shall determine the most advantageous proposal and, if deemed in the best interest of the Town, award a Lease Agreement subject to approval of the Select Board.

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2. Minimum Requirements: The following minimum items are required to constitute a Responsive and Responsible Proposal.
  - a. A completed Technical Proposal submission – See Section V. above
  - b. A completed General Bid form – Attachment A
  - c. Certificate of Non-Collusion & Tax Compliance – Attachment B
  - d. If applicable, certification of Vote of the Organization’s Board of Directors Authorizing Submittal of the proposal and execution of a contract – Attachment C
  - e. A completed Price Proposal form - Attachment D
  - f. References – Attachment E
  - g. Proposed use meets zoning requirements as a by right use under Falmouth Zoning Bylaw § 240-30 subsection A.:
    - § 240-30. Permitted community service uses:
      - A. Churches, schools, libraries, museums, parish houses, hospitals, sanatoria, educational, research and philanthropic institutions, cemeteries, group day-care homes and child day-care centers.

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3. Comparative Evaluation Criteria: Proposals will be evaluated by the Evaluation Committee according to the following criteria:

<b>Ranking</b>	<b>Respondent Experience</b>	<b>Public Access</b>	<b>Proposed Uses &amp; Mission</b>	<b>Educational Opportunities</b>
<b>Highly Advantageous</b>	All principals of respondent organization demonstrate at least 3 years of experience related to all aspects of the proposed uses of the Property.	Proposal includes public access to the interior of the Emerald House for 20 hours or more per week, year-round	A philanthropic entity whose primary purpose and activities at the leased premises directly relate to historic preservation and/or agriculture and meet zoning requirements under Falmouth Zoning Bylaw § 240-30 subsection A.	Proposal includes educational opportunities for children and adults related to the local history of Portuguese Americans and agriculture
<b>Advantageous</b>	In combination, the principals of respondent organization demonstrate at least 3 years of experience related to all aspects of the proposed uses of the Property.	Proposal includes public access to the interior of the Emerald House for 20 hours or more per week for 9 to 11 months per year	An entity whose purpose and activities meet zoning requirements under Falmouth Zoning Bylaw § 240-30 subsection A.	Proposal includes educational opportunities for related agriculture
<b>Not Advantageous</b>	The principals of respondent organization demonstrate less than 3 years experience related to the proposed uses of the Property.	Proposal includes public access to the interior of the Emerald House for 20 hours or more per week for less than 9 months per year	An entity whose purpose and activities would require a variance to meet zoning requirements under Falmouth Zoning Bylaw § 240-30.	Proposal does not include specific educational opportunities beyond access to the interior of the historic structure

**Attachment A:  
General Bid Form**

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**GENERAL BID FORM**

The accompanying **Bidding Forms** are hereby submitted in response to the RFP cited above. All information, statements and prices are true, accurate and binding representations of its intentions and commitments in responding to this RFP.

Name of Individual Submitting Proposal on behalf of Respondent:			
Address:			
Phone:		Email:	

For the Respondent:

**X** \_\_\_\_\_ (Signature)                      Date: \_\_\_\_\_

Name of Individual: \_\_\_\_\_

Title: \_\_\_\_\_

Name of Business: \_\_\_\_\_

**Attachment B:  
Certificate of Non-Collusion and Tax Compliance**

**Non-Collusion Statement**

The undersigned certifies under penalties of perjury that this bid has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

**Taxes Paid Certification**

Pursuant to M.G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am/my company is in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and Vendors, and withholding and remitting child support.

For the Respondent:

**X** \_\_\_\_\_ (Signature)                      Date: \_\_\_\_\_

Name of Individual: \_\_\_\_\_

Title: \_\_\_\_\_

Name of Business: \_\_\_\_\_

**Attachment C:  
Certificate of Corporate Vote**

**CERTIFICATE OF VOTE**

This is to certify that at a special meeting of the \_\_\_\_\_

[Board of Directors/ Executive Committee...] of the \_\_\_\_\_, located at

\_\_\_\_\_, at \_\_\_\_\_, 2020, with a quorum being present and voting, it was

VOTED that \_\_\_\_\_ is authorized to sign this proposal.

A TRUE COPY

ATTEST: \_\_\_\_\_

Secretary/Clerk

**DRAFT ONLY 8/21/2020**

Attachment D:

**PRICE PROPOSAL FORM**

*(Submit this form in a separate sealed envelope)*

**Proposed Rent to be Paid to Town by Lessee:**

Proposed Rent, Per Year, for Year 1 thru Year 5:

A.) \$ \_\_\_\_\_

*If Lease is Renewed*, Proposed Rent  
Per Year for Year 6 thru Year 20:

B.) \$ \_\_\_\_\_

**DRAFT ONLY 8/21/2020**

**Attachment E:  
REFERENCES**

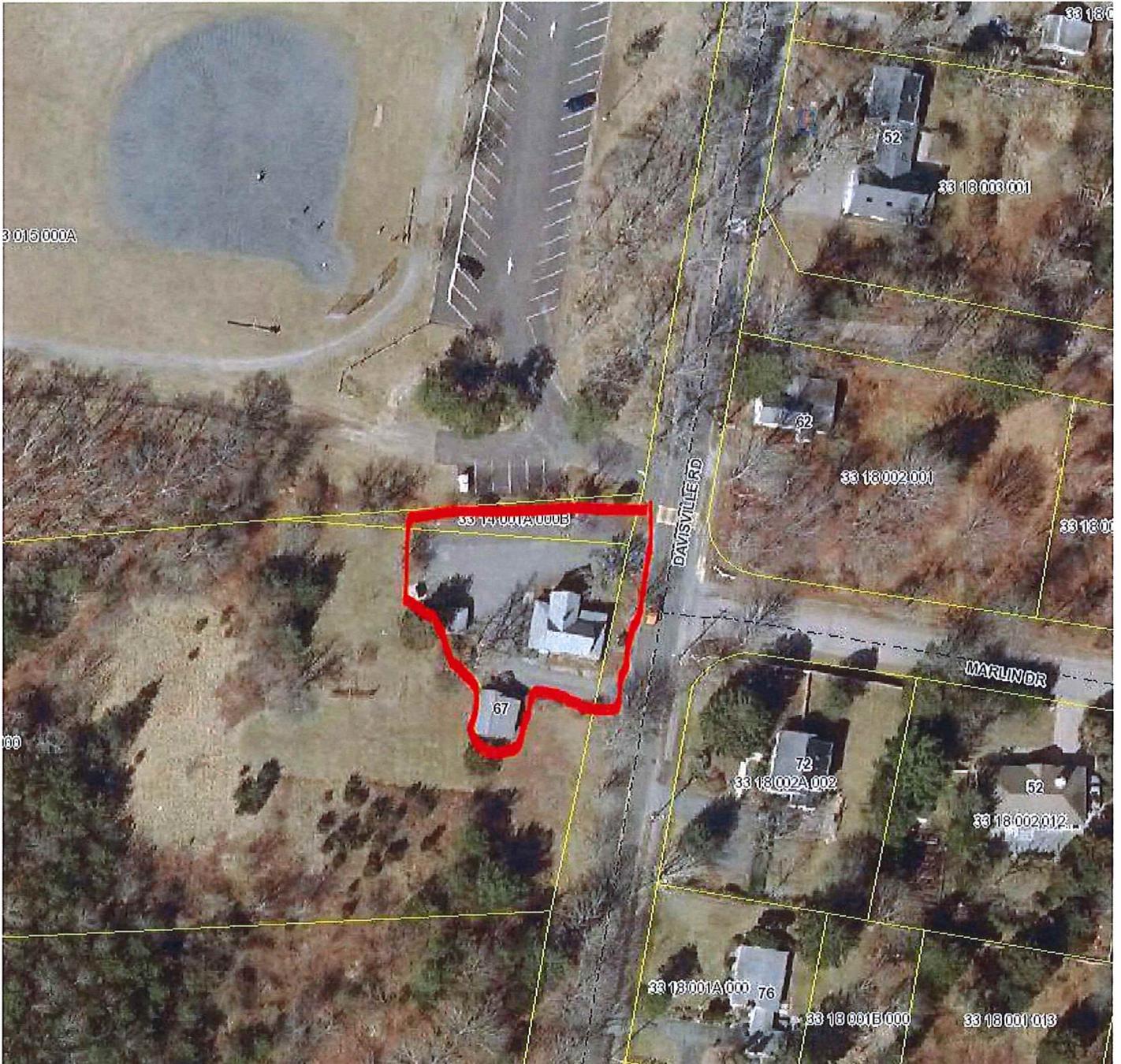
Provide at least 2 references with who can attest to the qualifications of each individual listed in the Technical Proposal (Section V.) under item 3. b.

<b>Name</b>	<b>Address</b>	<b>Phone #</b>	<b>Email (optional)</b>

**DRAFT ONLY 8/21/2020**

**Attachment F:  
MAPS**

The Emerald House property that is offered for lease under this RFP consists of a structure with a finished area of approximately 1,000 square feet and the adjacent parking area. The Town will consider proposals that include use of the shed and garage located beside the parking area but reserves the right to exclude this ancillary structures from the lease.





**TOWN OF FALMOUTH  
SPECIAL EVENT PERMIT**

EVENT Ride for Homes

NAME Habitat for Humanity of Cape Cod, Adrienne Wytas

MAILING ADDRESS 411 Route 6A, Suite 6, Yarmouthport, MA 02675

EVENT DAY & DATE Sunday, September 13, 2020

RAIN DATE None.

EVENT LOCATION Cape Cod Canal to Shining Sea Bike Path to Cape Cod Canal

EVENT TYPE Bike Ride

SET-UP ARRIVAL TIME 7:00 a.m. EVENT HOURS 7:00 am – 1:00 p.m. 9:30 am

NUMBER OF ATTENDEES 100 50 # OF VEHICLES 0

ADDITIONAL DETAILS Use of restrooms at beginning of bike path. From Bourne to Shining Sea Bike Path in North Falmouth, ride bike path down to Woods Hole and back to North Falmouth. 20 riders. Staggered start time allowing a few riders to go every 10 minutes. No spectators. Masks required by all, except when riders are on their bikes or eating.

**CONDITIONS:**

1. **Event organizer and participants to follow the social distancing and wearing of masks per the Governor's COVID-19 Order in place at the time of the event. (COVID-19 Order No. 46 dated August 7, 2020 is attached for your reference).**
2. Observe Bikeways Committee bike path rules, attached.
3. Organizers to police area following the event for litter and cleanliness.
4. No markings on pavement.
5. Contact Falmouth Police Department Detail Sergeants 30 days prior to event to discuss public safety measures.

PERMIT FEE \$200.00 \$25.00 FILING FEE \$10.00  
DEPOSIT \$300.00 (Deposit refundable at conclusion of event provided that no litter or damage has occurred)

**BOARD OF SELECTMEN:**

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

## **Habitat for Humanity of Cape Cod – Ride for Homes Event 9/13/20**

### **REVISED Application for Special Events – 8/13/20**

We ask that the Select Board accept and consider this revised application and detailed plan below for our cycling event, the Ride for Homes. Given that our Ride only passes through Falmouth on the Shining Sea Bike Path, we would like to proceed with the event as planned and with the same route.

We have 20 riders taking part in the 40-mile route through Falmouth on the bike path. They will begin at 7:30 a.m. in Bourne and we will stagger the start time by allowing just a few riders to go every 10 minutes. They should all be off the bike path by 9:30 a.m. There are no spectators at this event.

We have approval from the Army Corp of Engineers and the Town of Bourne, as well as the Aptucket Trading Post Museum/Bourne Historical Society, where we will hold the start/finish of the Ride. In lieu of the BBQ we normally do, we will have grab and go bag lunches for the riders upon completion. We are limiting the event to 50 people/25% venue capacity per the Governor's guidelines. Masks will always be required by everyone, except when the Riders are on their bikes or eating. We are providing all riders with face coverings when they arrive and can wear as needed while on the route.



# Town of Falmouth

## Application for Special Events

### CONTACT INFORMATION

Applicant's Name: Habitat for Humanity of Cape Cod  
 Mailing Address: 411 Main Street, Suite 6, Yarmouth Port, MA 02675  
 Phone: 508-362-3559 x18 Cell Phone: 774-313-7255  
 E-Mail: events@habitatcapecod.org Fax #: \_\_\_\_\_

### EVENT DETAILS

Name of Event: Ride For Homes  
 Type of Event: Bike Ride  
 Event Day & Date: Sunday September 13, 2020  
 Rain Date: None  
 Event Hours: From: 7:30 am To: 1:30 pm  
 Set-up/Break-down Date(s): 9/13 Time(s): 6am - 2pm

### Location Requested:

1<sup>st</sup> Choice: Shining Sea Bike Path  
 2<sup>nd</sup> Choice: \_\_\_\_\_

Number of Attendees: 20 Number of Vehicles: 0

Parking Plan: NA

- Will event include chairs, barriers, tents? Yes or No (tent permit application, if necessary)
- Will event include signs? Yes or No (sign permit application, if necessary)
- Will event be a road race? Yes or No (a. include route map, b. see reverse side for road race rules, and sign)
- Will event include use of Shining Sea Bike Path? Yes or No (see reverse side for bike path rules, and sign)
- Will event include food or beverages? Yes or No (temporary food permit application)
- Will event include alcoholic beverages? Yes or No (one-day liquor license application)
- Will event include entertainment? Yes or No What type? \_\_\_\_\_

### ADDITIONAL INFORMATION

Provide additional detail of your event including requests for use of restroom facilities, electricity, etc.  
See Attached

Applicant's Signature: William Wytas Date: 8/13/20

- References:
1. \_\_\_\_\_
  2. \_\_\_\_\_
  3. \_\_\_\_\_

### BOARD OF SELECTMEN

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

## RIDE FOR HOMES ROUTE

Begin at the **Aptucxet Trading Post Museum**

Take a right when leaving the trading post parking lot onto **Aptucxet Road**

Take a quick left onto **Old Monument Neck Road**, go under the bridge

Take a quick right onto **Shore Road**

Bear right onto **Monument Neck Road**

Right onto **President's Road**

Bear left to stay on **President's Road**

Bear left onto **Mashnee Road** – you will see a sign for **Mashnee Village**

Follow onto Mashnee Island

Take the first right once you are on the island onto **Channel Road**

Bear left onto **Rope Walk Road**, follow to the end

Take a left onto **Captains Row**

Take a left on **Clipper Road**

Take a left on **Mooring Road**

Take a right onto **Mashnee Road**

Follow **Mashnee Road**, bear right onto **President's Road**

Take a left onto **Monument Neck Road**

Bear right onto **Shore Road**

Follow **Shore Road**

Keep right to stay on **Shore Road**

**CAUTION METAL DRAWBRIDGE AHEAD - DISMOUNT BIKE TO CROSS**

Turn right onto **Red Brook Harbor Road**

**CAUTION RAILROAD TRACKS AHEAD – DISMOUNT BIKE TO CROSS**

Go straight at the Stop sign and tennis courts, turns into **Squeteague Harbor Road**

Bear right to stay on **Squeteague Harbor Road**

Turn right onto **Megansett Road**, this turns into **Garnett Ave**

At Stop sign, take a left onto **County Road** and follow to the beginning of the Shining Sea Bike Path

**\*\*\*CHECK POINT HERE ON THE LEFT IN THE BIKE PATH PARKING LOT\*\*\***

**THE BEGINNING OF THE BIKE PATH IS ACROSS THE STREET ON THE RIGHT**

Follow **Shining Sea Bike Path** to the end (RESTROOM AVAILABLE AT STEAMSHIP AUTHORITY & HABITAT VOLUNTEER MANNED WATER STOP AND CHECK IN)

Turn around in the Steamship Authority parking lot and follow the Bike Path back to the end

**\*\*\*CHECK POINT ON THE RIGHT IN THE BIKE PATH PARKING LOT\*\*\***

Turn left on **County Road**

Go straight through the Stop

Bear right on **Garnet Ave**

**Garnet Ave** turns into **Megansett Road**

Turn left onto **Squeteague Harbor Road**

Bear left to stay on **Squeteague Harbor Road**

Go straight across **Scraggy Neck Road** onto **Red Brook Harbor Road**

**CAUTION RAILROAD TRACKS AHEAD – DISMOUNT BIKE TO CROSS**

At Stop Sign, turn left on **Shore Road**

**CAUTION METAL DRAWBRIDGE AHEAD - DISMOUNT BIKE TO CROSS**

Slight right to stay on **Shore Road**

Quick left to stay on **Shore Road**

Take a left onto **Old Monument Neck Road**

Then a quick right onto **Aptucket Road** to the finish



**TOWN OF FALMOUTH  
SPECIAL EVENT PERMIT**

EVENT NAME Pedal to Parcels

NAME The 300 Committee Land Trust

MAILING ADDRESS 157 Locust Street, Falmouth, MA 02540

EVENT DAY & DATE Sunday, May 31, 2020 **Sunday, September 20, 2020**

RAIN DATE None.

EVENT LOCATION Start and Finish at Tony Andrews Farm

EVENT TYPE Guided bicycling tour of selected conservation lands in Falmouth

SET-UP ARRIVAL TIME 9:00 a.m. EVENT HOURS 9:00 a.m. – 12:00 p.m.

NUMBER OF ATTENDEES 30 # OF VEHICLES 20

ADDITIONAL DETAILS Route attached. Small lawn signs at conservation area stops.

**Not a group ride (singles, couples or group of related people up to 4). Staggered start. Provide map with cue for short stops at 9 different sites. All participants to carry mask and wear at land stops. Safe distancing at stops. No gathering before or after event. No refreshments provided.**

**CONDITIONS:**

- 1. Event organizer and participants to follow the social distancing and wearing of masks per the Governor's COVID-19 Order in place at the time of the event. (COVID-19 Order No. 46 dated August 7, 2020 is attached for your reference).**
- 2. Organizers to contact detail sergeant 30 days prior to the event to coordinate proper safety and security measures.**
- 3. Organizers to police the bike route to ensure that no litter or debris is left behind.**

PERMIT FEE \$25.00 FILING FEE \$10.00

DEPOSIT \$300.00 (Refundable at conclusion of event provided that no litter or damage has occurred)

**BOARD OF SELECTMEN:**

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

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

## Diane Davidson

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**From:** lhelfrich 300committee.org <lhelfrich@300committee.org>  
**Sent:** Monday, August 10, 2020 11:33 AM  
**To:** Diane Davidson  
**Cc:** jwhritenour 300committee.org  
**Subject:** RE: Special Events Discussion - Select Board Meeting - 8/10/20

Oops...somehow, I sent the message below before I was able to complete it!  
I am starting over...

Hi Diane,

Thank you so much for your message. I'm sure there are still plenty of concerns about special events and public safety during this challenging time.

While we are not able to participate in the Select Board's meeting, I wanted to share the steps The 300 Committee is taking to ensure that our special event will be safe for participants and volunteers.

Reminder, our event is the **Pedal to Parcels bicycling tour of open space, currently scheduled for Sunday, September 20, 9 AM To noon**. The ride will begin and end at Andrews Farm.

1. This will not be a group ride, as originally planned. The start will be staggered, with participants riding on their own (as singles, couples or groups of related people, up to 4), without leaders. Participants who sign up ahead of time (up to a total of 30) will be provided with a map and a ride cue sheet that will guide them along the approximate 16-mile loop, with short (3 to 4 minute) stops at 9 different conservation areas.
2. All participants will be asked to carry a mask and to wear it at the conservation land stops. At each stop, two 300 Committee volunteers, masked and socially distanced, will provide a few comments about the special characteristics of that protected parcel. If participants arrive at a conservation stop while other cyclists are there, they will be directed to remain at a safe distance until the first riders depart.
3. There will be no group gathering before or after the event and no refreshments provided. Riders will be encouraged to carry their own water and snacks.

This event has been a popular one in for T3C previously, and due to number of factors, was not held during the last two years. We'd really like to be able to proceed this year as so many of our other activities have had to be cancelled. We believe that the precautions we are taking will help keep everyone safe while they enjoy being outdoors, riding bikes and learning about some of Falmouth's wonderful permanently preserved properties.

I hope you can share this message with the Select Board. Please don't hesitate to let me know if you have any questions.

Thanks, Diane, and hope all's well!  
Lucy Helfrich  
The 300 Committee Land Trust

DRAFT

THE 300 COMMITTEE LAND TRUST PRESENTS

# Pedal to Parcels

*tour de Falmouth*

*May 31, 2020*

Sunday, ~~June 2, 2019~~

• 9:30 AM



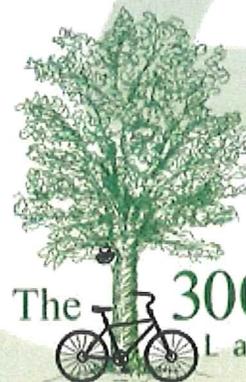
Pump up your tires, hop on your bike and tour 16 parcels of protected open space along a 16 mile-loop. Meet land stewards and learn about spectacular places in Falmouth that you will want to come back and explore.

The tour starts and ends at <sup>Andrews Farm</sup> ~~Goodwill Park~~ <sup>East</sup> ~~off Gifford Street~~ in Falmouth. <sup>X on map</sup>  
Riders should be comfortable riding on busy roads. The pace will be relaxed with an emphasis on fun. We anticipate that the tour will take approximately 2.5 hours.

## Registration and more info

Please register by emailing [saveland@300committee.org](mailto:saveland@300committee.org) or calling (508) 540-0876. For more information visit The 300 Committee website at [www.300committee.org](http://www.300committee.org).

**Don't forget your helmet!**



The 300 Committee  
Land Trust



**TOWN OF FALMOUTH  
SPECIAL EVENT PERMIT**

EVENT NAME The Kirwin/Murray Tour de Falmouth

NAME Matthew C. Patrick for Falmouth Housing Corp.

MAILING ADDRESS P.O. Box 3252, Waquoit, MA 02536

EVENT DAY & DATE Sunday, October 11, 2020

RAIN DATE Monday, October 12, 2020

EVENT LOCATION Surf Drive Beach start/finish

EVENT TYPE Bike ride

SET-UP ARRIVAL TIME 6:00 a.m./2:00 p.m. EVENT HOURS 7:00 a.m. – 12:30 p.m.

NUMBER OF ATTENDEES 100 (80 riders (2 groups of 40), 10 volunteers)

NUMBER OF VEHICLES 50-70

ADDITIONAL DETAILS Route attached. Parking at Surf Drive beach lot. Organizer will provide porta-potties. Use of Surf Drive bathhouse facilities. **Group 1: 7am check in via mobile devices owned by volunteers, pens used to sign insurance form will be sanitized immediately after use. Hand sanitizer available. 8 am group 1 leaves. 8-8:30: areas cleaned. 8:30-9:30 Group 2: same process. Individually packaged face masks available. Pre-packaged snacks given out at end to take. No post-ride gathering.**

**CONDITIONS:**

1. **Event organizer and participants to follow the social distancing and wearing of masks per the Governor's COVID-19 Order in place at the time of the event. (COVID-19 Order No. 46 dated August 7, 2020 is attached for your reference).**
2. Contact the Police Department Detail Sergeants 30 days prior to event to schedule appropriate safety provisions.
3. Contact Fire Department 30 days prior to event to arrange for EMS or fire detail.
4. Contact Inspectional Services Department 30 days in advance for tent permit and to schedule inspections.
5. No markings on pavement.
6. Event organizers to police the race route following the event to ensure any litter or debris is cleared.

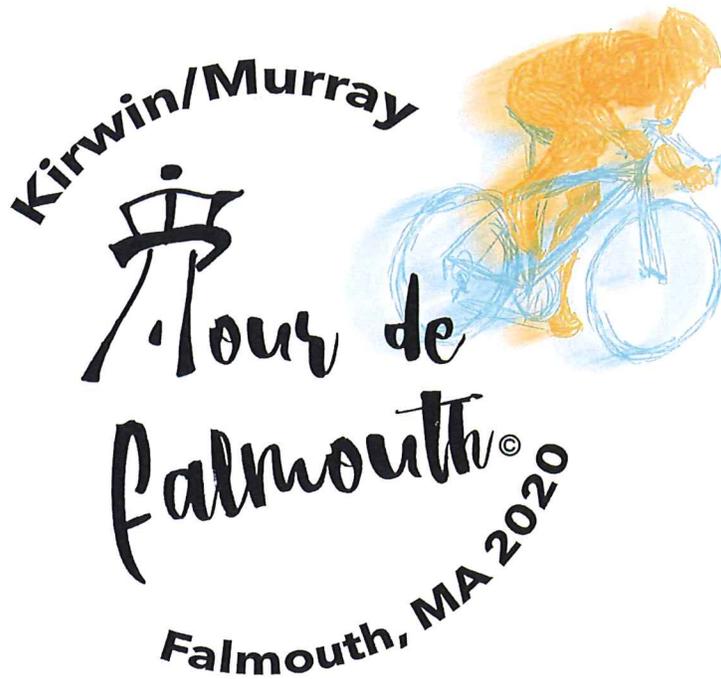
PERMIT FEE \$250.00 FILING FEE \$10.00

DEPOSIT \$300.00 (Deposit refundable at conclusion of event  
Provided that no litter or damage has occurred.)

**BOARD OF SELECTMEN:**

\_\_\_\_\_  
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\_\_\_\_\_  
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## 4th Annual Kirwin/Murray Tour de Falmouth

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### Covid-19 Revised Event Plan

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Presented by  
The Kirwin/Murray Tour de Falmouth Committee  
Falmouth Housing Corporation

Contacts:  
Matt Patrick  
508.524.4161, [repmattp@gmail.com](mailto:repmattp@gmail.com)

Zelda MacGregor  
774.269.8867, [zeldamacgregor@gmail.com](mailto:zeldamacgregor@gmail.com)

## Our Event

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**WHO:** Falmouth Housing Corporation (FHC), a 501(c)(3) non profit organization; for more information, please visit <https://www.falmouthhousingcorp.org>.

**WHAT:** The Kirwin/Murray Tour de Falmouth is a bike ride benefiting the Falmouth Homeless Prevention Program (FHPP), a program maintained by FHC that helps keep people in the homes they are already in by providing emergency relief to people in distress. For more information about FHPP, please visit <https://www.falmouthhousingcorp.org/our-prevention-program>. Over the past three years, Tour de Falmouth has raised \$115,000 for this program.

Tour de Falmouth has two courses; one is 29.3 miles, and the other is 10 miles. Both begin and end at the Ellen T. Mitchell bath house on Surf Drive. For more information about the Tour de Falmouth, please visit <https://www.tourdefalmouth.org>.

**WHEN & WHERE:** Sunday, October 11, 2020 with a rain date of Monday, October 12, 2020. First round of registration begins at 7am with a ride start time of 8am; second round of registration begins at 8:30am with a second ride start time of 9:30 am. The ride begins and ends at the Ellen T. Mitchell bath house on Surf Drive.

## Covid-19 Adaptations

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The Tour de Falmouth Committee understands the challenges of holding an event during this pandemic and has adapted to meet the restrictions outlined by the Governor and his various task forces as well as the Town of Falmouth. We are supportive of these restrictions and committed to holding our event in a safe, responsible, and law-abiding environment to protect our participants, volunteers, and the general public.

Tour de Falmouth takes place outside, but in response to the mandate that outdoor gatherings involve no more than 50 people, we will split the participants into two separate rider groups of no more than 40 participants that will check in and start off at staggered times. We chose 40 to allow room for our volunteers without crossing the 50 people threshold. Masks will be required of all participants until they begin cycling and of all volunteers for the duration of their shifts. There will be signs and markings on the ground separating people by at least six feet to observe masked physical distance while waiting in line to check in and waiting for the ride to begin. We are providing reusable masks to each participant and volunteer, and hand sanitizer will be available.

Over the past three years, our average participation level has been about 80 people per ride. We will cap the number of participants at 80 for this year's ride.

Our staggered check in/start timeline is:

- 7am: Group 1 (no more than 40 participants, 10 volunteers) lines up and checks in. We check people in via mobile devices owned by the volunteer. Pens used to sign the insurance form will be sanitized immediately following their use. Hand sanitizer will be available in abundance.
- 8am: Group 1 takes off.

- 8-8:30am: Volunteers clean all surfaces and areas used for check in, refresh signage and ground distance markings if needed.
- 8:30-9:30am: Group 2 (no more than 40 participants, 10 volunteers) lines up and checks in, same process as Group 1.
- 9:30am: Group 2 takes off.

## Further Adaptations and Precautions

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- We have already ordered reusable face masks to distribute to our participants. They are individually packaged.
- Because of our strict mask mandate, we will ask our participants to enjoy their pre-ride breakfast before arriving to check in.
- As riders return, there will be pre-packaged snacks and beverages available for participants to take with them as they leave.
- We have canceled the post-ride gathering.

## Final Thoughts

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The Tour de Falmouth Committee is proud of our bike ride and the positive relationship we have had with the Town of Falmouth for the last three years. We are committed to following health guidelines and safety protocols put forward by the Commonwealth and the Town, and had already begun adapting our ride to meet these challenges before the Select Board's August 10 meeting decision to rescind all special event permits through the month of October 2020. We had a representative at that meeting; we understand and share the concerns of the Board and hope this adaptation plan will help assuage any apprehension related to our event.

Falmouth Homeless Prevention Program is needed now more than ever as people struggle to make it through a difficult pandemic that has pushed many of our neighbors out of their jobs and even homes. It is extremely important that we are able to provide relief where we can during this unprecedented situation, and we need to raise the funding on which we rely to do that. We believe this adapted plan for the 4th Annual Tour de Falmouth is an opportunity to continue fueling the good and necessary work of FHPP and hope the Board will agree and approve our revised application and plan.



29.3 miles

Leg	Dir	Type	Notes	Total
	↑	Straight	Continue onto Shore St	0.0
0.2	→	Right	Turn right onto Clinton Ave →	0.3
0.4	←	Left	Clinton Ave turns left and becomes Scranton Ave	0.7
0.6	→	Right	Turn right onto Robbins Rd →	1.3
0.1	→	Right	Turn right onto Falmouth Heights Rd <i>cops</i>	1.4
0.4	↑	Straight	Continue straight onto Grand Ave	1.8
0.3	←	Left	Turn left to stay on Grand Ave	2.2
0.8	→	Right	Grand Ave turns slightly right and becomes Menauhant Rd	3.0
0.8	→	Right	Turn right onto Ocean Ave →	3.7
0.1	←	Left	Turn left onto Bridge St →	3.8
0.5	→	Right	Turn right onto Menauhant Rd <i>Eric</i>	4.3
0.5	←	Left	Turn left onto Davisville Rd <i>with Tom</i>	4.8
1.9	↑	Straight	Continue onto Old Meeting House Rd	6.7
0.4	↑	Straight	Continue onto Crocker Rd	7.1
0.2	→	Right	Turn right onto Old Barnstable Rd →	7.3
1.0	←	Left	Turn left onto Carriage Shop Rd →	8.3
1.1	←	Left	Turn left onto Sandwich Rd <i>cops</i>	9.3
0.1	→	Right	Turn right onto Hatchville Rd →	9.4
0.8	←	Left	Turn left onto Geggatt Rd □	10.3
0.5	→	Right	Turn right onto Thomas B Landers Rd <i>cops</i>	10.7
1.9	↑	Straight	Continue onto Thomas Landers Rd	12.7
0.2	→	Right	Turn right onto MA-28A N □	12.9
1.2	←	Left	Turn left toward MA-28A S <i>cop</i>	14.1
0.0	←	Left	Turn left onto MA-28A S	14.1
0.0	→	Right	Slight right onto Curley Blvd <i>Phyllis</i>	14.1
0.7	↑	Straight	Continue onto Quaker Rd	14.8
2.1	↑	Straight	Continue onto Nashawena St	16.9
0.6	→	Right	Turn right onto Old Dock Rd <del>→</del>	17.5
0.4	←	Left	Turn left onto Chapoquoit Rd <del>→</del>	17.9
0.2	→	Right	Turn right onto MA-28A S <del>→</del>	18.1
1.2	→	Right	Turn right onto Palmer Ave <i>Linda</i>	19.3
0.8	→	Right	Turn right onto Sippewissett Rd <i>Linda</i>	20.1
2.9	↑	Straight	Continue onto Quissett Ave	23.0
1.6	↑	Straight	Continue onto School St	24.6
0.2	→	Right	Turn right onto Water St <i>Kathy</i>	24.8
0.0	←	Left	Turn left onto Luscombe Ave	24.9
0.1	→	Right	Slight right onto Water St	25.0
0.0	↑	Straight	Continue onto Woods Hole Rd	25.0
0.3	→	Right	Turn right onto Church St <i>Kathy's husband</i>	25.3
0.7	↑	Straight	Continue onto Nobska Rd	26.0
0.7	↑	Straight	Continue onto Oyster Pond Rd	26.7
1.3	↑	Straight	Continue onto Beach Rd/Surf Dr	28.0



**TOWN OF FALMOUTH  
SPECIAL EVENT PERMIT**

EVENT NAME Where are the Wings?

NAME Wings for Falmouth Families

MAILING ADDRESS P.O. Box 843, Falmouth, MA 02541

EVENT DAY & DATE Saturday, September 26, 2020

RAIN DATE Sunday, September 27, 2020

EVENT LOCATION Start and Finish at (TBD)

EVENT TYPE Town-wide scavenger hunt

SET-UP ARRIVAL TIME 8:00 a.m. EVENT HOURS 9:00 a.m. – 2:00 p.m.

NUMBER OF ATTENDEES 40-45 # OF VEHICLES 10-12

ADDITIONAL DETAILS All participants in own cars. Each stop in scavenger hunt restricted to one or two cars (no more than people) with masks and social distancing clearly marked. No more than 15-20 people at the beginning or end of the event. Different starting points for each group. All locations will have hand sanitizer, wipes and masks required. All locations will be outdoor only.

**CONDITIONS:**

- 1. Event organizer and participants to follow the social distancing and wearing of masks per the Governor's COVID-19 Order in place at the time of the event. (COVID-19 Order No. 46 dated August 7, 2020 is attached for your reference).**
- 2. Organizers to contact detail sergeant 30 days prior to the event to coordinate proper safety and security measures.**
- 3. Organizers to police the bike route to ensure that no litter or debris is left behind.**

PERMIT FEE \$25.00 FILING FEE \$10.00

DEPOSIT \$300.00 (Refundable at conclusion of event provided that no litter or damage has occurred)

**BOARD OF SELECTMEN:**

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

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

## Diane Davidson

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**From:** Nancy Thrasher <ntthrasher@comcast.net>  
**Sent:** Sunday, August 16, 2020 11:22 AM  
**To:** Diane Davidson  
**Cc:** Addie Drolette  
**Subject:** RE: Special Event Application

Hello,

We watched the meeting for the Select Board and I believe you needed some additional information before Where are the Wings could be approved. I've listed the additional information here and please let me know if you need anything else.

Additional Permit Details: The only time when there would be the potential for a larger crowd would be at the start or the end of our event. During the event, all participants will be in their own cars and each stop on the scavenger hunt will be restricted to one to two cars at a time (no more than 10 people at a time) with masks and social distancing marked clearly. We will limit the starting crowd to a single member from each group that has registered and this will be the same policy for the end of the event as well. There will not be more than 15-20 people at the beginning or end of the event and no more than 10 people at any stop along the way.

The scavenger hunt starting points will be different for each group and as they move along the circle of stops, they will be able to avoid most of the other other groups. If more than two cars are at any stop, a Wings For Falmouth Families volunteer will ask all others to remain in their cars until the area has cleared. All locations will also have hand sanitizer, wipes, and masks will be required for all participants and volunteers.

We hope to hold this event on Saturday, September 26th so if you could please let us know if anything else is required, we'd be happy to respond quickly.

Thank you,

Nancy Thrasher & Addie Drolette  
Co-Chairs - Where Are The Wings?  
508-274-6111

On 08/05/2020 10:36 AM Diane Davidson <diane.davidson@falmouthma.gov> wrote:

Dear Nancy,

Your application for special event is currently being reviewed by the internal working group for special events. The Select Board is scheduled to discuss special events during its meeting on Monday, August 10, which begins at 7:00 p.m.

## Diane Davidson

---

**From:** Diane Davidson  
**Sent:** Tuesday, August 18, 2020 10:25 AM  
**To:** Nancy Thrasher  
**Cc:** adrolette@mvtbank.com  
**Subject:** RE: Special Event Application

Hi Nancy,

The special events working group has reviewed your application. There is only one comment from Joe Olenick our Recreation Director:

The Recreation Department Soccer program is scheduled to be at Falmouth Height Ball Field from 8:00 a.m. to 3:00 p.m. on Saturdays. He said that you are welcome to have the start/finish at the Recreation Center. If you are interested, please let me know, and please give Joe a call at (508) 457-2567 to make arrangements.

Thank you,

Diane

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

---

**From:** Nancy Thrasher [mailto:ntthrasher@comcast.net]  
**Sent:** Sunday, August 16, 2020 11:22 AM  
**To:** Diane Davidson <diane.davidson@falmouthma.gov>  
**Cc:** Addie Drolette <adrolette@MVBank.com>  
**Subject:** RE: Special Event Application

Hello,

We watched the meeting for the Select Board and I believe you needed some additional information before Where are the Wings could be approved. I've listed the additional information here and please let me know if you need anything else.

Additional Permit Details: The only time when there would be the potential for a larger crowd would be at the start or the end of our event. During the event, all participants will be in their own cars and each stop on the scavenger hunt will be restricted to one to two cars at a time (no more than 10 people at a time) with masks and social distancing marked clearly. We will limit the starting crowd to a single member from each group that has registered and this will be the same policy for the end of the event as well. There will not be more than 15-20 people at the beginning or end of the event and no more than 10 people at any stop along the way.

The scavenger hunt starting points will be different for each group and as they move along the circle of stops, they will be able to avoid most of the other other groups. If more than two cars are at

any stop, a Wings For Falmouth Families volunteer will ask all others to remain in their cars until the area has cleared. All locations will also have hand sanitizer, wipes, and masks will be required for all participants and volunteers.

We hope to hold this event on Saturday, September 26th so if you could please let us know if anything else is required, we'd be happy to respond quickly.

Thank you,

Nancy Thrasher & Addie Drolette  
Co-Chairs - Where Are The Wings?  
508-274-6111

On 08/05/2020 10:36 AM Diane Davidson <[diane.davidson@falmouthma.gov](mailto:diane.davidson@falmouthma.gov)> wrote:

Dear Nancy,

Your application for special event is currently being reviewed by the internal working group for special events. The Select Board is scheduled to discuss special events during its meeting on Monday, August 10, which begins at 7:00 p.m.

I will forward information on participation after the agenda is finalized and posted on Thursday.

Thank you,

Diane

*Diane S. Davidson*

*Office Manager/Licensing*

*Office of the Town Manager and Select Board*

*Town of Falmouth*

*59 Town Hall Square*

*Falmouth, MA 02540*

## Diane Davidson

---

**From:** Joe Olenick  
**Sent:** Wednesday, August 5, 2020 3:48 PM  
**To:** Diane Davidson; Boyd Demello; Brian Reid; Bruce Mogardo; Gregg Fraser; Jim Grady; Jeremiah Pearson; Julian Suso; Maggie Clayton; Mel Trott; Melinda Rebelo; Pamela Marshall; Peter Johnson-Staub; Peter McConarty; Rod Palmer; Scott McGann; Sean Doyle; Timothy Smith  
**Subject:** RE: Special Events Applications

Hi Diane, Everything is ok with the Rec except the Wings for Falmouth. I am ok with idea, If the Rec has Soccer we will be at the Heights on Saturdays from 8:00 am to 3:00 pm. If we do not have Soccer there is a Softball Tournament booked for the Heights Field on that Saturday. They would be more than welcomed to start and finish here at the Rec Center. They can also give me a call and I can find them a good place for their start and finish. Please let me know if you have any questions. Thanks Joe

---

**From:** Diane Davidson <diane.davidson@falmouthma.gov>  
**Sent:** Wednesday, August 05, 2020 1:46 PM  
**To:** Boyd Demello <boyd.demello@falmouthfirema.gov>; Brian Reid <brian.reid@falmouthpolicema.gov>; Bruce Mogardo <bruce.mogardo@falmouthma.gov>; Diane Davidson <diane.davidson@falmouthma.gov>; Gregg Fraser <gregg.fraser@falmouthma.gov>; Jim Grady <jim.grady@falmouthma.gov>; Jeremiah Pearson <jeremiah.pearson@falmouthma.gov>; Joe Olenick <joe.olenick@falmouthma.gov>; Julian Suso <julian.suso@falmouthma.gov>; Maggie Clayton <maggie.clayton@falmouthma.gov>; Mel Trott <mel.trott@falmouthfirema.gov>; Melinda Rebelo <melinda.rebelo@falmouthpolicema.gov>; Pamela Marshall <pamela.marshall@falmouthma.gov>; Peter Johnson-Staub <peter.johnson-staub@falmouthma.gov>; Peter McConarty <peter.mcconarty@falmouthma.gov>; Rod Palmer <rod.palmer@falmouthma.gov>; Scott McGann <scott.mcgann@falmouthma.gov>; Sean Doyle <sean.doyle@falmouthpolicema.gov>; Timothy Smith <timothy.smith@falmouthfirema.gov>  
**Subject:** Special Events Applications

To: Special Events Working Group

Attached please find applications for special events for your review and recommendation. As you can see, a couple of these events would not be allowed under the Governor's COVID-19 Order No. 44, but in the event there is a change in status, you will have reviewed these applications and placed them tentatively on the calendar. The smaller wedding ceremonies and the memorial service may be OK, with the face mask and social distancing precautions in place. The Select Board will be reviewing special events during its next meeting.

### Events:

1. Where are the Wings? – Wings for Falmouth Families – Town-wide scavenger hunt – Falmouth Heights Ball Field start/finish – Saturday, 9/26/20, 9:00 a.m. – 2:00 p.m. (40 – 45 attendees)
2. Buzzards Bay Coalition Watershed Ride – County Rd.–Dock Rd.–bike path–Woods Hole–MBL – Saturday, 10/4/20 – 1:00 p.m. – 6:00 p.m. (400 attendees)
3. Cape Cod Marathon Weekend – Falmouth Track Club – Marathon, Half Marathon, Relay, 5K, Kids' Fun Run – Saturday, 10/24/20 and Sunday, 10/25/20 – 6:00 a.m. – 4:00 p.m. (4,500 attendees)
4. Wedding Ceremony - Falmouth Heights Beach – Bowman – Saturday, 9/12/20 – 5:00 p.m. (23 guests)

5. Wedding Ceremony - Chapoquoit Beach – Jennings – Saturday, 9/19/20 – 5:00 p.m. (32 guests)
  6. Wedding Ceremony - Falmouth Heights Beach – Guertin/Vazquez – Saturday, 10/24/20 – 1:00 p.m. (20 guests)
  7. Memorial Service - Chapoquoit Beach – Ingles – Thursday, 8/20/20 – 4:00 p.m. (12-15 guests)
- 

For your information:

Cancelled Events:

1. Rotary Club Craft Fair – Falmouth Rotary Club – Marina Park – Saturday, 9/5/20 and Sunday, 9/6/20
  - Reschedule to Saturday, 9/4/21 and Sunday, 9/5/21
2. Stroll & Roll – Compassionate Care ALS – Bourne Farm – Bike Path – Saturday, 10/24/20
  - Reschedule to Saturday, 5/15/21

I will follow up with the working group after the Board’s discussion if there is any change in the status of special events.

Thank you,

Diane

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



# Town of Falmouth

## Application for Special Events



### CONTACT INFORMATION

Applicant's Name: Wings for Falmouth Families  
 Mailing Address: PO Box 843, Falmouth, MA 02541  
 Phone: \_\_\_\_\_ Cell Phone: 508-274-6111  
 E-Mail: ntkhrasher@comcast.net Fax #: 508-540-0535 - call first

### EVENT DETAILS

Name of Event: Wings Around Falmouth or Where Are The Wings?  
 Type of Event: Town-wide Scavenger Hunt  
 Event Day & Date: Saturday, September 26, 2020  
 Rain Date: Sunday, September 27, 2020  
 Event Hours: From: 9 AM To: 2 PM  
 Set-up/Break-down Date(s): 8-9 AM Time(s): 2 - 2:30 PM

### Location Requested:

1<sup>st</sup> Choice: Various - E. Falmouth, Woods Hole Village, and  
 2<sup>nd</sup> Choice: Falmouth Heights is start/finish

Number of Attendees: 40-45 Number of Vehicles: 10-12

Parking Plan: Public Parking - Ballfield @ Falmouth Heights Beach

- Will event include chairs, barriers, tents? Yes or No (tent permit application, if necessary)  
 Will event include signs? Yes or No (sign permit application, if necessary)  
 Will event be a road race? Yes or No (a. include route map, b. see reverse side for road race rules, and sign)  
 Will event include use of Shining Sea Bike Path? Yes or No (see reverse side for bike path rules, and sign)  
 Will event include food or beverages? Yes or No (temporary food permit application)  
 Will event include alcoholic beverages? Yes or No (one-day liquor license application)  
 Will event include entertainment? Yes or No What type? \_\_\_\_\_

### ADDITIONAL INFORMATION

Provide additional detail of your event including requests for use of restroom facilities, electricity, etc.

See Attached

Applicant's Signature: Nancy Thrasher Date: \_\_\_\_\_

- References: 1. Addie Drolette - 508-360-3274  
 2. Kristin Shearer - 508-274-5875  
 3. Brian Keefe - 617-543-4403

### BOARD OF SELECTMEN

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

## WHERE ARE THE WINGS?

Wings is a local non-profit, working with local families with minor children who are suffering from a loss of income due to a medical crisis. We have an all volunteer board and have donated over \$300,000 to Falmouth families since 2004.

We would like to host a town-wide scavenger hunt on Saturday, September 26, 2020. The goal is to have 12 locations from East Falmouth to Woods Hole and teams would register in advance. Pricing would be set per carload and the teams would all be given different starting points so they would not cluster in any single location. In the interest of secrecy, we have not included the locations, but we can give a summary if required. A couple of locations still have to give us permission as well so they may be changed. We are using outdoor locations only so no one will be entering a business and we will be able to maintain safe distances.

Start and Finish will be at the Falmouth Heights ballfield. This provides sufficient parking and there will be a short introductory meeting before sending the teams on their way. The final clue will lead them back to the Falmouth Road Race Finish line and they'll collect their goodie bag. We do not plan to have any gatherings or social event at the end.

Each location will have a silent auction that teams can bid on while they are there. A board member will be stations at each stop with pens, bidding papers & envelopes, hand sanitizer, and wipes. Everything will be cleaned before and after a team passes through the checkpoint. Teams will be required to wear masks and follow all ordinances for safety when they are out of their cars. We can adjust our set up to follow whatever the current guidelines will be as the event gets closer.

There will also be a "Need A Wingman" feature. This allows you to purchase hints for any clues that may have stumped your team along the way. Clues will be in various formats including codes, puzzles, trivia, and maps. Hints will be available by phone.

We will be encouraging teams to take photos and use a WingsForFalmouth hashtag during the event. It will be publicized online and in the local papers and calendars.

Submitted by:  
Nancy Thrasher  
Addie Drolette  
for Wings for Falmouth Families

July 17, 2020

## 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, August 24, 2020 at 7:30 p.m. on the application of Fashion Foods, LLC for a wastewater flow variance under Chapter 180, Section 56 of the Code of Falmouth, the so-called Flow Neutral By-law, for a restaurant at Lot 1B Worcester Court at Spring Bars Road in said Falmouth (parcel 39 15 048 001B).

*In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the August 24, 2020 public meeting of the Falmouth Select Board shall be physically closed to the public to avoid group congregation.*

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

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

Per Order of Board of Selectmen

*Publication date: Friday, August 7, 2020, Falmouth Enterprise  
Account #: 2056*

lot on Depot Avenue and near the playground within Goodwill Park on Palmer Avenue. Each station costs approximately \$8,000 to purchase and install.

"We at the Falmouth Water Stewards are very excited about this project," said Alan Robinson of the Falmouth Water Stewards. "We are very fortunate to have such a good partner in the Water Division at the Falmouth Department of Public Works. We can't wait until these stations can be turned on to serve the residents and visitors by providing them with safe, clean Falmouth water as an alternative to single-use plastic bottles."

Part of the organization's "ReFill, ReUse Falmouth" initiative, the water bottle refill stations are funded through a \$68,299 Community Preservation Fund grant approved at the May 2019 Town Meeting. The grant covers the cost of installing eight water stations throughout town, including the previously installed station at the Old Dock Road parking lot for the Shining Sea Bikeway in West Falmouth.

The Community Preservation Fund grant will also be used to

locations.

"We'll be working with the water department to confirm the next locations," Mr. Robinson said, projecting that work will occur in the fall.

Noting the trench work in the Depot Avenue parking lot, Water Superintendent Stephen D. Rafferty said "We extended a service line to the location and we install a French drain, then we form and pour the concrete base."

Mr. Rafferty said the department initially planned to do this

health agent, as the town is ownership of these water stations, to see when the town is ready to turn those back on," Mr. Robinson said.

Other water stations in town installed by the Falmouth Water Stewards are located at Waterfront Park in Woods Hole, Peg Noonan Park on Main Street, the Shining Sea Bikeway parking lot on County Road in North Falmouth, and at the Falmouth Heights ball field, near the finish line of the New Balance Falmouth Road Race.

The clothing is claxed, preppy but not "I wanted to capture when you are on the you are relaxed and with the world—where is for you," he said.

He struck up relationships with companies like Colu Armour and Simms for performance and lifestyle

## Legal Notices

### Falmouth Zoning Board of Appeals Notice of Public Hearing for September 3, 2020

Notice is hereby given of the following Public Hearing @ 6:30pm and Open Meeting in the Selectmen's Meeting Room \* SEE AGENDA FOR VIRTUAL PARTICIPATION\*, Town Hall on Thursday September 3, 2020

**Application #044-20 John J. Maurer, Trustee:** Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-23 G. of the Code of Falmouth to construct a detached three (3) car garage on subject property known as 631 Quaker Road, North Falmouth, Ma.

**Application #045-20 Robert and Shannon LeBlanc:** Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-3 C. and 240-69 E. of the Code of Falmouth to construct a 2nd floor addition to the pre-existing non-conforming single family dwelling on subject property known as 6 Lawrence Street, Teaticket, Ma.

**Application #046-20 Mark S. and Jeannine M. Sudol:** Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-3 C. of the Code of Falmouth to construct an addition and screened porch to the preexisting nonconforming dwelling on subject property known as 28 Oakwood Avenue, Falmouth, Ma.

**Application #047-20 Sarah and Paul M. Bechta:** Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-3 C. and 240-69 E. of the Code of Falmouth to construct dormers and an addition to the 2nd floor of the pre-existing non-conforming single family dwelling on subject property known as 33 Mariners Lane, Falmouth, Ma.

August 7, 14, 2020

Files are available in the Board of Appeals Office at Town Hall for review by interested parties.

### NOTICE OF PUBLIC HEARING

### 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, August 24, 2020 at 7:30 p.m. on the application of Fashion Foods, LLC for a wastewater flow variance under Chapter

180, Section 56 of the Code of Falmouth, the so-called Flow Neutral By-law, for a restaurant at Lot 1B Worcester Court at Spring Bars Road in said Falmouth (parcel 39 15 048 001B).

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the August 24, 2020 public meeting of the Falmouth Select Board shall be physically closed to the public to avoid group congregation.

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

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

Per Order of Board of Selectmen

August 7, 2020

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- Town Water Hookups
- Backhoe Services

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Yours**

by Christopher C.  
Attorney at Law

### GUILT BY ASSUMPTION

Personal injury cases finding who was at fault party's injuries. Those causing harm can be able for their actions that their negligent plaintiff's injuries. In a person found guilty would have to pay for all injuries and other from that harm. Having of guilt in negligence not always follow a straight instance, in certain cases can be found negligent damages on the basis of a unique relationship who was originally negligent.

Negligence can often result in long-term injuries and long-term is why it is important to consult a personal injury attorney the victim of another negligent. To schedule a consultation, please **LEBHE Attorneys at Law 6600**. Our office is at 99 Town Hall Square, Falmouth, MA. civil and criminal litigation.

**HINT:** The doctrine of "respondeat superior" makes an employer liable for a lack of care of an employee in relation to the employer owes

**FLOW NEUTRAL BYLAW**  
**GUIDELINES TO BOARD OF SELECTMEN FOR WAIVER/VARIANCE CONSIDERATION**

Presented to Board of Selectmen for Discussion Purposes 6-4-18

Suggested Process:

1. Board of Selectmen 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. Board of Selectmen 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.

## Chapter 180. Sewers and Septic Systems

### Part 3. Service Areas and Districts

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

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

##### § 180-51. Purpose.

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

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

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

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

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

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

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

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

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

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

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

B. Multifamily residences.

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

C. Nonresidential development.

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

## § 180-56. Variances in sewer service areas.

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

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

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

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

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

## § 180-59. Transferability in sewer service areas.

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

## § 180-60. Severability.

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

## § 180-61. Violations and penalties.

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

## AMENT KLAUER LLP

Attorneys at Law  
39 Town Hall Square  
Falmouth, MA 02540

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

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

June 18, 2020

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

Re: Request for Variance under the Flow Neutral Bylaw  
Proposed Wendy's Restaurant, Lot 1B Worcester Court at Spring Bars Road  
Assessors Parcel 39 15 048 001B

Dear Julian:

Fashion Foods LLC, a client of Ament Klauer, has an agreement with Sharon K. Muller, the property owner, to develop the referenced vacant lot as a Wendy's restaurant. The property is zoned B2. There was once a car wash on the site, but today most of the lot is paved for use as a parking lot. The parcel is within the Little Pond Sewer Service Area, so any redevelopment will require connection to the municipal sewer. As the lot contains about 41,033 square feet, new development with waste water design flow exceeding 451 GPD (110 GPD per 10,000 square feet) will require the Selectmen's variance under the Flow Neutral By-law, Falmouth Code Section 180-56.

Before there can be a Wendy's on this property, Fashion Foods will **need to have Site Plan Review from the Planning Board and obtain a special permit from the Zoning Board of Appeals.** The lot is presently unsightly. The attached plan shows a proper and attractive site layout for the proposed 50-seat restaurant with drive-through window. Construction and year-round operation of the restaurant will be consistent with the goal of economic development. The redevelopment will improve the site, create jobs, increase the tax base and generate meals tax revenue.

Fashion Foods respectfully requests that the Board of Selectmen grant a variance to allocate to the redevelopment of the subject property, to serve a 50-seat fast food restaurant or other commercial use, 1,000 GPD. The Bylaw requires that the Selectmen be satisfied that sufficient sewer capacity exists in the municipal treatment facility, as determined by the Wastewater Superintendent. We anticipate that upon your inquiry Amy Lowell will advise that there is sufficient capacity. The Selectmen should also refer this request to the Board of Health for its determination that the requested wastewater flow, if the property were not in the sewer district, could be served by an on-site septic system without significant variances from Title 5. Fashion Foods' engineer, Raul Lizardi-Rivera of Cape & Islands Engineering, has sent to Scott

Julian Suso, Town Manager

June 18, 2020

Page 2

McGann the attached letter and a plan showing that a sufficient on-site treatment facility could be installed.

Please send the necessary referrals to the Wastewater Superintendent and the Board of Health, and please schedule this variance request for hearing by the Selectmen as soon as convenient. The Flow Neutral By-law requires hearing notification by publication and posting with the Town Clerk and on the Town website. Please let us know what costs should be paid by our client.

Please contact me if there are questions. Thank you for your consideration.

Very truly yours,

Robert H. Ament







1" = 141 ft

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

**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.



**CAPE & ISLANDS**  
ENGINEERING

June 17, 2020

Mr. Scott McGann, Agent  
Town of Falmouth Board of Health  
59 Town Hall Square  
Falmouth, MA 02540

**RE: 0 Worcester Court, Falmouth, MA-MAP~39 15 048 001B**

Dear Mr. McGann and Board of Health Members:

On behalf of our clients and developer, Fashion Foods, LLC, a request for a favorable referral letter from the Falmouth Board of Health is being sought after for the above referenced property.

The developer needs to obtain a positive referral from the Board of Health in accordance with Town of Falmouth Flow Neutral Bylaw regulation §180-56 A. (2). Among other requirements for this project to move forward through the local permitting process, the Board of Health positive referral is required by the Falmouth Board of Selectmen for their deliberation in allowing a facility to connect to the Town of Falmouth public sewer system. The requirement is necessary when a facility exceeds the maximum allowed flow to connect to town sewer for a particular property, which for this site is limited to 451 gallons per day calculated as 110 gallons per day per 10,000 s.f. of land area (§180-55 C. (2)(a)). The developer proposes the construction of a 50-seat Wendy's restaurant which in accordance to Title 5 produces a wastewater design flow of 1,000 gallons per day.

Based on a drawing by our firm, dated June 17, 2020, the site is adequately sized for the intended development with a septic system sized for the Title 5 design flow meeting the provisions of 310 CMR 15 (Title 5) without the need for variances. The property does not lie within a DEP approved Zone II wellhead protection area and it is not located within 100 feet of any wetland area. We respectfully ask the Board of Health to authorize the Health Agent to issue a positive referral to the Falmouth Board of Selectmen when the time comes for the connection of the proposed 50-seat (fast food) Wendy's restaurant to the Falmouth Town Sewer System.

If you have any questions please feel free to call.

Sincerely,



Raul Lizardi-Rivera, P.E.  
*Director of Engineering*

Encl. Site Plan

Cc: Ernest Smily (by email only)  
Usama Elsehrawey (by email only)  
Bob Ament (by email only)

8/24/20

**Diane Davidson**

---

**From:** Diane Davidson  
**Sent:** Thursday, July 9, 2020 12:59 PM  
**To:** Amy Lowell; Scott McGann  
**Cc:** Thomas Bott; Noreen Stockman  
**Subject:** Request for Flow Neutral Bylaw Variance - Lot 1B Worcester Court at Spring Bars Road  
**Attachments:** suso 6.18.20.doc; LAYOUT PLAN-DRAFT 06.16.20.pdf; C-122 conforming Title 5 (stamped) 6-17-20.pdf

To all,

Please provide your recommendations on the attached request for a variance to the Flow Neutral Bylaw at Lot 1B Worcester Court at Spring Bars Road. Fashion Foods LLC has an agreement with Sharon K. Muller, the property owner, to develop the vacant lot as a Wendy's restaurant.

Fashion Foods will need to first have a Site Plan Review from the Planning Board and obtain a special permit from the Zoning Board of Appeals.

Thank you,

Diane

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

## Diane Davidson

---

**From:** Amy Lowell  
**Sent:** Thursday, July 16, 2020 12:17 PM  
**To:** Scott McGann; Julian Suso; Peter Johnson-Staub; Diane Davidson  
**Cc:** Bob Ament  
**Subject:** RE: flow neutral bylaw for proposed Wendy's  
**Attachments:** Flow Neutral Bylaw capacity letter and attachments lot 1B Worcester Ct at Spring Bars - Wendys.pdf

In response to the request for feedback regarding a flow neutral bylaw variance, please find attached letter stating that the Town's wastewater system has sufficient capacity to accommodate the proposed redevelopment (Wendy's) on lot 1B.

A properly sized grease trap will be required during the sewer connection permit process.

Thank you

Amy Lowell  
Wastewater Superintendent  
416 Gifford Street  
Falmouth, MA 02540  
(508) 457-2543 x 3018  
amy.lowell@falmouthma.gov

**From:** Scott McGann  
**Sent:** Wednesday, July 15, 2020 2:48 PM  
**To:** Julian Suso <julian.suso@falmouthma.gov>; Peter Johnson-Staub <peter.johnson-staub@falmouthma.gov>; Diane Davidson <diane.davidson@falmouthma.gov>  
**Cc:** Amy Lowell <amy.lowell@falmouthma.gov>  
**Subject:** flow neutral bylaw for proposed Wendy's

On July 13, 2020, the Falmouth Board of Health heard a flow neutral bylaw referral request for a proposed Wendy's located at the corner of Worcester Ct and Spring Bars Road. Based on the design plan submitted as part of the request, the Board of Health determined that there is sufficient room on the lot to install a Title 5 compliant, sufficiently sized septic system.

The Board of Health did have concerns regarding the grease generated by the proposed restaurant and while differing to the Waste Water Division for specifics, emphasize the need for the following:

- Proper Grease trap sizing
- Grease trap maintained operation and maintenance agreement in perpetuity

I have attached the agenda.

Any questions let me know.

Thanks, Scott

Scott McGann, R.S.  
Health Agent

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



# TOWN of FALMOUTH

DEPARTMENT OF PUBLIC WORKS, WASTEWATER DIVISION

416 GIFFORD STREET, FALMOUTH, MASSACHUSETTS 02540  
TELEPHONE (508) 457-2543

AMY LOWELL  
WASTEWATER SUPERINTENDENT

Date: July 16, 2019

To: Board of Selectmen, Town Manager

cc: Robert Ament; Health Department

Re: Request for Variance Under the Flow Neutral Bylaw  
Lot 1B Spring Bars Road and Worcester Court – Wendy's  
Sewer Capacity Determination

---

In the attached letter from Robert Ament dated June 18, 2020, a variance has been requested under section §180-56 of the Town's Flow Neutral Bylaw for redevelopment of Lot 1B Worcester Court/ Corner of Spring Bars Road for a proposed Wendy's restaurant (39-15-048-001B). The property is currently an undeveloped lot paved for parking. The property is located in the Little Pond Sewer Service Area and a gravity sewer lateral was installed for the property on Spring Bars Road.

Per Section §180-56 of the flow neutral bylaw, new non-residential development on a vacant parcel with a wastewater flow greater than 110 gallons per day (gpd) per 10,000 square feet requires a variance from the Board of Selectmen. The subject lot is about 41,033 square feet, so redevelopment with a flow greater than 451 gpd requires a variance. The proposed use of the site is a 50-seat Wendy's fast food restaurant with a design (Title 5) flow of 1,000 gpd, 549 gpd more than allowed by right.

One of the two preconditions for the Board of Selectmen to grant a variance to the flow constraints of the Flow Neutral Bylaw is that "Sufficient capacity exists...as determined by the Wastewater Superintendent." Taking into account wastewater flow from existing sewer areas, flow from the new Little Pond Sewer Service Area, and flow from the other currently proposed projects in sewer service areas, sufficient sewer system capacity exists to accommodate flow of 1,000 gpd from this property.

Including this project, when all the projects that have been granted flow neutral variances have been implemented (estimated 2022), the average annual flow to the Town's WWTF is expected to be approximately 80% of the average annual permitted discharge from the WWTF. In the Town's Comprehensive Wastewater Management Plan Update sent to the state in December of 2019, the Town proposed to develop an additional treated wastewater recharge option to accommodate flow from redevelopment within the existing sewer service area as well as from expansion of the Town's sewer collection system.

If this project moves forward on Lot 1B, the proponent will need to apply for a sewer connection permit, and will need to provide a detailed sewer connection plan including plans for an appropriately sized and maintained grease trap.

## Diane Davidson

---

**From:** Scott McGann  
**Sent:** Wednesday, July 15, 2020 2:48 PM  
**To:** Julian Suso; Peter Johnson-Staub; Diane Davidson  
**Cc:** Amy Lowell  
**Subject:** flow neutral bylaw for proposed Wendy's  
**Attachments:** BOARD OF HEALTH MEETING 7-13-20.pdf

On July 13, 2020, the Falmouth Board of Health heard a flow neutral bylaw referral request for a proposed Wendy's located at the corner of Worcester Ct and Spring Bars Road. Based on the design plan submitted as part of the request, the Board of Health determined that there is sufficient room on the lot to install a Title 5 compliant, sufficiently sized septic system.

The Board of Health did have concerns regarding the grease generated by the proposed restaurant and while differing to the Waste Water Division for specifics, emphasize the need for the following:

- Proper Grease trap sizing
- Grease trap maintained operation and maintenance agreement in perpetuity

I have attached the agenda.

Any questions let me know.

Thanks, Scott

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



# Falmouth Health Department

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

## BOARD OF HEALTH MEETING AGENDA JULY 13, 2020 at 4:30 p.m.

Town Hall lower level meeting room  
59 Town Hall Square, Falmouth, MA 02540  
Times indicated for the agenda topics are approximate

*In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the July 13, 2020 public meeting of the Falmouth Board of Health shall be physically closed to the public to avoid group congregation. Alternative public access to this meeting shall be provided in the following manner:*

1. Real-time public comment can be addressed to the Board of Health utilizing the Zoom virtual meeting software for remote access. This application will allow users to view the meeting and send a comment or question to the Chair via the Chat function. Submitted text comments will be read into the record at the appropriate points in the meeting.

Zoom Login instructions:

i. Instructions and the meeting link for this specific meeting can be found at the following web address: <http://www.falmouthmass.us/BOH>

ii. Please plan on 10-15 minutes of preparation time to log in though it may be less if you have previously used Zoom on the device you will use to access this meeting.

2. Additionally public comments may be sent in advance of the meeting to [health@falmouthma.gov](mailto:health@falmouthma.gov) at least 5 hours prior to the beginning of the meeting. Documents and audio or video files may also be submitted via email. Submitted email comments and documents will be made a part of the meeting record and may be read into the record, summarized or displayed during the meeting at the discretion of the chair.

3. Applicants, their representatives and individuals with enforcement matters before the Board may appear remotely and are not required to be physically present. Applicants, their representatives and individuals with enforcement matters before the Board may contact the Health Department to arrange an alternative means of real time participation if unable to use the Zoom virtual meeting software. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to the Health Agent at [health@falmouthma.gov](mailto:health@falmouthma.gov) so they may be displayed for remote public access viewing.

### 4:30 - Opening remarks and public comment

#### SEPTIC

### 4:30 – 295 Edgewater Drive West – Local Upgrade Approval Request

Request the following Title 5 divergence to 310 CMR 15.211: *Minimum Setback Distances*. Request to have a soil absorption system setback to a coastal bank reduced to 7' (50' required)

Documents - letter outlining the project and the need for the divergences and design plan by Cape and Islands Engineering dated June 30, 2020



# Falmouth Health Department

Falmouth Town Hall • 59 Town Hall Square • Falmouth, Massachusetts 02540  
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## **4:40 – 42 Chase Road – Request to reduce quarterly sampling of their Innovative/Alternative septic system Documents**

- Cover letter from the Buzzards Bay Coalition, representing the property owners, outlining this request
- Results of recent lab testing
- Copy of the original BoH approval letter

## **4:45 - Review of Health Agent's ability to grant local upgrade approvals/ variances** Copy of original approval from 2-25-2019

### **FLOW NEUTRAL BYLAW REFERRAL**

## **4:55 - Lot 1B Worcester Court/ Corner of Spring Bars Road proposed Wendy's restaurant (39-15-048-001B)** Seeking a Board of Health referral to the Board of Selectmen in accordance to the town's flow neutral bylaw with regards to citing a Title 5 septic system.

### **COVID-19**

## **5:00 – COVID–19 Discussion**

Health Agent and Board of Health will discuss current state of the pandemic, including efforts on social distancing and especially the beach overcrowding.

### **TOBACCO**

## **5:20 – Review of state and Falmouth tobacco regulations continued from June 1, 2020, June 15, 2020 and June 29, 2020**

New state tobacco regulations went into effect June 1, 2020. The Board will be reviewing both the current local and new state regulations. The Board will be further discuss revising Falmouth's local regulations to mesh with the new state regulations.

### **GLYPHOSATE**

## **5:50 - Board to develop a timeline for revisiting the Glyphosate moratorium discussion that was occurring pre-pandemic**

### **GENERAL BUSINESS**

## **6:00 – Approval of Meeting Minutes**

Approval of Minutes of June 29, 2020

### **Our Mission**

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

Posted July 9, 2020

## Diane Davidson

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**From:** Noreen Stockman  
**Sent:** Tuesday, August 18, 2020 2:57 PM  
**To:** Diane Davidson  
**Subject:** RE: Request for Flow Neutral Bylaw Variance - Lot 1B Worcester Court at Spring Bars Road

Good afternoon,

The parcel is sited in the B2 zoning district, which requires a minimum 40,000 sq ft of lot area, and 200 ft of frontage for a conforming lot. The dimensional requirements are met, where the lot comprises 41,033 square feet, and the frontage is 381 feet. According to By-Law section 240-51 C (1), fast food restaurants are subject to By-Law Section 240-220.

Sincerely,  
Noreen Stockman

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

**From:** Diane Davidson <diane.davidson@falmouthma.gov>  
**Sent:** Tuesday, August 18, 2020 12:09 PM  
**To:** Noreen Stockman <noreen.stockman@falmouthma.gov>  
**Subject:** RE: Request for Flow Neutral Bylaw Variance - Lot 1B Worcester Court at Spring Bars Road

Hi Noreen,

This hearing for the Flow Neutral Bylaw variance for a restaurant (Wendy's) to be located at 1B Worcester Court and Spring Bars Road is scheduled with the Select Board on Monday, August 24. If Zoning has any comments for the Select Board, please forward to me by Friday, 8/21.

Thank you,

Diane

**From:** Noreen Stockman  
**Sent:** Friday, July 10, 2020 9:06 AM  
**To:** Diane Davidson <diane.davidson@falmouthma.gov>  
**Subject:** RE: Request for Flow Neutral Bylaw Variance - Lot 1B Worcester Court at Spring Bars Road

No comment from ZBA at this time.

Thank you,  
Noreen

Noreen H. Stockman  
Zoning Administrator

Town of Falmouth  
59 Town Hall Square  
Falmouth, MA 02540  
508-495-7462

**From:** Diane Davidson <[diane.davidson@falmouthma.gov](mailto:diane.davidson@falmouthma.gov)>  
**Sent:** Thursday, July 9, 2020 12:59 PM  
**To:** Amy Lowell <[amy.lowell@falmouthma.gov](mailto:amy.lowell@falmouthma.gov)>; Scott McGann <[scott.mcgann@falmouthma.gov](mailto:scott.mcgann@falmouthma.gov)>  
**Cc:** Thomas Bott <[thomas.bott@falmouthma.gov](mailto:thomas.bott@falmouthma.gov)>; Noreen Stockman <[noreen.stockman@falmouthma.gov](mailto:noreen.stockman@falmouthma.gov)>  
**Subject:** Request for Flow Neutral Bylaw Variance - Lot 1B Worcester Court at Spring Bars Road

To all,

Please provide your recommendations on the attached request for a variance to the Flow Neutral Bylaw at Lot 1B Worcester Court at Spring Bars Road. Fashion Foods LLC has an agreement with Sharon K. Muller, the property owner, to develop the vacant lot as a Wendy's restaurant.

Fashion Foods will need to first have a Site Plan Review from the Planning Board and obtain a special permit from the Zoning Board of Appeals.

Thank you,

Diane

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



**Town of Falmouth**  
**Planning Department**  
**59 Town Hall Square, Falmouth, MA 02540**

To: Julian Suso, Town Manager  
From: Thomas Bott, Town Planner <sup>TBott</sup>  
Michaela Shoemaker Assistant Town Planner Community Development  
Date: August 18, 2020  
RE: **Flow Neutral Bylaw Variance – Lot 1B Worcester Court at Spring Bars Road**

The Planning Office has reviewed the flow neutral bylaw variance that is being requested for Lot 1B Worcester Court at Spring Bars Road and found that the request does not align with the broader community planning objectives as specified in the Davis Straits Reset Study.

The property is within the Davis Straits RESET Area that we currently have a contract with a firm to develop Form Based Zoning for. Fast food as a whole will add to the tax base, providing some jobs and contributions to the meals tax but are likely not what we would target for economic development. A 2015 report from the Cape Cod Commission using American Community Survey (US Census 2015 data) noted that within the Accommodation and Food Services sector it takes 3.3 earner to buy a home and 1.8 earners to rent.

The Falmouth Davis Straits Reset Study further emphasizes these points on a number of pages:

Expressed Economic Development Goals for Davis Straits on page 26 specifies that stakeholders would like to see in-fill and redevelopment in the area that will:

- Add living wage employment options
- Provide retail & services needed by year-round residents
- Provide residential options that are affordable for year-round residents of all incomes, ages and backgrounds
- Limit further demand on existing road and sewer infrastructure, and
- Improve the character of the area to be more reminiscent of a pedestrian oriented village center.

On page 28 of the Davis Straits Reset Study, key findings for economic development states

1. Davis Straits Business Mix is Dominated by Retail and Accommodations & Food Service. Retail businesses occupy the majority of space within the Davis Straits study area and constitute the largest group of businesses with the most employees, followed by businesses classified as Accommodations and Food Service. The Village Center is similarly dominated by these same types of businesses. Wages in these two sectors are the lowest across sectors in Falmouth and Cape-wide. Typically, many of the jobs in these two sectors are also part-time and seasonal.

Page 29 speaks to Economic Development Issues:

- Davis Straits and the Village Center both depend heavily on retail and food service businesses. This sets up an uneven competition between the small, locally owned businesses downtown and the well-known, well-funded national retailers in Davis Straits.
- The business mix in Davis Straits provides job opportunities that are primarily low wage, that is, offering wages below the local cost of living.
- Davis Straits is dominated by non-locally owned businesses that spend more of their earnings off-cape than do locally owned businesses.
- Trends in retail and housing demand may make the auto-oriented strip development characteristic of Davis Straits obsolete and possibly blighted with empty properties
- Low density development in Davis Straits results in forgone tax revenue and sales value on a per acre basis.

Additionally, Wendy's is not a good fit as an Economic Development Opportunities outlined on page 29 in that it is not a local business, does not offer housing development, and is generally thought of as an auto-oriented business due to the drive-thru option.

- Allowing more housing development will increase the local customer base and earnings potential for businesses in the area.
- If locally-owned businesses are encouraged a greater amount of business earnings will be spent locally.
- In most cases, the nature and scale of the businesses in Davis Straits do not require low development density or even auto-oriented infrastructure to function, thus changes to this area need not crowd existing businesses.
- In-fill could provide a greater variety of commercial and residential options and price points while improving the character of the area.
- Increasing the concentration of residential and business activity in Davis Straits will use the land more efficiently and result in both higher revenue to the town and sales value to the developers.

CC: Falmouth Planning Board

## Diane Davidson

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**From:** Bob Ament <bob@amentklauer.com>  
**Sent:** Wednesday, August 12, 2020 11:27 AM  
**To:** Julian Suso; Diane Davidson  
**Cc:** Gabriele Bruce; Matthew Terry  
**Subject:** Wendy's, for hearing under Flow Neutral By-law  
**Attachments:** Orleans Chamber.pdf; Dana Fernandez.pdf; Cape Cod Healthcare.pdf; Yarmouth Chamber.pdf; Sam Slarsky.docx; Cotuit Center for the Arts.pdf; Select Board from Fashion Food 08 10 20.pdf

Dear Julian:

Looking forward to the Flow Neutral By-law hearing on August 24, I am herewith submitting an introductory letter from the principals of Fashion Food LLC concerning their company and their wish to have a restaurant in Falmouth. Also attached are some letters of recommendation about the company, from Chambers of Commerce where Fashion Food already operates Wendy's restaurants, from a couple of the charities that they support, and from Falmouth residents. Please share all of this with the Select Board. Thanks.

Yours,

Bob

Robert H. Ament  
**Ament Klauer LLP**  
39 Town Hall Square  
Falmouth, MA 02540

Phone: (508) 540-6555  
Fax: (508) 457-1293  
Email: [bob@amentklauer.com](mailto:bob@amentklauer.com)  
Website: [www.amentklauer.com](http://www.amentklauer.com)



February 18, 2020

To Whom it May Concern,

Wendy's in Orleans has been a member in good standing with the Orleans Chamber of Commerce since 1994.

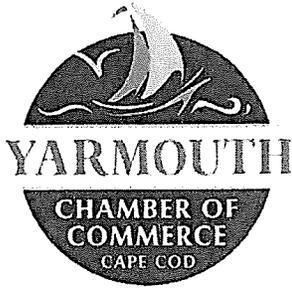
In addition, they have been one of our most supportive members, regularly participating in and sponsoring Chamber events and activities. For example, they consistently and generously donate dining vouchers for the Santa Stampede, our popular 5K Holiday Fun Run. They also were regular supporters of the ClamBQ! Food and Music Festival, and have participated in a number of Chamber advertising opportunities, including our annual Information Panels.

Last summer, following the Chamber's conversion to the tiered dues model of membership, Wendy's immediately signed on at the Captain level, which allows them to enjoy further advertising and sponsorship opportunities.

The Orleans Chamber of Commerce is grateful for Wendy's ongoing support as well as for the important role the restaurant plays in our year-round residential and seasonal tourism markets. They are truly a vital part of our business and leisure communities.

Sincerely,

Noëlle Pina  
Executive Director



PO Box 479, S.Yarmouth, MA 02664  
Office 508-778-1008  
Fax 508-778-5114  
director@yarmouthcapecod.com  
yarmouthcapecod.com

February 12, 2020

To Whom It May Concern:

The Yarmouth Chamber of Commerce is writing this letter to acknowledge and show our appreciation of our long-standing member Wendy's located in South Yarmouth, MA.

Wendy's has been a member of the Yarmouth Chamber of Commerce since 2003. During that time, they have supported the organization's efforts in many ways, but especially by being a Leader By Choice. A Leader By Choice is a member recognized, not only for financially contributing above and beyond the standard membership dues, but as a business leader in our community. In being a Leader By Choice Wendy's supports the programming of the Chamber which includes business development workshops and trainings, marketing initiatives and community events such as our Annual Cleanup Day that builds community pride. Wendy's participates in the Yarmouth Sand Sculpture Trail since its inception in 2012 that is now the largest sand sculpture trail in the United States and has become an annual tourist attraction.

Wendy's exemplifies a high standard for our business community by maintaining their property and grounds year-round that they should be proud of.

The Yarmouth Chamber of Commerce recognizes and is grateful for the support that Wendy's continues to provide to the Chamber of Commerce and the residents of the Town of Yarmouth. We look forward to supporting each other for many years to come.

Sincerely,

Mary Vilbon  
Executive Director



Fashion Food LLC/DBA Wendy's  
66 Pondsides Circle, Centerville MA 02632  
Cell 508-207-6322  
Email: [smily@comcast.net](mailto:smily@comcast.net)

August 10, 2020

Dear Select Board,

Wendy's signature hamburgers are known for their square shape. That carries through to our company's philosophy that we do not cut corners on anything. Not on fresh, quality ingredients. Not on how we treat people. Not on giving back.

Wendy's® of Cape Cod and Plymouth is locally owned and operated by Ernest Smily of Centerville, Terry Smily of Centerville and Sharon, and Usama El Sehrawey of Dennis. We are hands on operators who take great pride in running our A level restaurants, taking care of our customers and employees, and giving back to our community.

Wendy's was extremely fortunate to be deemed an essential business at the start of the Covid Pandemic and with the assistance of the Payroll Protection Program we have been able to successfully operate our restaurants. To us, successfully operating our restaurants means we never had to lay off any of our employees and we never stopped taking care of our guests. We used our PPP money to give all our hourly crew a \$2.00 per hour increase, all our shift managers a \$2.50 per hour increase and all our general managers an additional \$500 per week.

Being able to provide our guests the best quality food at the lowest possible prices and keeping all our staff happy during these unprecedented times has been incredibly challenging but we are extremely fortunate that we have been able to rise to the occasion.

Denise and Ernest Smily bought Wendy's Hyannis and Orleans in December of 1986 and from the very beginning we have had an incredibly diverse and multinational crew. The Smilys emigrated from South Africa in 1982. Usama El-Sehrawey immigrated to the United States in 1989 from Egypt. We are all

naturalized United States Citizens. As a company we are most proud of the diversity and community we promote as represented by our ownership and employees.

We strongly believe in Dave Thomas's (Wendy's Founder) guiding principles, and the one that we best exemplify is Give Something Back to your Community. We are strong supporters of Rotary (Usama is a past president of the Dennis Chapter), the Duffy Health Center and Cape Cod Healthcare just to name a few. Wendy's as a company has always strongly supported adoption and we support Wendy's Wonderful Kids and The Dave Thomas Foundation for Adoption.

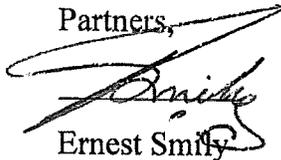
We have always wanted to operate a Wendy's in Falmouth. We believe Falmouth can support our investment of almost \$2,000,000 and we in turn can provide Falmouth with great quality food at reasonable prices. We will also support the Town the same way we support our other host communities by supporting local charities, like we did by making a significant donation along with The Jewish Federation of Cape Cod to the Falmouth Service Center at the start of the Pandemic.

Our proposed Wendy's location in Falmouth is on Worcester Court at Spring Bars Road, business zoned property that Sharon Muller and her late husband, Wilbur, purchased in 1984. Our project requires Site Plan Review from the Planning Board and a special permit from the Zoning Board of Appeals. Connecting to Falmouth's municipal sewer is required, for which we are seeking a variance from the Select Board under the Flow Neutral By-law. We look forward to the Zoom hearing on our request, scheduled for August 24, 2020.

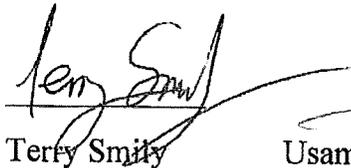
With this letter we are submitting letters of recommendation from Chambers of Commerce in other Cape Cod towns where we have restaurants, from some of the charitable organizations we support, and from Falmouth residents.

Thank you for your time and consideration.

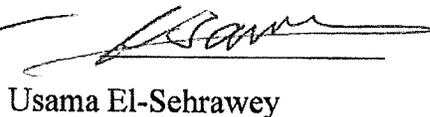
Partners,



Ernest Smily



Terry Smily



Usama El-Sehrawey

Dana Fernandez  
112 Ashumet Road  
E. Falmouth, Ma 02536

Re: Reference For  
Mr. Terry Smily  
66 Ponside Circle  
Centerville, Ma 02632

To whom it may concern,

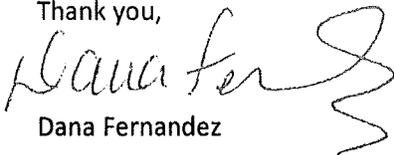
I write this letter in support for the build and operation of Wendy's in the Town of Falmouth, owned and operated by Mr. Terry Smily and family.

I have been a Falmouth resident for over 20 years and support all types of businesses, local, chains and franchised. Businesses bring jobs and help towns and cities thrive and adding another business would do just that.

Having a variety of restaurants serves all people, full time residents, and part time residents, vacationers young and old. In addition, Wendy's would be a welcome choice to the town.

Again, I am in full support of this initiative.

Thank you,

A handwritten signature in black ink, appearing to read 'Dana Fernandez', with a stylized flourish at the end.

Dana Fernandez

February 18, 2020

To: Whom It May Concern

Re: Potential "Wendy's" and Developer/Operator Terry Smily

From: Sam Slarskey,

51 Carlson Lane, #19

Falmouth, MA 02540

Dear Sir or Madam:

I understand that Mr. Terry Smily hopes to develop and operate a Wendy's franchise in Falmouth. I know Mr Smily to be a thoughtful, honest, and responsible community member and businessman. I feel that his involvement in the Falmouth community would be a benefit to both Mr Smily and to our community at large.

If you have any questions for me please contact me at [samslarskey@comcast.net](mailto:samslarskey@comcast.net) or by cell (774) 810-6467.

Sincerely,

Samuel A Slarskey

President of Falmouth Jewish Congregation

Principal of East Falmouth Elementary School, Retired



# CAPE COD HEALTHCARE

February 19, 2020

To Whom It May Concern:

My name is Jonathan DeCoste. I am the Sr Blood Donor Recruiter for Cape Cod Healthcare. I help coordinate all the blood drives we run on Cape Cod to help our patients in need at our hospitals in Hyannis and Falmouth.

I have had the pleasure of working with Usama El Sehrauey and Wendy's of Plymouth and Cape Cod over the last four years. Usama and his team have been extremely supportive of our blood program which in turn benefits our community.

In 2015 Wendy's of Plymouth and Cape Cod made a generous financial contribution to Cape Cod Healthcare which was used to help purchase the Cape Cod Healthcare bloodmobile. The bloodmobile is a completely self-sufficient vehicle which we bring to schools, businesses, organizations and community events to collect blood for our patients at our two hospitals. All the blood collected through Cape Cod Healthcare stays on the Cape to help our patients in need.

Wendy's also hosts several blood drives each year at their locations on Cape Cod. These locations provide a convenient place for donors to donate blood. Wendy's donates lunch for all donors at each drive, giving donors a sandwich of their choice after they give blood. Donors are always appreciative of this extra thank you they receive from Wendy's.

Wendy's also supports other blood drives we run in the community. Our largest blood drive of the year is held annually in February in Yarmouth. Wendy's provides breakfast sandwiches and cookies for donors each year at this blood drive.

The above acts of generosity demonstrate Wendy's involvement and support for community events throughout Cape Cod.

We are grateful to Wendy's of Plymouth and Cape Cod for their support of the Cape Cod Healthcare Blood Program and are thankful for our ongoing partnership in helping to improve the quality of life for our patients in need.

Sincerely,

Jonathan DeCoste  
Sr Blood Donor Recruiter  
Cape Cod Healthcare  
60 Park Street  
Hyannis, MA 02601



COTUIT CENTER  
FOR THE **ARTS**

February 18, 2020

To whom it may concern,

This letter is to serve as a recommendation for expanding the Wendy's restaurant franchise to include a location in Falmouth, MA.

Over the past nine years I have worked with Terry Smily on a variety of programs at Cotuit Center for the Arts and have come to know and appreciate him and his family. Several members of the Smily family have participated in cultural programs at the Center over the years and during this time Wendy's has supported us as a business sponsor. The Smily's have given of their time and financial resources supporting a wide variety of causes that support our local community.

When I patronize Wendy's on Cape Cod I know I am supporting a local resource. Please feel free to contact me at the number or email below.

With much enthusiasm,

David Kuehn. Executive Director. Cotuit Center for the Arts 4404 Falmouth Road Cotuit, MA 02635

[David@cotuitcenterforthearts.org](mailto:David@cotuitcenterforthearts.org). 774-368-0986

## Diane Davidson

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**From:** Cheryl craven <anjinsan28@msn.com>  
**Sent:** Friday, August 14, 2020 4:13 PM  
**To:** Falmouth Selectboard  
**Subject:** Wendy's Resturant

Gentlemen: I was shocked and saddened that there is a proposal for a Wendy's restaurant at the corner of Worcester Court and Spring Bars Road. First because it is a extremely dangerous intersection.....so many accidents. I have written to the DPW twice about whether or not a light would go up there. First I was told they were doing a traffic study and never heard back the second time.

Secondly because they want a variance to the flow neutral bylaw. As it is you have the affordable housing project on Spring Bars Road and the high density project on Worcester Court behind Alma Road. The residents of Falmouth Heights went through sewerage and were told by Mr. Turkington that a fourth bedroom could be added to our homes if we wanted to do that. Not true. Why? The flow neutral bylaw.

I strongly object to this project. Please vote NO!!

Thank you.

CHeryl Craven  
28 Russell Road

## Diane Davidson

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**From:** Victoria Lowell <vhlowell@comcast.net>  
**Sent:** Tuesday, August 18, 2020 11:30 AM  
**To:** Falmouth Selectboard  
**Subject:** Proposed Wendy's Restaurant

Dear Selectboard Members,

I realize that an application for a variance from the sewage flow neutral bylaw is the reason the proposal for a Wendy's at the corner of Spring Bars Road and Worcester Court will be before you. I do not have a specific comment in that regard, but I think in general variances for the flow neutral bylaw should be granted sparingly for proposals of substantial benefit to the Town.

However, the prospect of a Wendy's or any other high volume traffic generating use at the proposed site does raise "alarm" for other reasons. The intersections of Dillingham Ave/Davis Straits and Spring Bars Road/and Worcester Court are two of the most difficult to navigate in Town. Before adding a Wendy's or other similar use, the Town should decide on and implement improvements to these intersections. In fact improvements should be made regardless of what happens on the proposed Wendy's site.

Wendy's will have a lot of regulatory hurdles to overcome if it is to be built. I am writing you now, because as DPW Commissioners you have broad authority over roads as well as wastewater. It is not too soon to think of all ramifications of a proposed Wendy's.

Thank you,

Victoria H Lowell  
72 Landfall  
Falmouth, MA 02540

Sent from my iPad

**Diane Davidson**

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**From:** Maria Albano <nobska08@gmail.com>  
**Sent:** Tuesday, August 18, 2020 7:43 PM  
**To:** Falmouth Selectboard  
**Subject:** Wendy's Variance

Subject: Flow Neutral Bylaw Variance for Restaurant at Worcester Ct. and Spring Bars Rd.

Dear Selectboard:

I am not in favor of the application of Fashion Foods LLC for a wastewater flow variance. The waiver should be denied. An increase in flow will jeopardize the total capacity amount our existing system can handle  
Thank you. Maria Albano

**Diane Davidson**

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**From:** Jodi McGowan <jlmcgowan421@gmail.com>  
**Sent:** Tuesday, August 18, 2020 7:42 PM  
**To:** Falmouth Selectboard  
**Subject:** Flow Neutral Bylaw Variance for Restaurant at Worcester Ct. and Spring Bars Rd.

Dear Selectboard:

I am not in favor of the application of Fashion Foods LLC for a wastewater flow variance. The waiver should be denied. An increase in flow will jeopardize the total capacity amount our existing system can handle.

Jodi McGowan  
1 Iroquois Street

**Diane Davidson**

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**From:** Tony Zelano <tonyzelano@gmail.com>  
**Sent:** Tuesday, August 18, 2020 5:46 PM  
**To:** Falmouth Selectboard  
**Subject:** Flow Neutral Bylaw Variance for Restaurant at Worcester Ct. and Spring Bars Rd

To: [selectboard@falmouthma.gov](mailto:selectboard@falmouthma.gov)

Subject: Flow Neutral Bylaw Variance for Restaurant at Worcester Ct. and Spring Bars Rd.

Dear Selectboard:

I am not in favor of the application of Fashion Foods LLC for a wastewater flow variance. The waiver should be denied. An increase in flow will jeopardize the total capacity amount our existing system can handle.

*Tony Zelano*  
*37 Pleasant View Ave*  
*Greenville RI 02828*  
*Tony@zelanoinsurance.com*  
*401-949-1550*

## Diane Davidson

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**From:** Carol O'Brien <carolcraigobrien1@gmail.com>  
**Sent:** Tuesday, August 18, 2020 6:40 PM  
**To:** Falmouth Selectboard  
**Subject:** Wendy's should not get a variance Please

Dear Selectboard;

Why we would give a wastewater flow variance to a business in our community? We need to protect our environment and we need to protect our water system. As a homeowner in the area, I request that you refuse the requested variance in order to protect our community's resources. Once a waiver is granted and there are unintended negative impacts- we are forced to deal with yet again another unnecessary problem. No variance. Thank you.

Sincerely,  
Carol O'Brien  
78 Bourne Street  
Teaticket  
781-424-5891  
Sent from my iPhone

**Diane Davidson**

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**From:** Teaticket Civic Assoc./ Paul Affsa P affsa <teaticketcivic@hotmail.com>  
**Sent:** Tuesday, August 18, 2020 5:33 PM  
**To:** Falmouth Selectboard  
**Subject:** Fw: Flow Neutral Bylaw Variance for Restaurant at Worcester Court and Spring Bars Road

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**Sent:** Tuesday, August 18, 2020 3:13 PM  
**To:** Paul Affsa <teaticketcivic@hotmail.com>  
**Subject:** Flow Neutral Bylaw Variance for Restaurant at Worcester Court and Spring Bars Road

Dear Selectboard:

The Teaticket Civic Association is not in favor of the application of Fashion Foods LLC for a wastewater flow variance. We request it be denied because the increase of flow will adversely impact total system capacity.

Sincerely,

Paul Affsa - Cheryl Williams - Mary Little  
Co-Presidents

**Diane Davidson**

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**From:** Lauren MCGourty <mCGourty2@verizon.net>  
**Sent:** Wednesday, August 19, 2020 9:55 AM  
**To:** Falmouth Selectboard  
**Subject:** Fwd: Wendy's Wastewater Flow Variance

To: [selectboard@falmouthma.gov](mailto:selectboard@falmouthma.gov)

Subject: Flow Neutral Bylaw Variance for Restaurant at Worcester Ct. and Spring Bars Rd.

Dear Selectboard:

I am not in favor of the application of Fashion Foods LLC for a wastewater flow variance. The waiver should be denied. An increase in flow will jeopardize the total capacity amount our existing system can handle.

Lauren McGourty

Falmouth resident

**Diane Davidson**

---

**From:** jlpega@aol.com  
**Sent:** Wednesday, August 19, 2020 10:02 AM  
**To:** Falmouth Selectboard  
**Subject:** : Flow Neutral Bylaw Variance for Restaurant at Worcester Ct. and Spring Bars Rd.

Dear Selectboard:

I am not in favor of the application of Fashion Foods LLC for a wastewater flow variance. The waiver should be denied. An increase in flow will jeopardize the total capacity amount our existing system can handle.

Please consider the homes in that area that were forced to add sewer and pay an absorbent amount for installation and the large sewer bills we pay when you make this decision.

I also have a large concern about the intersection at that location and the amount of traffic after the addition of apartments and the issues that we have at that four-way already.

Thank you for your consideration in this matter.

Janet Pegoraro

**Diane Davidson**

---

**From:** Christine Hart <chrhar13@gmail.com>  
**Sent:** Wednesday, August 19, 2020 10:25 AM  
**To:** Falmouth Selectboard  
**Subject:** Wendys

Dear Selectman,

I feel Wendys should be denied a wastewater flow variance. I am not in favor of a Wendys being at that location. The traffic is going to be increased at the intersection with that new housing and Wendys would just add to it.

Christine Hart

30 Marion Road  
North Falmouth, MA 02556



Falmouth Town Hall  
59 Town Hall Square  
Falmouth, MA 02540

Dear Select Board,

This letter is to voice **my opposition** as you decide whether to allow an exception to our Falmouth Flow Neutral Bylaws for a new Wendy's Restaurant.

Here is the purpose of the Flow Neutral Bylaws copied from the Town Website:

"The Town of Falmouth's Wastewater Treatment Facilities (WWTFs) have limited treatment and disposal capacities; therefore to **help manage wastewater flow, comply with water quality standards, and support broader community planning objectives** the Town does hereby adopt the following Flow Neutral Bylaw".

I don't think the value of adding a Wendy's fast food Restaurant is worth making an exception for and impacting our ability to manage wastewater flow, continue to have quality water, and undermining broader community planning objectives. We already have a MacDonalds, Burger King, and Dairy Queen – among numerous pizza and sandwich shops - to serve the 'fast food cravings' of our residents and visitors.

Is encouraging our population to eat fast food really worth the exception? When an exception needs to be made, I hope the Select Board would make it for a more valuable business – one that supports the health and welfare of our residents and visitors as well as our collective community planning objectives.

Once you approve an exception for Wendy's it sets a precedent for all other fast food companies and franchises. Is that what we want for Falmouth?



Laurie Leitner

**Diane Davidson**

---

**From:** Karen <karenmcgourty@verizon.net>  
**Sent:** Wednesday, August 19, 2020 10:36 AM  
**To:** Falmouth Selectboard  
**Subject:** Wendy's

Dear Select board,

I am not in favor of a wastewater flow variance for Wendy's. The waiver should be denied. An increase in flow will jeopardize the amount our current system can handle.

Thank you,  
Karen McGourty

Sent from my iPhone

## Diane Davidson

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**From:** Kapp <honda\_1946@yahoo.com>  
**Sent:** Wednesday, August 19, 2020 10:41 AM  
**To:** Falmouth Selectboard  
**Subject:** Subject: Flow Neutral Bylaw Variance for Restaurant at Worcester Ct. and Spring Bars Rd.

Hello Select Board Members,

Sure I'm concerned that a for profit company wants a variance with out any enumeration of funds from profits to out community. The company gets the usual tax allowances/responsibilities, yet there is no discussion of their responsibility regarding impact upon the systems for which the flow neutral bylaw was set. The bylaw was set---one would hope--after careful study of capacity. Do we fully understand (have we independent studies, of does the old study upon which the bylaw was set) what effects/costs of allowing a corporation to bypass the bylaw would generate? It seems too early to make a decision. Wonder if that is the circumstance as well, for our elected boards.

I need more information.

So again, I feel that the company if given the variance, after we know the impact, should also provide something back to the community. After all, if there is a negative impact as a result the variance, why shouldn't the for profit company financially address the impact. I'm against them being given the go ahead, without taking on some of the potential responsibility.

I am not in favor of the application of Fashion Foods LLC for a wastewater flow variance. The waiver should be denied. An increase in flow will jeopardize the total capacity amount our existing system can handle.

Dale Kapp  
*Take good care...*

## Diane Davidson

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**From:** Robert Dateo <rdateo@yahoo.com>  
**Sent:** Wednesday, August 19, 2020 1:41 PM  
**To:** Falmouth Selectboard; teaticketcivic@hotmail.com  
**Subject:** Flow Neutral Bylaw Variance for Restaurant at Worcester Ct. and Spring Bars Rd.

Subject: Flow Neutral Bylaw Variance for Restaurant at Worcester Ct. and Spring Bars Rd.

Dear Selectboard:

My husband and I live at 63 Randolph St.  
We are adamantly opposed to the application of Fashion Foods LLC for a wastewater flow variance.  
The waiver should be denied.  
An increase in flow will jeopardize the total capacity amount our existing system can handle.

An added complication is increase in traffic.  
The apartments are not even finished and we do not know the real impact of traffic at that corner.  
To add a Wendy's to this location is certainly detrimental to the Town of Falmouth.

Thank you,

Julie and Robert Dateo  
63 Randolph St  
Teaticket, MA 02536  
617-938-2220  
rdateo@yahoo.com

## Diane Davidson

---

**From:** SHIRLEY LOMBARDOZZI <shirpaul47@verizon.net>  
**Sent:** Wednesday, August 19, 2020 2:01 PM  
**To:** Falmouth Selectboard  
**Subject:** Water water variance for Wendy's

As a resident of the area my husband and I are against granting a waste water flow variance for Wendy's on the corner of Spring Bar's Rd. This neighborhood has been bludgeoned enough the past several years. We were all forced into the sewer system at a great expense to our pockets and our properties. The last thing we want # 1 is a chain restaurant on that corner to increase our traffic flow even more and #2 to hook into a sewer system that was not designed or constructed to handle the capacity of waste water flow that it would create. All we need is waste water back ups into our homes !

Please give our neighborhood a break !! You have pushed through , against neighborhood concerns and requests, a housing development that no one wanted to be erected because of crowded streets already. The last thing we need is more concentration of vehicular traffic in an already overburdened area of this town. Enough is enough!

When we purchased property here 30 years ago it was a lovely little town with a slogan "Isn't Falmouth Nice." What has happened to the premise of that slogan? What is nice about a town that doesn't know when enough is enough!!

The message is : NO to Wendy's !  
NO to a wasted water variance!  
Lombardozzi  
Oak St

Sent from my iPhone

**Diane Davidson**

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**From:** patricia nolan <patzu@icloud.com>  
**Sent:** Wednesday, August 19, 2020 2:48 PM  
**To:** Falmouth Selectboard  
**Cc:** Patricia Nolan  
**Subject:** Wendy's

Subject: Flow Neutral Bylaw Variance for Restaurant at Worcester Ct. and Spring Bars Rd.

Dear Selectboard:

I am not in favor of the application of Fashion Foods LLC for a wastewater flow variance. The waiver should be denied. An increase in flow will jeopardize the total capacity amount our existing system can handle.

Patricia Nolan  
16 Hickory Lane  
Teaticket

## Diane Davidson

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**From:** Erin McGourty <erin710@verizon.net>  
**Sent:** Wednesday, August 19, 2020 9:01 PM  
**To:** Falmouth Selectboard  
**Subject:** August 24th meeting: Wendy's Wastewater Flow Variance

Dear Selectmen of Falmouth:

We have received notice about the intent/application to build a Wendy's fast food chain on the corner of Worcester Ct. and Spring Bars Rd. We are not in favor of the application of Wendy's/Fashion Foods LLC for a wastewater flow variance. Already a huge apartment complex has been built in the area. Development needs to slow and this will greatly tax the capacity of the existing water system. The area cannot handle this huge increase.

Falmouth is losing its charm as a Cape Cod town, it is being overdeveloped. It is no longer a special place, it is becoming just like any other town across the bridge.

Please do not move forward with this project.

Regards,

Hugh and Erin McGourty  
14 Cypress Street  
Teaticket, MA. 02536

## Diane Davidson

---

**From:** Jim Reulbach <jereulbach@verizon.net>  
**Sent:** Thursday, August 20, 2020 11:33 AM  
**To:** Falmouth Selectboard  
**Subject:** Wendy's - Wastewater Flow Variance and Traffic Implications

Dear Members of the Falmouth Selectboard:

I am generally in favor of new commercial development when it is done so in a way that maintains the character of the surrounding area. The location where Fashion Foods LLC (Wendy's) proposes to build its Falmouth franchise has some commercial establishments. Still, none of those locations draw the volume of traffic that Wendy's would draw, or have the wastewater profile that Wendy's will bring.

Wendy's application for a wastewater flow variance puts our relatively new wastewater system at risk. Wendy's waiver request should be denied based on this new development's negative impact on the surrounding area and the negative impact on our wastewater system.

There are several other existing commercial locations available along Route 28 that would handle traffic more effectively. If Falmouth continues to develop beyond its existing retail footprint without regard, it risks losing the allure that draws so many people to visit and spend money in our beautiful town.

Thank you,

Jim Reulbach  
34 Mayflower Street  
Teaticket



Scanned by [McAfee](#) and confirmed virus-free.

**Diane Davidson**

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**From:** Mary Little <mjl\_10@msn.com>  
**Sent:** Thursday, August 20, 2020 12:53 PM  
**To:** Falmouth Selectboard  
**Subject:** Flow Neutral Bylaw Variance for Fashion Foods LLC at Worcester Court and Spring Bars Road

**Dear board members:**

**Please deny this application for a variance because it will impose an increased capacity .**

**Mary J. Little  
Teaticket resident  
Member of Teaticket Civic As**

## Diane Davidson

---

**From:** Norma Demmons <ndemmons@comcast.net>  
**Sent:** Friday, August 21, 2020 6:33 AM  
**To:** Falmouth Selectboard  
**Subject:** Flow Neutral Bylaw Variance for Restaurant at Worcester Ct.and Spring Bars Rd.

Dear Selectboard:

I am not in favor of the application of Fashion Foods LLC for a wastewater flow variance. The waiver should be denied. An increase in flow will jeopardize the total capacity amount our existing system can handle.

Norma Demmons  
Sent from my iPad

**Diane Davidson**

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**From:** Cdburgess4 <cdburgess4@aol.com>  
**Sent:** Friday, August 21, 2020 12:24 PM  
**To:** Falmouth Selectboard  
**Subject:** Fashion Foods wastewater flow variance

Dear Selectboard Members,

I am very concerned that the granting of a wastewater flow variance to Fashion Foods LLC for the proposed Wendy's restaurant could tax the total capacity of the newly installed wastewater system in the Maravisa area. The system was needed to address the pollution of Little Pond and the residents, taxpayers and the Town of Falmouth incurred a substantial financial burden in it's development.

To, almost immediately, grant a waiver for a proposed high volume private enterprise (restaurant) which could tax the capacity of the system is a bad idea and sets a bad precedent.

Additionally, to allow this variance and the subsequent proposed development on top of the recent development of Little Pond Place flies in the face of any conservation or ither Green measure the area so desperately needed and still needs.

Respectfully,

Charles Desmond Burgess  
76 Randolph Street  
Teaticket

Vivid Event Productions:

Request for variance to sign code to place one off-premise promotional sign on town property for Drive-In Movies being held at the Cape Cod Fairgrounds.

Location: 319 Currier Road, East Falmouth

Size: 20 sq. ft.

Length of time: 90 days.

Attachments:

1. Sign permit application and supporting documents.
2. Email from Assistant Zoning Compliance Officer, Jonathan Dickinson.

8.10.20

Falmouth Board of Selectmen,

First, we would like to thank you for working with us to provide the town of Falmouth and it's community with safe and family friendly programming amidst this challenging climate.

We are submitting for your approval the request to allow our promotional signage, in compliance with all lighting and building regulations, to sit on the corner of Currier Rd and Nathan Ellis Highway so everyone knows what is available to them.

Getting the word out is challenging for our small, family style team and this signage, displayed safely, will ensure that all know that they are welcome. Please help us continue the good thing we have going here.

Sincerely,

Elena Rodgers  
Assistant General Manager

Town of Falmouth Sign Permit Application (rev. 12/08)

(508) 495-7470 Fax (508) 548-4290

For office use only:

BD Permit#: 2020-4827 Fee\*: \$25 Check # 2083 HDC App. #: DRC App. #:

\*The Sign Permit Fee is \$25.00 per sign, payable to the Town of Falmouth (special event and promotional signs under §180-30 are no charge) - please submit the required fee to the Building Department along with the completed sign permit application.

DATE: 8.10.20
STREET ADDRESS FOR PROPOSED SIGN(S): 319 Currier Rd Falmouth, MA
APPLICANT NAME: Elena Rodgers PHONE: 207.333.8769
MAILING ADDRESS: 33 Turtle Cove Rd East TOWN/STATE/ZIP: East Sandwich, MA 02536
BUSINESS NAME: Falmouth Drive-In
BUSINESS OWNER: Kevin Pacheco ADDRESS/PHONE: 33 Turtle Cove Rd
PROPERTY OWNER: Barnstable County Agricultural Address/PHONE: 1220 Nathan Ellis Hwy
CONTRACTOR / SIGN COMPANY:
ASSESSOR'S PARCEL ID: ZONING DISTRICT:

IS THE PROPOSED SIGN LOCATED WITHIN A LOCAL HISTORIC DISTRICT? Y/N

If YES, the applicant must first submit this application to the Historic District Commission (HDC) for their approval. See attached 'Town of Falmouth Sign Permit Process and Required Submittals' for a detailed description of the HDC requirements.

FREESTANDING SIGN(s) § 184-25; Projecting sign(s) § 184-35

List number and sizes of each sign that presently exist for each street frontage:
Area of proposed standing sign is: x = square feet.
Do the frames, borders, etc. exceed 8 square feet in area? Y / N
The proposed standing sign will be set back from street line feet.

WALL SIGN(s) § 184-37; Awning(s) § 184-22

List number and sizes of each wall and roof sign that presently exist on building:
Size of proposed wall sign is: x = square feet.
The lineal frontage of the wall supporting the sign is: lineal feet.
The proposed sign will face street/parking lot

ROOF SIGN(s) § 184-37

List number and sizes of each wall and roof sign that presently exist on building:
Size of proposed roof sign is: x = square feet.
The wall that the sign will be above is: lineal feet.

PROMOTIONAL/SPECIAL EVENT SIGN(s) § 184-30

Size of proposed sign is: 5' x 4' = 20 square feet.
Start date: 8.10.20; End date: 11.1.20 Total number of days that the sign will be displayed: 90

If the sign is eight (8) square feet or greater, this application must be submitted the Design Review Committee (DRC) for approval. See attached 'Town of Falmouth Sign Permit Process and Required Submittals' for a description of the DRC requirements.

OFF-PREMISES SIGN(s) § 184-32; VARIANCE § 184-20

The Board of Selectmen must approve all off-premise signs.

Proposed location: Size: square feet.

Board of Selectmen License No.: (Note: A copy must be attached)

INSTRUCTIONS TO APPLICANT: (1) Attach a separate sheet with a site plan showing the location of the proposed sign on the lot as well as a sketch of the proposed sign with dimensions and the approximate appearance. (2) All signs in local Historic Districts must receive approval from the Historic District Commission (HDC) before the sign permit application is filed with the building department. (3) All applications for signs at a size of eight (8) square feet or greater that are located outside of local historic districts must be submitted to the Design Review Committee (DRC) for approval.

Signature of Applicant Date: 8.10.20

Historic District Commission Date or Design Review Committee Date

With the following conditions:

Building Commissioner/Inspector Date

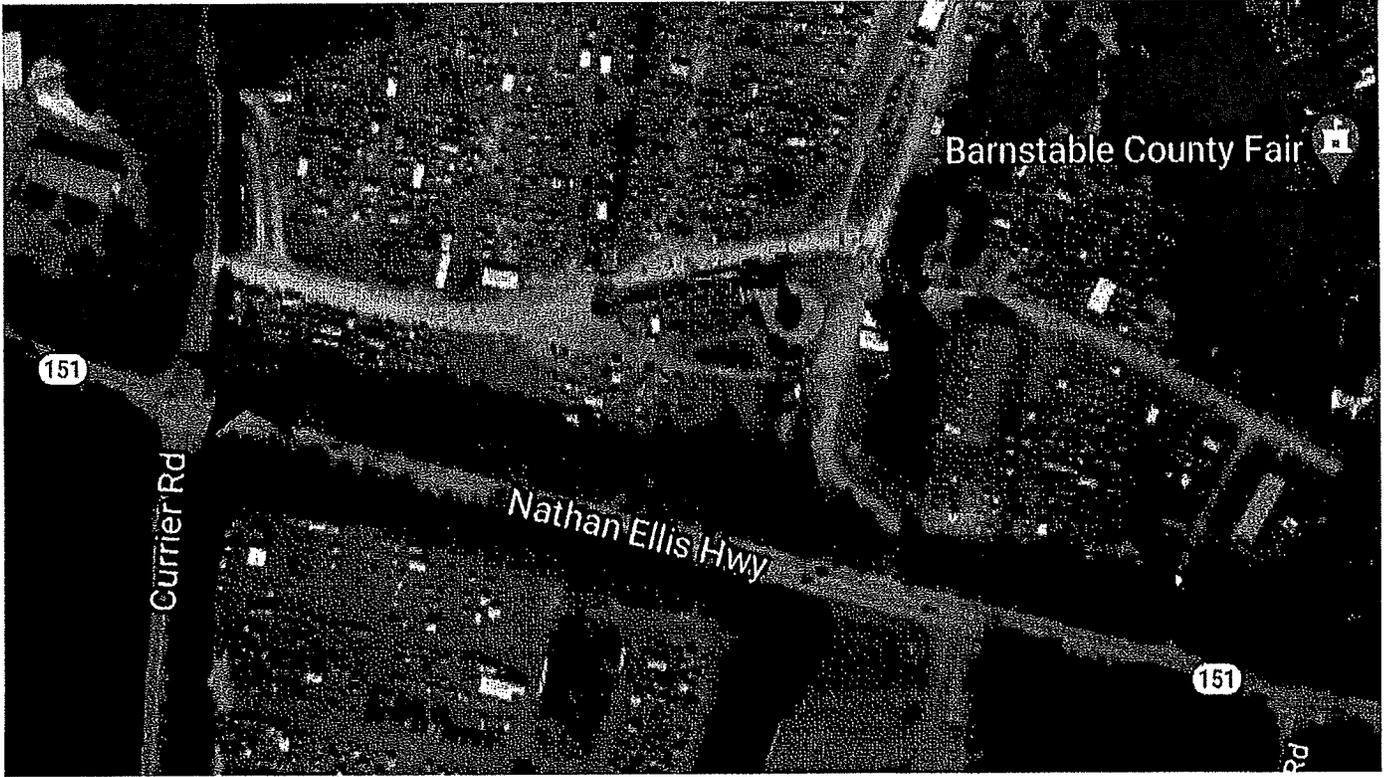
With the following conditions:

FALMOUTH DRIVE N. COM

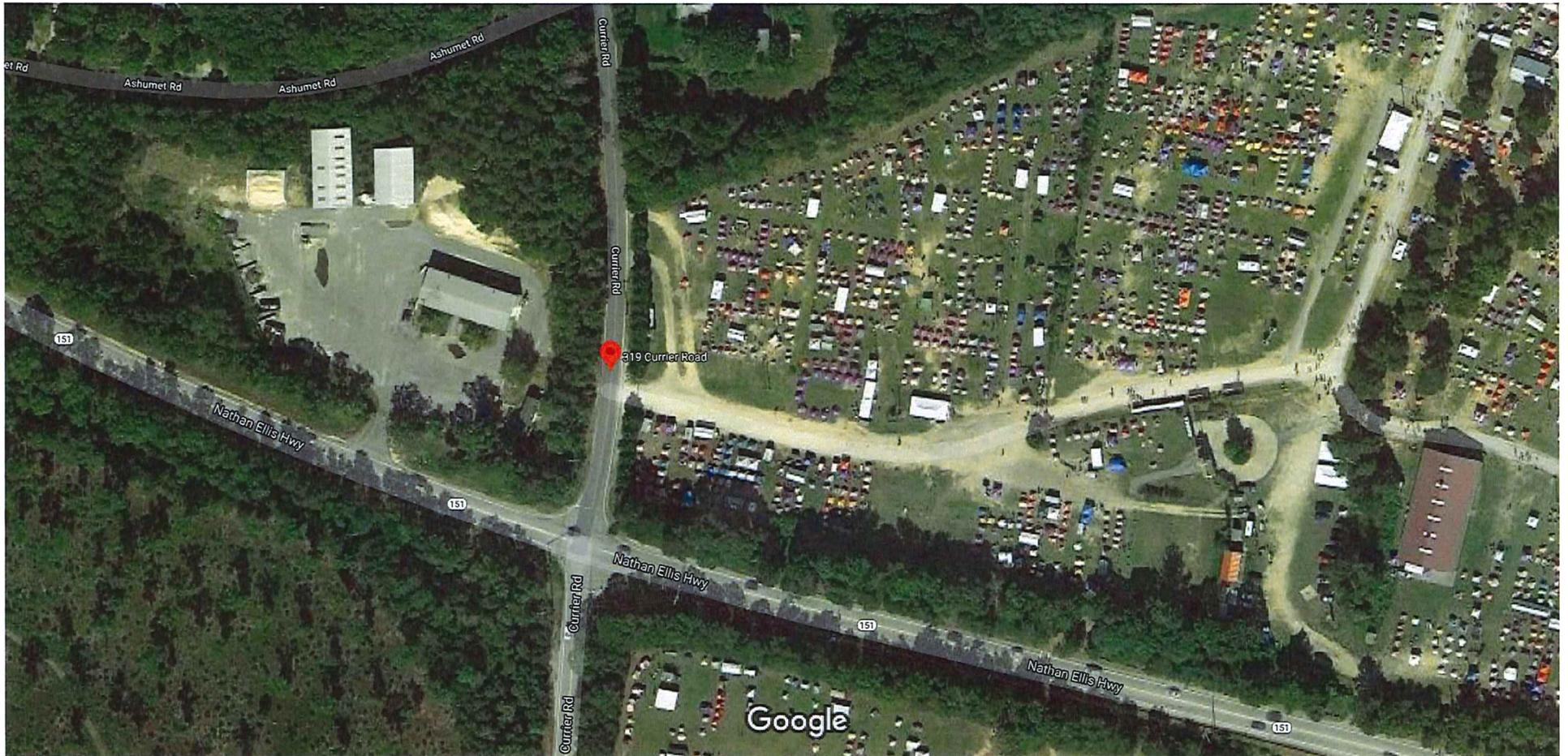
SUN ANCHORMAN

PETE COSTELLO





Google Maps 319 Currier Rd



Imagery ©2020 MassGIS, Commonwealth of Massachusetts EOE, Maxar Technologies, Map data ©2020 100 ft

## Diane Davidson

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**From:** Jonathan Dickinson  
**Sent:** Friday, August 14, 2020 3:57 PM  
**To:** Diane Davidson  
**Subject:** RE: Sign permits for selectmen for the drive -in at Cape Cod Fairgrounds  
**Attachments:** 1220 Nathan Ellis Hwy Sign Application.pdf

Good Afternoon Diane,

Please see attached.

The last scan did not come out very well. There is a star next to Currier Rod and Nathan Ellis Hwy. This is where they are proposing the sign to be (on Town Property).

The sign does not meet Town Code 184-26 (b): internally lit (not allowed in an Agricultural Zone) and 184-5: alternating, flashing light bulb. If they would like this sign lit, they would need to have a steady, stationary and shielded light source directed onto the sign without causing glare (184-26 (a)).

Thank you!

Respectfully,

Jonathan Dickinson  
Assistant Zoning Compliance Agent  
Inspectional Services  
Town of Falmouth  
59 Town Hall Square  
Falmouth, MA 02540  
O:508-495-7468  
C:774-259-0513  
Jonathan.Dickinson@Falmouthma.gov

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**From:** Diane Davidson  
**Sent:** Friday, August 14, 2020 3:43 PM  
**To:** Jonathan Dickinson <jonathan.dickinson@falmouthma.gov>  
**Subject:** FW: Sign permits for selectmen for the drive -in at Cape Cod Fairgrounds

Hi Jonathan,

I received a call from Kevin Pacheco today representing the drive-in movies at the Cape Cod Fairgrounds. He let me know that he submitted a sign permit application to the building department. He also sent me the email below with the attached request for a sign variance approval by the Select Board, since the sign is proposed to be placed on town property.

Would you mind emailing to me a copy of the application and the attachments? I will place this request on the next Select Board agenda, which is on Monday, August 24. If you have any comments for the Board on this application, you may include those as well. Following the meeting, I will forward a copy of the decision to you.

PS. I will be forwarding to you the decision of the Select Board on the application from Cumberland Farms for signage at 400 E. Falmouth Hwy./8 Old Meeting House Rd.

Thank you,

Diane

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

**From:** Kevin Pacheco [<mailto:kevin@vivid-ep.com>]  
**Sent:** Monday, August 10, 2020 3:31 PM  
**To:** Diane Davidson <[diane.davidson@falmouthma.gov](mailto:diane.davidson@falmouthma.gov)>  
**Subject:** Sign permits for selectmen for the drive -in at Cape Cod Fairgrounds

Hello Diane,

I'm trying to Get this in for tonight if possible,

I'm bringing the check now. and the paper work

Kevin Pacheco  
508.985.8369 cell  
888-420-6411 office  
Providing over 20 years of Live Production and Design  
[www.vivid-ep.com](http://www.vivid-ep.com) - Event Design  
[www.concertsoundandlighting.com](http://www.concertsoundandlighting.com) - Dry Rentals

Falmouth Community Services Campus:

Request for variance for a free-standing sign for the Falmouth Community Services Camput.

Location: 744-790 Main Street

Size: 5 ft. wide x 4 ft. high = 20 sq. ft. (Exceeds 8 sq. ft.)

Attachments:

1. Sign permit application, map and drawings

Town of Falmouth Sign Permit Application (rev. 12/08)

(508) 495-7470 Fax (508) 548-4290

For office use only:

BD Permit#: \_\_\_\_\_ Fee\*: \_\_\_\_\_ HDC App. #: \_\_\_\_\_ DRC App. #: \_\_\_\_\_

\*The Sign Permit Fee is \$25.00 per sign, payable to the Town of Falmouth (special event and promotional signs under §180-30 are no charge) – please submit the required fee to the Building Department along with the completed sign permit application.

DATE: August 21, 2020

STREET ADDRESS FOR PROPOSED SIGN(S): 744-790 Main Street

APPLICANT NAME: Julian M. Suso, Town Manager PHONE: 508-495-7320

MAILING ADDRESS: 59 Town Hall Sq, TOWN/STATE/ZIP: Falmouth, 02540

BUSINESS NAME: Town of Falmouth

BUSINESS OWNER: Town of Falmouth ADDRESS/PHONE: 508-495-7320

PROPERTY OWNER: Town of Falmouth ADDRESS/PHONE: 508-495-7320

CONTRACTOR / SIGN COMPANY: Locust Street Sign

ASSESSOR'S PARCEL ID: 39 21 001 000 ZONING DISTRICT: Public Use

IS THE PROPOSED SIGN LOCATED WITHIN A LOCAL HISTORIC DISTRICT? Y / N

If YES, the applicant must first submit this application to the Historic District Commission (HDC) for their approval. See attached 'Town of Falmouth Sign Permit Process and Required Submittals' for a detailed description of the HDC requirements.

FREESTANDING SIGN(s) § 184-25; Projecting sign(s) § 184-35

List number and sizes of each sign that presently exist for each street frontage: None.

Area of proposed standing sign is: 5 feet wide x 4 feet high = 20 square feet.

Do the frames, borders, etc. exceed 8 square feet in area? Y / N YES

The proposed standing sign will be set back from Main street line 12 feet.

WALL SIGN(s) § 184-37; Awning(s) § 184-22

List number and sizes of each wall and roof sign that presently exist on building: \_\_\_\_\_

Size of proposed wall sign is: \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_ square feet.

The lineal frontage of the wall supporting the sign is: \_\_\_\_\_ lineal feet.

The proposed sign will face \_\_\_\_\_ street/parking lot

ROOF SIGN(s) § 184-37

List number and sizes of each wall and roof sign that presently exist on building: \_\_\_\_\_

Size of proposed roof sign is: \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_ square feet.

The wall that the sign will be above is: \_\_\_\_\_ lineal feet.

PROMOTIONAL/SPECIAL EVENT SIGN(s) § 184-30

Size of proposed sign is: \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_ square feet.

Start date: \_\_\_\_\_; End date: \_\_\_\_\_ Total number of days that the sign will be displayed: \_\_\_\_\_

If the sign is eight (8) square feet or greater, this application must be submitted the Design Review Committee (DRC) for approval. See attached 'Town of Falmouth Sign Permit Process and Required Submittals' for a description of the DRC requirements.

OFF-PREMISES SIGN(s) § 184-32; VARIANCE § 184-20

The Board of Selectmen must approve all off-premise signs.

Proposed location: \_\_\_\_\_ Size: \_\_\_\_\_ square feet.

Board of Selectmen License No.: \_\_\_\_\_ (Note: A copy must be attached)

INSTRUCTIONS TO APPLICANT: (1) Attach a separate sheet with a site plan showing the location of the proposed sign on the lot as well as a sketch of the proposed sign with dimensions and the approximate appearance. (2) All signs in local Historic Districts must receive approval from the Historic District Commission (HDC) before the sign permit application is filed with the building department. (3) All applications for signs at a size of eight (8) square feet or greater that are located outside of local historic districts must be submitted to the Design Review Committee (DRC) for approval.

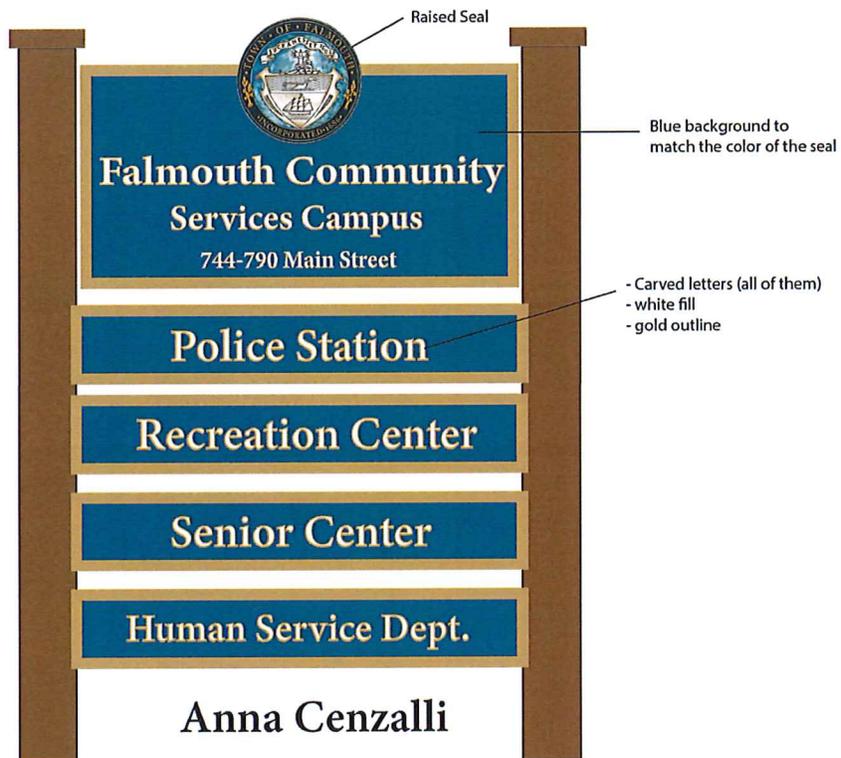
Julian M Suso
Signature of Applicant

8/21/2020
Date

Historic District Commission Date or Design Review Committee Date
With the following conditions: \_\_\_\_\_

Building Commissioner/Inspector Date
With the following conditions: \_\_\_\_\_

**CLIPPER DESIGN  
SHOP**



**LS**  
LOCUST STREET  
**S·I·G·N C·O**

Michael McGowan  
121 LOCUST STREET  
FALMOUTH  
508-457-1777



**FALMOUTH COMMUNITY  
SERVICES CAMPUS**

**Police Station**

**Recreation Center**

**Senior Center**

**Human Services Dept.**

744-790 MAIN STREET

**Falmouth Community Services Campus**

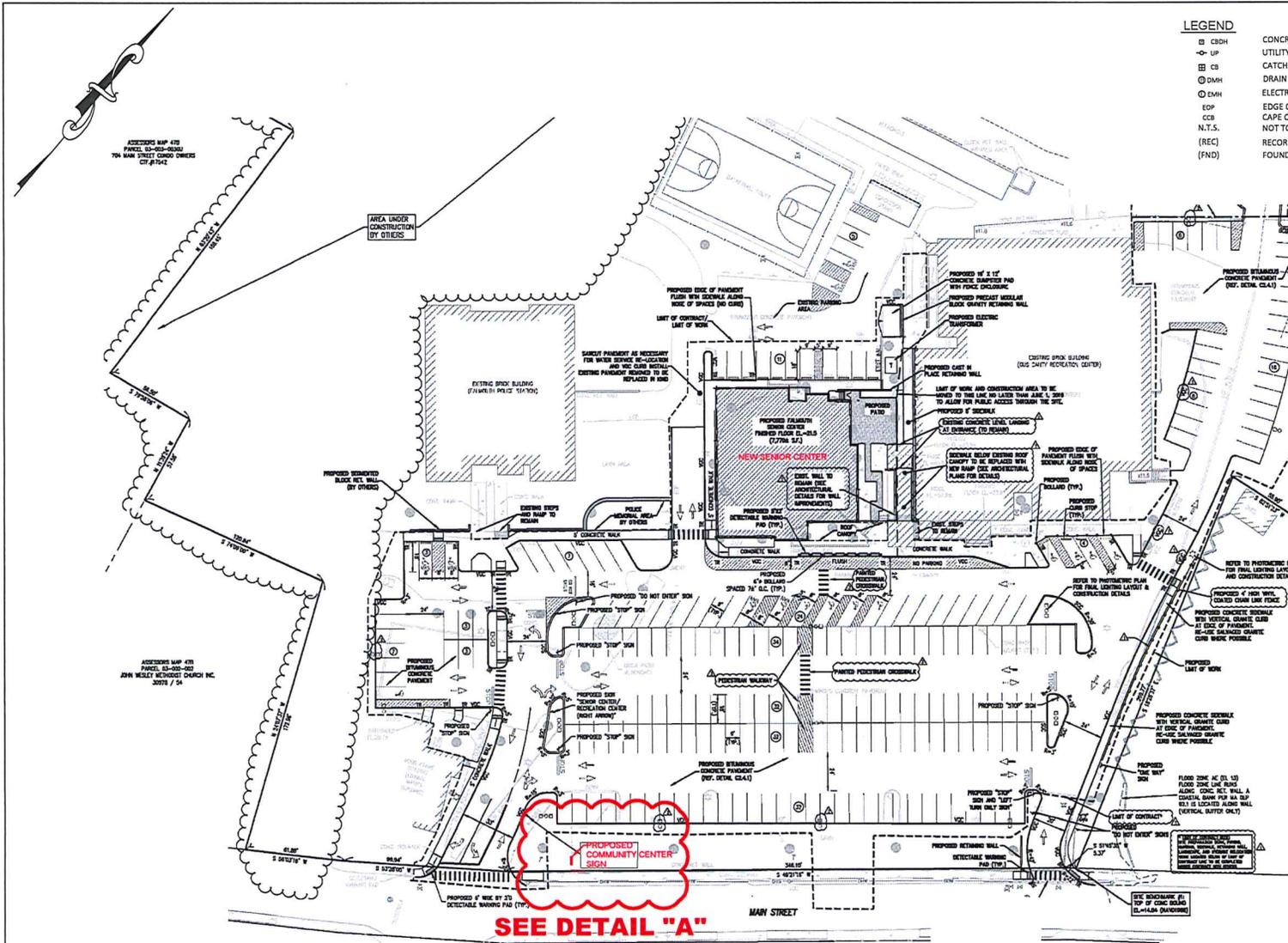
**POLICE STATION**

**SENIOR CENTER**



**RECREATION CENTER**

**HUMAN SERVICES DEPT.**

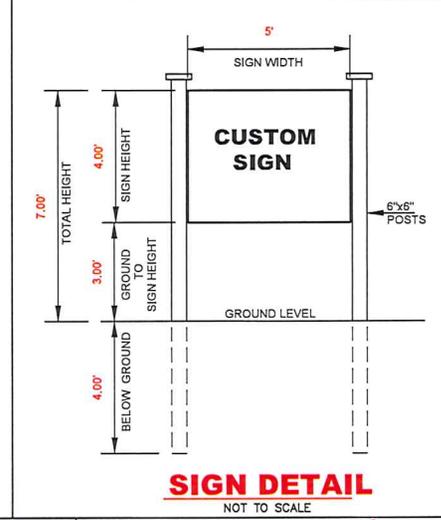
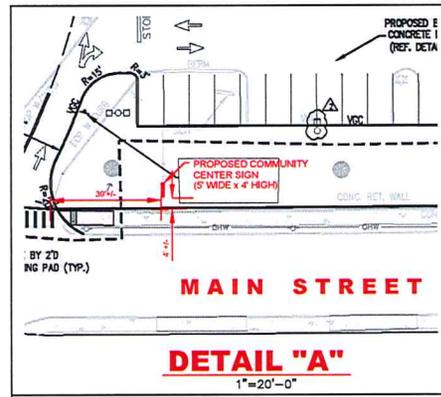


**LEGEND**

- CBWH CONCRETE BOUND w/ DRILL HOLE
- UP UTILITY POLE
- CB CATCH BASIN
- DMH DRAIN MANHOLE
- EMH ELECTRIC MANHOLE
- EDP ELECTRIC DEPTH
- CBZ CANE GOD BERM
- N.T.S. NOT TO SCALE
- (REC) RECORD BOUND
- (FND) FOUND

**NOTES:**

1. LOCUS OWNER: TOWN OF FALMOUTH.
2. DEED REFERENCE: L.C. CERT. # 653
3. BARNSTABLE COUNTY REGISTRY OF DEEDS.
4. ASSESSORS REFERENCE: MAP:39, BLOCK 21, SECTION 001, LOT 000.
5. HORIZONTAL DATUM REFERS TO W.G.S. 1984.



ZONE: PUBLIC USE PU

**PLAN PURPOSE:**  
THIS PLAN HAS BEEN PREPARED  
TO ACCOMPANY A PROPOSED SIGN PERMIT.

DATE	BY	REVISION

TOWN OF FALMOUTH  
DEPARTMENT OF  
PUBLIC WORKS

ENGINEERING DIVISION  
415 GIFFORD STREET  
FALMOUTH, MA 02540  
508-457-2543



**COMPLEX SIGN PERMIT PLAN**  
741 MAIN STREET  
FALMOUTH, MA 02540

**DRAFT**

DRAWN: P.M.M. DATE: AUGUST 7, 2020  
DESIGN: T.O.F. Scale: 1"=30'  
CHECK: P.M.M. SHEET 1 OF 1  
Drawing: \Town Facilities\Senior Can\2020\Sign Permit Plan.Dwg

## Diane Davidson

---

**From:** Peter Johnson-Staub  
**Sent:** Friday, August 21, 2020 3:08 PM  
**To:** Diane Davidson  
**Subject:** FW: 8/24/2020 SB Agenda - Tony Andrews Farm

Diane,  
Please add to Board packet related to Business items #5. Farming Falmouth request for Memorandum of Understanding for use of part of Tony Andrews Farm property.

Thanks,  
Peter

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

<http://www.falmouthmass.us>

*Be advised that most emails to, and from, municipal offices and officials are public record. Confidentiality should not be expected.*

**From:** Stanwood Ingram <stanwood396@hotmail.com>  
**Sent:** Friday, August 21, 2020 2:30 PM  
**To:** Peter Johnson-Staub <peter.johnson-staub@falmouthma.gov>; Karen Schwalbe <karen.schwalbe@falmouthma.gov>  
**Cc:** Jeff Andrews (tonyandrewsfarm@comcast.net) <tonyandrewsfarm@comcast.net>  
**Subject:** Re: 8/24/2020 SB Agenda - Tony Andrews Farm

Will have to let you know Monday on that

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**From:** Peter Johnson-Staub <peter.johnson-staub@falmouthma.gov>  
**Sent:** Friday, August 21, 2020 2:27:16 PM  
**To:** Stanwood Ingram <stanwood396@hotmail.com>; Karen Schwalbe <karen.schwalbe@falmouthma.gov>  
**Cc:** Jeff Andrews (tonyandrewsfarm@comcast.net) <tonyandrewsfarm@comcast.net>  
**Subject:** RE: 8/24/2020 SB Agenda - Tony Andrews Farm

Hi Stan,

Thanks for the quick reply. Do you have a draft MOU for the Board to consider or are you just looking to have a preliminary conversation on Monday 8/24?

Best Regards,  
Peter

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

<http://www.falmouthmass.us>

*Be advised that most emails to, and from, municipal offices and officials are public record. Confidentiality should not be expected.*

**From:** Stanwood Ingram <stanwood396@hotmail.com>  
**Sent:** Friday, August 21, 2020 1:16 PM  
**To:** Peter Johnson-Staub <peter.johnson-staub@falmouthma.gov>; Karen Schwalbe <karen.schwalbe@falmouthma.gov>  
**Cc:** Jeff Andrews (tonyandrewsfarm@comcast.net) <tonyandrewsfarm@comcast.net>  
**Subject:** Re: 8/24/2020 SB Agenda - Tony Andrews Farm

Hi Peter, all good for me. Busy summer and would like to have things smooth out a bit. As for the Agenda item, FF has been eyeing the old farm house lot as a location for a multi use bldg. Part of the building would house a produce and packing gacility, tractor and equipment storage, along with a work space. These areas would be dedicated for use by the farmer/farmers leasing Andrews Frsm. We also envision cold storage and a certified kitchen. Both of these would be up for rent to any local producer that need use of those types of facilities

Have also considered 2nd floor living quarters for farm labor and maybe even attaching a residence for a second farmer. (Improving options for when Geoff is/If ever ready to pit away his hoe)  
As you may be aware, the State has set aside a huge find for improving food security  
We want to apply for some of those funds to do a feasibility study. Didn't think the Town was ready to OK the multi use bldg outright, at this time. We felt our application would hold more weight if we had a MOU with the Town.  
We are set with Geoff for the orchard project  
Sorry for the confudion.  
Stan

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**From:** Peter Johnson-Staub <peter.johnson-staub@falmouthma.gov>  
**Sent:** Friday, August 21, 2020 12:37:50 PM  
**To:** Karen Schwalbe <karen.schwalbe@falmouthma.gov>; Stanwood Ingram (stanwood396@hotmail.com) <stanwood396@hotmail.com>  
**Cc:** Jeff Andrews (tonyandrewsfarm@comcast.net) <tonyandrewsfarm@comcast.net>  
**Subject:** FW: 8/24/2020 SB Agenda - Tony Andrews Farm

Hi Karen and Stan,

I hope you are safe and well. Jeff called asking what the Andrews Farm item on the Select Board agenda is. All we have is the attached email from Tyler Barron to Megan English-Braga which doesn't really describe what it is about. Do you know if this relates to the proposed orchard? The wording on the agenda is: "Farming Falmouth request for Memorandum of Understanding for use of part of Tony Andrews Farm property."

I'd appreciate any light you might be able to shed on this for us in advance of our meeting Monday.

Thank you,  
Peter

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

<http://www.falmouthmass.us>

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Transportation Management Committee  
Town of Falmouth  
59 Town Hall Square  
Falmouth, Massachusetts 02540

*Via email*

August 14, 2020

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

**Re: Size and Composition of the Transportation Management Committee**

Dear Select Board:

Because of a resignation due to health-related issues and the lack of an appointed member by the Historical Commission, our committee remains at seven members instead of the nine members you intended back in January. Your original solicitation envisioned a committee of seven members. Our committee believes seven is an optimum number.

At the regular meeting of the Transportation Management Committee (TMC) on August 13, 2020, the committee unanimously voted to recommend to you that the TMC remain at seven members with its currently appointed membership. There was significant discussion of the impact of not having a member from the Historical Commission. The TMC agreed that historical consideration is an important element of transportation management. Our committee recognized that the Historical Commission is itself busy and we thought a better approach would be for our committee to specifically seek advice, comment and interaction with the Historical Commission whenever our committee identifies historical considerations or elements related to transportation planning. The TMC hopes you agree with this method of operating and will formally establish the size of the TMC at seven members.

As always, thank you for your support and confidence.

Sincerely,



Ed DeWitt  
Chair

cc: Julian Suso, Town Manager  
Historical Commission  
Transportation Management Committee members

The minutes of April 6, 2020 and July 2, 2020 are still being prepared.

**TOWN OF FALMOUTH**  
**SELECT BOARD**  
**Meeting Minutes**  
**MONDAY, JULY 27, 2020**  
**SELECT BOARD MEETING ROOM**  
**TOWN HALL**  
**59 TOWN HALL SQUARE, FALMOUTH, MA 02540**

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

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

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

Select Board Present: Chair English Braga English Braga, Chair; Doug Brown, Co-Chair; Doug Jones; Sam Patterson; Nancy Taylor.

Also Present: Julian Suso, Town Manager; Frank Duffy, Town Attorney; Peter Johnson-Staub; Greg Banwarth, IT Department; Thomas Cox, IT Department.

1. Call to Order by Chair English Braga at approximately 7:10 p.m.
2. Pledge of Allegiance
3. Recognition

Mr. Brown recognized the Cape Verdean Club (Club) event Saturday, participants walked from the Club to the School Administration Building and kneeled with moment of silence. The Club wants their name added to the sign at the end of the road. Chair English Braga noted it was anticipated that the Club could be added to the sign and that request is being pursued. According to Mr. Suso, the sign is privately owned, erected about 20 years ago without a permit, maintained, and within the road right of way.

Mr. Patterson recognized No Place for Hate and FCTV for the forum that was broadcast about policing in Falmouth. FPD has been proactive for the betterment of the citizens of Falmouth.
4. Announcements-none.

5. Public Comment-none.

## SUMMARY OF ACTIONS

### 1. Administrative Orders

- a. Approve extension of Steamship Authority (SSA) parking lot lease

Mr. Suso explained the multiyear agreement for SSA to manage and oversee the Woods Hole Parking lot is expiring this year. He and Mr. Jones met with representatives of the SSA, it is recommended to extend the contract as is with no changes for one calendar year.

Also noted was that the potholes in the parking lot path will be taken care of by the SSA.

**Mr. Patterson motion approval. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

- b. Approve request for license to install landscape curbing within the layout of a public way at 19 Ocean Avenue

Mr. Suso explained information received from Town Engineer Jim Mcloughlin and Attorney Duffy recommend it go forward.

**Mr. Patterson motion approval. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

- c. Approve letter in support of the application of 197 Palmer Ave., LLC dba Falmouth Sharespace for a grant from the Collaborative Workspace Program through the Massachusetts Development Finance Agency

Mr. Suso explained this was received from an entrepreneur in the community looking to create a collaborative workspace in the downtown area. Mr. Suso will forward more information to the Select Board. The Select Board noted that this is what they are looking to do and support the concept. The expectation is the MA Develop finance agency would do the vetting.

**Mr. Jones motion approval. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

- d. Approve letter in support of grant funding application from Woods Hole Oceanographic Institution (WHOI) to the U.S. Commerce Department, Economic Development Administration (EDA) Disaster Recovery Program for pre-design work on the waterfront project

Mr. Suso explained the Board gave a greenlight for a slightly different grant program, which was not funded. EDA suggested WHOI come in under the disaster recovery program. This letter of support is in support of that program.

Mr. Brown would like to include the economic impact of the WHOI to the community in the letter.

**Mr. Patterson motion approval. Second Mr. Brown. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

- e. Approve Solar Alternative On-Bill Credit Agreement by and between the Town of Falmouth and Falmouth Landfill Solar II, LLC and authorize the Town Manager to sign on behalf of the town

Mr. Suso explained items e and f were items discussed at the 6/15/20 Select Board Meeting, the Select Board directed Attorney Duffy to discuss with EDIC's outside counsel and work with the citizens to bring this to the Select Board. This is also listed as a potential status update later in the business agenda. It involves agreements to proceed for the second phase of the solar project at the landfill.

Chair English Braga suggested discussing e, f, and item 8.

- f. Review and approve Inter-Governmental Agreement between Town of Falmouth and Falmouth EDIC for development of Phase 2 solar array at closed landfill on Thomas Landers Road by Falmouth Landfill Solar II, LLC (subsidiary of Citizens Energy)

Mr. Simmler, EDIC Vice Chair  
Mike Digiano, EDIC Executive Director  
Attorney Edelman

Attorney Duffy explained that on 6/15/20 the Select Board affirmatively voted all three motions regarding intergovernmental agreement, sublease agreement, and credit agreement. The Solar Alternative On Bill Credit Agreement is ready to go, this involves 50% of the generated energy to be sold to the Town and 50% made available to low income customers in Town.

**Mr. Jones motion approval of the Solar Alternative On Bill Credit Agreement as proposed by Town Counsel and previously voted on 6/15/20. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

The Intergovernmental Agreement was voted and Attorney Duffy suggests approving this agreement, the EDIC would pay market rate rent for the Phase 2 area of 18 acres, the Town would receive half of that with the provision read by Attorney Duffy. There was no participation by the EDIC. The matter was brought up again on 6/29/20, the EDIC was present. Since then, a 7/13/20 conference call with all counsel to talk about the Intergovernmental Agreement rent and the Special Act necessary to approve a recovery loan program. There was no compromise on that. Another conference call took place on 7/23/20, same people plus Mr. Suso participated. Today they are back with the same agreement they presented on 6/15/20 and Attorney Duffy recommends approving it. Rent can be discussed in the future.

Problems with the recovery loan program as presented:

1. We do not know details about the program, not in writing, it is a concept.
2. Attorney Duffy's belief that the program does not fit within the statutory authorization of the EDIC, to be within specific economic districts and his contention the EDIC needs special legislation from the Special Court. The EDIC has agreed to apply for special legislation.
3. Under MA Constitution, the General Court shall have the power regarding special act, on petition filed or voted by the voters...EDIC does not require approval, they think they can go straight to the legislature.
4. Want approval of the Board if they file for special legislation.
5. Appropriating money for the benefit of the EDIC is a Town Meeting job.

Michael Galasso has health issue that has left him incapacitated and asked Mr. Digiano to read a statement. Mr. Galasso provided a history of the project and request to live up to the commitment regarding the rent the EDIC would pay for Phase 2 would be nominal and fund the loan recovery program. Businesses are concerned about getting through the winter and having cash to fund starting up next year. They sent a summary of a discussion with Attorney Duffy to the Select Board, there is a question about modifying the rent. Rent amount set at a nominal amount of \$10 for a year, this gives the EDIC time to get the Special Legislation, then get the loan program running. If not off the ground in 18 months, then the rent goes to the higher amount. If they need to go to Town Meeting in the Fall or next Spring, it will significantly delay the process.

If the Town feels they still need Town Meeting approval, the EDIC will likely not move forward with the program.

Mr. Jones noted that the Phase Two money is not coming for a while, so there is time between now and then to do the right thing and get everyone on board.

Mr. Simmler noted that the rent for Phase One is paid in arrears and paid quarterly. Received a check from Citizens in July. Anything they can do to help the businesses will have regional impact.

Ms. Taylor said that if there are no details hammered out, she would have difficulty moving this forward. How much money have Falmouth businesses received from the Payroll Protection Act.

Mr. Digiano said they will do what it takes to get an agreement pasted by 7/31/20 when Citizens Energy says they need it. The IGA will let them know the loan program. No matter what happens they need to go back to Town Meeting, that is problematic as well because of the uncertainty. Nominal rent will allow them to do better planning with partner banks in the next couple weeks.

Attorney Edelman, EDIC counsel, said she assisted EDIC in Phase One and worked with Town Counsel to enter into the Phase One IGA and documentation with Citizens at that time. She is not special counsel to EDIC regarding analysis done with respect to the Special Legislation, Attorney Mark Rich of KP Law did that. She cannot adopt his opinion as her own. She was surprised by the need of the Town Meeting vote based on her work with other communities on other projects.

Mr. Jones was involved in negotiation for the IGA, a lot of work to get to 50% and he felt Town Meeting approved the IGA giving authority based on that information. To change it on them, they would see that as being highly suspect. The EDIC has to trust we look for Town Meeting support, if we cannot than it should not be done. If they are worried Town Meeting will not support it, we should not do it.

Attorney Edelman said the rent provision proposed would alleviate this concern and allow for information to be provided to the Select Board that would satisfy the questions they have.

The Select Board has made that sentiment known, there is a need, business in a different position next year, some have not been able to take advantage of federal funds. This program could fill that need, but the Select Board would like to see details. There is concern about stewarding those resources that belong to the Town and where folks are trying to manage it and do it in a transparent way.

Mr. Simmler noted that the information they shared provided budget information. They can do three months' more time of work. If they need to go to Town Meeting, the EDIC needs to decide whether they want to put more time and resources into this project. This past week had conference calls with two partner banks they are negotiating with and they will put out an RFP as well.

Chair English Braga noted this Town just voted for a proposition 2.5 override, the appetite in Town Meeting is to support the Town as a whole. If the Board had details and felt comfortable with the program he is discussing, that process would play out.

Attorney Duffy said the Special Legislation would be to organize the plan, but money needs to be appropriated to the EDIC.

**Mr. Jones motion to stick with the current IGA, get Town Meeting approval to change the IGA to the \$10 nominal amount, and submit to the November Town Meeting. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

The Select Board will ask Attorney Duffy and Attorney Mullin to work on an article for Town Meeting.

- g. Approve Certificate of Betterment or Special Assessments for roadway betterment taking – final completion of roadway upgrades and cost assessment for Captain Davis Lane

The Board can vote to take the last step necessary.

DPW director Peter McConarty said both roads g and h, were worked on and completed at the projected price. Winthrop was a little over a third of the projected price because the DPW was able to do the labor. Both roads are completed.

**Mr. Patterson motion approval of items g and h. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

- h. Approve Certificate of Betterment or Special Assessments for roadway betterment taking – final completion of roadway upgrades and cost assessment for Winthrop Drive (west side)

**Mr. Patterson motion approval of items g and h. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

#### 7:32 p.m. PUBLIC HEARINGS

1. Wetland/Dock Hearing – Nikolas J., John S., Anthony P. Pentikis/James N. Pentikis Trust UDT for permission to license, retain and maintain existing two (2) 4' x 20' floats in and over the waters of Eel Pond Canal, located at 5 Canapitsit Drive, East Falmouth. Continued from March 9, 2020; April 27, 2020 and June 15, 2020

Chair English Braga read the hearing notice.

Mr. Johnson-Staub said Matt Costa is not present for this hearing. Attorney Hoyt and Attorney Wall were present.

Attorney Wall represents two property owners with interest, received email from applicant's counsel around 3pm today that they would be asking for a continuance. Attorney Wall has not receive anything in writing and checked with the Town Manager's Office, but nothing came through.

Glen Wood representing the applicant for the hearing, but he is not present. Attorney Wall received an email from him that Matt Costa would be asking for a continuance. The Select Board does not have that to date.

The Select Board cannot grant a continuance without the request, Mr. Jones was inclined to withdraw with prejudice. Pick a final date, no further continuances. The residents and their attorneys are being put off and it is unfair these neighbors have to keep coming back and paying Attorneys to be present. Can the Board put legal fees on the applicant.

Attorney Wall received an email from Attorney Wood that there would be a request for continuance, thought it would be submitted in writing or presence. He does not want to win on a technicality. This involves an application for special permit for floats, the current floats were found by the ZBA to be lacking permits. When Attorney Wall informed him of the request for continuance, his client noted that he cannot boat this summer because the floats are too close. Good idea to do without further continuances, so that neighbors can enjoy boating for part of the summer.

Attorney Hoyt made comment on behalf of the property owner across the canal.

Mr. Jones said the lawyers for the applicant implied some resolution with the neighbors. Attorney Wall had numerous convos with Attorney Wood, they have not reached any agreement and he was not expecting an agreement or proposal.

**Mr. Jones motion to continue to 8/10/20 with no further continuances. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

#### BUSINESS

1. Discussion/update on COVID-19 issues

Health Agent Scott McGann; Falmouth Public Schools Superintendent Lori Duerr; Kelly Welsh, School Committee Chair; Acting Beach Superintendent Maggie Clayton; and Board of Health Chair Diana Molloy were present.

Mr. McGann current case count 228, not including probables. Last week 15 at Royal Megansett, State takes over the long term care facilities. He talked with Dr. Duerr, there was some self reporting. It is not a case unless in the system, there has been testing delays from the labs. Dennis has a rapid test, last week there were complaints about down cape towns not submitted to the Cape system. Friday night there were no case in the queue. Beaches had self reporting over the weekend, not showing up until 11am this morning. Maven is the system used, but these reports were not showing up in the system. 228 does not include the Dennis cases, which are considered probable. Parents are knowing and calling, contact tracing delayed because of the system. Over the weekend Mr. McGann got Cape Cod Healthcare on board to conduct the testing. The Town will have all Beach Department employees tested with guaranteed 48 hour turnaround and billed to the Town. Today's numbers are about 5-8 individual cases.

Dr. Duerr explained the decision to cancel graduation. First reporting about 1pm on Friday, self reporting from a family and credible. Then series of additional information from families, there were many social media posts that supported unsafe gathering of students far and wide. Graduation for outdoors only, but guidance said if confirmed or suspected cases, the students should not be allowed to attend the graduation ceremony. Parents reported multiple students involved, unable to identify all and more were involved that had not come forward. The School Committee had an emergency meeting to address the concern and make the decision to cancel graduation ceremonies.

Chair Welsh noted it was very last minute self reporting, which puts them in a difficult spot going forward. People were devastated and particularly with the last minute nature of cancellation.

Maggie Clayton, Acting Beach Superintendent, reported 117 employees, Friday evening after work hours was the first verbal anecdote of a positive case and shared via social media with other staff. This set off a vested interest in getting tested. They have been running shorter staff for the last 3 days, Saturday 2 beaches had no lifeguards. People tested and not symptomatic came in to let other staff be tested, Sunday 4 beaches with lifeguards, today 8 beaches with lifeguards. As of the end of workday today, there are 8 verbal reported cases. She has talked with Town Manager's Office and the Health Department since this all started. Parking attendants were at all beaches and scheduled the same, clerk staff the same. Glass installed today at the Bathhouse.

Chair English Braga said there was concern that employees were told not to tell people if they were positive or concerned. Ms. Clayton explained that it came from a request by supervisors to not have peer to peer sharing first, but to let it come out from the department via memo. General population was told via social media prior to she and her supervisors being informed. The way the information was delivered created a panic. The expectation that anyone who tested positive or lived with someone positive is that they are not to come into work. If a beach does not have a lifeguard, no lifeguard on duty signs are posted.

All rapid tests are being treated as confirmed until the State tells Mr. McGann otherwise.

Mr. Suso said that there are now 8 lifeguards on staff who have self reported that they are COVID-19 positive and had been tested at the Dennis facility. Out of caution, any siblings of lifeguards also are not working. Operating with fewer staff members than normal, sometimes beaches will be with no or lower lifeguard capacity. The Town is affording beach employees testing at the Falmouth Hospital at the Town's cost. Contact tracing has begun and conclusion of this contact testing will be the first time have definitive information that has created this cluster of positives. The Town is encouraging all Beach Department employees who are concerned to go forward and get the test, including those who have done the rapid test and want to be retested.

Mike Heylin asked if the guards who left Saturday morning returned to work after the testing? Ms. Clayton said that on Saturday morning based on information provided by staff, the schedule/assignment board was updated Saturday morning based on the staff prepared to work, available, not symptomatic, and not concerned about running out to get tested. Staff tested Saturday did not report to work Saturday. When they had results, they reported in to supervisors, those who were negative, asymptomatic, and felt comfortable were able to work. Saturday lifeguards left an hour early at 4pm instead of 5pm.

Mr. Heylin asked if the Town followed protocols for self certifying? Did the employee go home or did they get tested and work that day? Ms. Clayton said close contact defined as siblings who were municipal employees were isolated. Morning workouts continued because of the limited close contact exposure and needing a mask for less than 15 minutes was ok.

Mr. Heylin asked if any of the employees who got tested returned to work. Ms. Clayton said the staff not on the schedule Saturday because they chose to get tested, 3 positives, did not report to work nor did their sibling return to work. Those who tested negative via the rapid test went to work.

Mr. Heylin concerned that someone tested comes back to work before the result is in. Policy to staff is if you tested negative on the rapid test or are awaiting results of test or not tested yet, you can come into work if you are asymptomatic, wear a mask, wash hands, use hand sanitizer, and practice social distancing at work and outside of work. There was a social gathering outside of work that occurred without social distancing and believed to be the source of the spread.

Mr. McGann said that contact tracing is only as good as information provided by the individuals. You do not always get to an answer.

Mr. McGann noted it is more important now to wear a mask and social distance, particularly now that we are opening up.

Ms. Clayton said that scheduling decisions are being made on a day by day basis, parking attendants at all 10 beaches, number of beaches with lifeguards have varied. Tomorrow the plan is 8 beaches with lifeguards, but that could change. Some staff will need to quarantine for 2 weeks before going to school, some staff have indicated they want their end date to be different.

Mr. Suso said the last couple of meetings the Board had discussion about expanding parking at Old Silver Beach and reducing the same amount of nonresident spaces. Does the Board want to consider that?

Chair English Braga asked the Board for their input on the parking lot changes.

Ms. Taylor asked about a grid on whether the change of parking would be a benefit.

Ms. Clayton received pictures 3x daily to see the crowd and they are asked to use the rubric developed, level 1 empty, level 2 groups 12 ft apart, level 3 groups are 6 feet apart, level 4 getting more on top of each other, Chappy at high tide is an example, they have not reached a level 5 at any beach. Today every parking lot in Town filled, but not until around 2pm. Ms. Clayton extended parking attendant hours for an additional hour at Old Silver and Chappy Beach. Old Silver parking lots are divided, but the beach is not; there are people parking in public parking and walk to the resident beach. Woodneck is a concern because of how people park when there are no attendants. If people are going for the marsh side, there is not a lot of beach. The most area of beach is on the ocean side. At high tide the marsh, lose a lot of beach and have even had to move the lifeguard chair.

**Mr. Jones motion to open the Mill Road parking lot to full parking and see what happens, giving staff the ability to adjust as they see fit. Second Mr. Brown. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

Mr. Suso noted the 50% capacity reduction and there are huge concrete structures not easily moved by the DPW. He suggested giving it some time before suggesting to move them around in an experimental way and move DPW from other projects they are responsible for at this time of year.

## 2. Request for temporary water use restrictions

Steve Rafferty, Water Superintendent, made a power point presentation.

**Mr. Patterson motion to approve a declaration of a state of water supply conservation and prohibit the use of automatic sprinkler systems until the order is lifted. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

Private wells and hand watering are exempt from this order.

3. Discussion on request to change polling place location for Precinct 5  
This is to accept the report, there are legal steps he needs to take and then he can come back and the Board can vote the change on 8/10/20. The church is no longer available, they will find a new location in North Falmouth, only location is the school. Only other place is St. Elizabeth Seton Church Hall on Quaker Road.

Report and evaluate the new polling location.

**Mr. Brown motion to accept the report. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

4. Status Updates Town Meeting  
Town meeting to complete the warrant in September. Mr. Suso confirmed FHS indoor venue in auditorium or field house on 9/13. Turf field is available on 9/26/20 for reconvening of Spring Town Meeting in the morning. Moderator Vieira will notice the meetings and then as they get closer will make the decision of outdoor vs. indoor.

8/10/20 they will bring a draft scheduled for the November Town Meeting. They will also need to schedule the Spring Town Meeting reconvened. November meeting 9/9/20. Need to adopt spring meeting at 8/10/20.

5. Update from Woods Hole Oceanographic Institution (WHOI) on their proposed Woods Hole Iselin Dock and related areas proposed redevelopment project (also known as "CWATER")

Leslie McGee, WHOI

Rob Munier, WHOI Vice President Marine Facilities and Operations made a PowerPoint Presentation

Mr. Munier said they have studied sea level rise, whatever is built is for the future and adaptable to get to the 80 year horizon. WHOI is building a new dock and waterfront research complex and need to understand the permitting process. The three concepts being considered include: Fixed Modular Dock; Hybrid Floating Dock; Tension Pile Floating Dock. The existing site was reviewed. They plan to build the new building and then remove the old building. The deck will to accommodate for future sea level rise. Three story building, 45,00 square feet, about 4,000 square feet less than the existing building. Purpose is to be multifunctional and flexible, public access to space and explore the facility. Project schedule was reviewed, next they go to detail design process and get the project shovel ready. They will go through the permitting process with goal to get to work in 2022. Final decisions including dock case, initiate the design, initiate permitting, continue to engage the community, and raise funds for construction.

Climate Resiliency Symposium to share information with the community will be held on September 24, 2020. Technical and policy re: community impact re: climate change.

Woods Hole Group will assess WHOI's campus buildings.

6. Approve request for variance to sign code – Cumberland Farms Inc., located at 8 Old Meeting House Road and 400 East Falmouth Highway

John Maurshart (phonetic)

Attorney Douglas Troyer, representing Cumberland Farms, reported to have obtained all necessary permits needed, they are now seeking approval for the install of two signs. Reviewed the site plan, the sign they are proposing is similar to the Teaticket Cumberland Farms. Propose total area of 21.11 sq. ft and seeking variance for the additional size. Appreciating where they are in Falmouth and compete in the industry, hope to have this sign and show the reg gas price. Reviewed the building exterior design. The signs on the front of the store are internally illuminated for the wall sign and the gas price sign. They are willing to accept condition that if determined to be too bright, they will do what they can to reduce the luminaries on it if possible. Originally had proposal for the wall sign, but when he heard back from Mr. Dickenson, they felt the most important aspect would be the front of the store sign, wanted to reduce the amount of signage they were looking for and go forward with what was necessary for the store while respecting the Town's sign bylaw.

5 feet 11 sq. ft is the requested variance. The freestanding sign on the Old Meetinghouse Roadside does not appear necessary and would change the look of that road. Chair English Braga and Mr. Brown would rather see one freestanding and possibly the wall sign.

Cumberland Farms is okay with a condition not to put a freestanding sign on Old Meetinghouse Road, side sign as rendered in the drawing.

**Mr. Jones motion to approve the side sign as rendered in the drawing, with a condition that a freestanding sign will not be placed on the Old Meetinghouse Roadside of the property. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

Mr. Patterson noted he is okay with approving the free standing sign that is the same size as the Teaticket store.

Attorney Troyer noted they are entitled to 2 freestanding signs because they are on two lots and have two frontages, they are willing to agree not to put on Old Meetinghouse Rd., hoping with concessions by taking signs off canopy, removing the free standing sign in consideration of the residences, so they can be allowed to have a sign which is a little bigger. Mr. Jones noted it is 33% bigger than what the code allows. Mr. Patterson noted there is not a lot of competition and no chance of not being identified by those passing by.

The Select Board would be supportive of the sign the same size as the Teaticket location.

Attorney Troyer requested this be continued to the Select Board Meeting on 8/10/20. This item was continued to 8/10/20 and the previous Select Board vote was vacated.

7. Vote to approve an extension of the term ending date for the Edward Marks Building Advisory Committee

The Committee is active through 12/31/20 at this time.

**Mr. Patterson motion to extend the term ending date to 5/31/2021. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

8. Status update from EDIC on Solar Phase 2 project and proposed small business loan program  
See Summary of Actions items E and F.

9. Initial discussion of periodic departmental reports

Mr. Suso has been transmitting quarterly reports from key Town Departments and a suggestion was made to change format. The idea was to publicly summarize those reports so the public has the data in front of them on a quarterly basis. And how we are able to gauge effectiveness of our functioning government. This discussion will be continued to a future date.

10. Status update on Town CDBG-COVID State Grant Program application

Mr. Suso shared in the packet some analysis and feedback from Tom Bott and analysis by the IT Director and his staff. There is evidence that the application was transmitted via email timely, Mr. Suso was copied, but the funding agency indicated they had no record of receiving it. The email was transmitted timely, but may likely have been lost or rejected by the State email system.

Mr. Banwarth said the State email system is ancient, the email was put into the outbox, but there was not enough evidence to show the postman picked it up. Once handed off, it can get lost at other junctures or mass.gov may have blocked the email. Mr. Suso asked State legislatures to inquire, the response they received from the agency was that there was no money left. Mr. Suso asked about the possibility of additional funds, if they are made available in the future.

Chair English Braga would like a formal way to address that if there are subsequent funds, we are at least in the queue. Mr. Bott inquired, there is another allocation coming in the future, unknown when, but the agency will review the application and hold it until then.

The events will be memorialized in a letter with chronology of the events. Mr. Patterson would also like to see some sort of follow up check process in the future to confirm receipt of applications to mitigate the chances of this occurring in the future.

11. Annual town committee reappointments

**Mr. Patterson motion to appoint the assistant parking clerk Tracey E.P. Cecil to a term ending 6/30/21. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

**Mr. Patterson motion to appoint Parking Clerk Patricia O'Connell to a term ending 6/30/21. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

**Mr. Patterson motion to appoint Ralph Herbst to the Transportation Management Committee to a term ending 6/30/23. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

**Chair English Braga affirmed the continued appointment of the following to the Transportation Management Committee: Bikeways and Pedestrian Committee Member Chris Maguire; Disabilities Commission member Paul Grundon, and Planning Board member Paul Dryer. . Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

**Chair English Braga motioned the following appointments to the Veterans Council Committee: Falmouth Military Support Group Carol Kinney; Falmouth Elks Lodge 2380 Jim Sawyer; and Louis J. Sousa to terms ending 6/30/21. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

12. Minutes of Meetings:

a. Public Session:  
July 13, 2020

**Mr. Patterson motion approval. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

b. Executive Session:  
July 13, 2020

Session 1

**Mr. Patterson motion approval and not release. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

Session 2

**Mr. Patterson motion approval and not release. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

13. Individual Select Board member's reports

Mr. Patterson:

Serves on the Executive Board for the Cape and Islands Counselors and noted the following meetings: 8/14/20 Election Process; 9/11 Ballot Question on Rank Choice Voting; 10/9/20 School Impact due to COVID-19.

Mr. Brown:

Water Quality Mgt Committee completed installation of wells at Great Bay. They will monitor for effectiveness. Waquoit Bay Watershed, with proposed Seacoast Shores sewerage, will not remove all the nitrogen, the addition of permeable barriers may have an effect.

Assembly of Delegates: Solar projects have been put on hold due to language, which is being reviewed. Also doing Charter review.

14. Town Manager's report-none due to the late hour.

**Mr. Brown motion to adjourn at approximately 12:12 a.m. on 7/27/20. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Brown, aye; Mr. Jones, aye; Mr. Patterson, aye; Ms. Taylor, aye.**

Respectfully Submitted,

Jennifer Chaves  
Recording Secretary

DRAFT

**TOWN OF FALMOUTH**  
**SELECT BOARD**  
**Meeting Minutes**  
**Open Session**  
**MONDAY, AUGUST 10, 2020**  
**SELECT BOARD MEETING ROOM**  
**TOWN HALL**  
**59 TOWN HALL SQUARE, FALMOUTH, MA 02540**

*In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the August 10, 2020 public meeting of the Falmouth Select Board (Select Board) shall be physically closed to the public to avoid group congregation.*

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

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

Select Board Present: Chair English Braga English Braga, Chair; Doug Brown, Co-Chair; Doug Jones; Sam Patterson; Nancy Taylor.

Also Present: Julian Suso, Town Manager; Frank Duffy, Town Counsel; Irie Mullin, Assistant Town Counsel; Peter Johnson-Staub, Assistant Town Manager; Greg Banwarth, IT Department; Thomas Cox, IT Department.

1. Call to Order by Chair English Braga at 7pm.
2. Pledge of Allegiance
3. Recognition  
The continued diligence of the MA community for wearing masks and safe distancing was recognized.
4. Announcements-none.
5. Public Comment-none.

#### **SUMMARY OF ACTIONS**

1. Administrative Orders
  - a. Approve Warrant for 2020 State Primary on Tuesday, September 1, 2020  
Mr. Suso noted in the packet is a warrant for the State primary and is recommended. Polls open 7am-8pm and info. available on the Town website and Town Clerk's Office.

**Mr. Jones motion approval of Precinct 2 voting in the old senior center and Precinct 5 voting in the St. Elizabeth Seton Hall. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, aye.**

- b. Vote to accept donation from Marilyn Yee in the amount of \$500.00 to the Marine and Environmental Services donation account  
**Mr. Patterson motion approval. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, aye.**
- c. Vote to approve consent to mortgage – application by Locustfield, LLC for 40B project at 0 Locustfield Road

Mr. Suso noted that Town Counsel affirmed that the Board needs to execute in person a consent to mortgage application.

**Mr. Patterson motion approval. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, aye.**

**7:30 p.m. PUBLIC HEARINGS**

- 1. Application for a New All Alcoholic Common Victualler License – The Tea Room, 196 Crystal Avenue, North Falmouth

Chair English Braga read the hearing notice.

Counsel for the applicant asked that the application be withdrawn.

**Mr. Jones motion to close the hearing. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, aye.**

Assistant Town Counsel, Irie Mullin, said that if approving withdrawal without prejudice, there is no need for the Select Board to take testimony. If the Select Board did not want to allow that withdrawal without prejudice, a hearing could be held and the Select Board could make findings.

**Mr. Jones motion to approve withdrawal of the application without prejudice. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, aye.**

Mr. Brown asked if they maintain a file of the public comments made at previous Select Board meetings? Chair English Braga explained that no anything emailed to the Select Board is part of a public record that may be searched, it would be retained for two years as general correspondence.

Mr. Johnson-Staub noted that Town Counsel Frank Duffy said that unlike other permits, an alcohol license applicant can reapply at any time if there is a substantial change to the application.

Mr. Jones noted his concern that those here for the summer may not be around to speak against the application in the future.

- 2. Wetland/Dock Hearing – Nikolas J., John S., Anthony P. Pentikis/James N. Pentikis Trust UDT for permission to license, retain and maintain existing two (2) 4' x 20' floats in and over the waters of Eel Pond Canal, located at 5 Canapitsit Drive, East Falmouth. Continued from March 9, 2020; April 27, 2020 and June 15, 2020; July 27, 2020

Chair English Braga read the hearing notice.

Glen Wood will do the presentation. Also present Matt Costa, Cape and Islands Engineering, and Charlie Agro, Coastal Engineering.

Attorney Wood explained this has to do with a man made and permitted canal as part of a subdivision. Permitted by Planning Board in 1971 and the Select Board approved a special permit in 1994 for the

bulkhead and has a Chapter 91 license. It has come to the Pentikis' knowledge the floats may not have been licensed under zoning or Ch. 91. The application was submitted months ago, he has been in conversation with Attorney Wall, attempted a resolution, but have not been successful. They do not believe any comments from harbor master or shellfish constable and deposition by another attorney for another property owner on the canal is applicable because of the nature and private use of the canal. While deposed, Mr. Frasier said this is not something the Town would get involved in regarding navigation. They oppose Attorney Wall's 1 dock, 1 float proposition. The majority of owners do not have permits, they have never heard of any navigational issues and there is no navigation problem. Neighbors' counsel would prefer them to give up 20' off the setback; they have 52-53 coverage, they could have 75% of the use. The Select Board will be dealing with others in the future; they are 10 feet off corner and proposing 13ft. Under Ch. 91 setbacks, it is discretionary and when feasible, it is not possible to use that here.

Mr. Costa shared his screen and reviewed a plan of the end of the canal on Eel Pond. Two existing floats for Pentikis, there is no float in front of the Katchadoorian's property. There is a shoal in the corner. They are proposing taking the two floats, pushing them together at the end of the property line and get them about 14 feet off the end of the bulkhead. That would leave enough room for a 4 ft x24 ft float and take a line 45 degrees from the corner, there is room to fit the 4x24' float with an appropriate size vessel. How the boat maneuvers is shown in and out of the spots. In bow first orientation keeps the boats far from the corner and away from the shallow area.

Mr. Agro is a certified licensed Captain, Project Manager, and hydrographic surveyor; he does engineering and permitting for similar projects. He offered his opinion for the docks. Mr. Agro visited the site and the docks were oriented in a way with a 3 ft gap between them and eastern most float. He took measurements to see where Mr. Katchadoorian's dock would be and how they could safely dock the boats. Mr. Agro had the idea of the boat being turned; both boats would be pointed bow to bow, narrowest part of the boat, which leaves more space for operation and docking safely. Operated Mr. Pentikis' boat, low tidal amplitude, title flows are low. The area is surrounded by areas of higher elevation, it is a protected area from wind as well. It is a tight area, most property owners have a dock or two, some have multiple boats, some large boats. There is enough room for each property owner to have a boat and safety berth them.

Mr. Jones asked why boats were brought in the opposite way to begin with?

Mr. Agro did not know, unless it is easier to pull out. The water level is low, if they do it the way they did in the past, the propeller wash was probably hitting the ground; the 45 degree line shows the equitable usage and where a boat could be and having boats in a corner is not ideal, but can be done safely in this location.

Mr. Jones asked whose boats are there every time he goes there?

Attorney Wood said there has always been a Pentikis boat there, it is possible there was a second Pentikis boat. There was a friend who had a boat there in the past, that is not a continuous practice. Attorney Wood suggested a condition only for the owners of the property's usage. 1994 special permit indicates the bulkhead can be used by owners and their guests. Happy to have a prohibition against nonfamily. Mr. Jones noted he has always seen 2 boats there for the last couple years.

Attorney Brian Wall his clients are Mr. Katchadoorian and Steven Balas. The argument is driven by the applicant seeking to have 40 feet of floats and leaving Mr. Katchadoorian with 13ft. They are arguing for equitable use of the waterfront. There are two boats on the canal, the plan presented only shows one boat and argue that is not really clear what is going on out there. They think there will be 2 boats, the boats shown do not show engines, neighboring boats, engine on Mr. Katchadoorian's boat, the boat in front of Mr. Balas' property or another property. Mr. Pentikis backs up where his second boat would be. That plan would not work and more room needs to be given to Mr. Katchadoorian. Things worked well before Mr. Katchadoorian came along because his lot was a vacant lot, there was no need for boats at that end of the canal. Mr. Katchadoorian has since built a home and wants access, there were 2 floats in front of Mr. Pentikis' property and 2 in front of another across the canal. They proposed a perpendicular dock, got wetlands permits, got permit by constructive grant. Neighbors came out at both hearings and were passionate, stating that the proposed perpendicular float would be in the way of their existing floats. Appeals were made, as part of the defense, neighbor Dundulis' or Pentikis' floats had special permits. These floats were illegal and being used to prevent his clients from the same enjoyment of the waterfront as the neighbors. Second boat on Mr. Pentikis' property belongs to Mr. Heinz, Mr. Dundulis also had a second boat belonging to Mr. Heinz. Mr. Pentikis sought zoning enforcement, both floats were ordered to be removed. When he was before the Select Board 2 years ago, his clients wanted to have parallel floats

adjacent to their bulkheads, but needed adequate room in front of their corners. For floats to work, they need to be 4 ft in width, when you fender a boat to a dock, you need 13 ft; Mr. Pentikis has 53' of frontage and is proposing 40' dock. What needs to be done is 13ft plus adequate room to maneuver a boat safely for Mr. Katchadoorian and Mr. Pentikis. The application presented to the Select Board is not fair because it doesn't give Mr. Katchadoorian enough room. They expect to be in front of the Conservation Commission in a week or 2, then back to the Select Board in about a month.

Mr. Brown asked Attorney Wall if he read the report by the Coastal Engineer? Attorney Wall received the report on Saturday and read it. There were 2 boats out there for a long time, there is 1 boat there now. Attorney Wall asked that a certain amount of bulkhead in front of Mr. Katchadoorian's property to be left clear to give Mr. Pentikis enough room to get in. If Mr. Pentikis puts his floats within 12 ft of the corner, Mr. Katchadoorian cannot make the corner when he comes in. Mr. Costa's plan does not show a boat on Mr. Balas' float or a second boat on Mr. Pentikis' float, it does not show actual conditions. What is shown on the plan is not what will be in the canal.

Attorney Drew Hoyt represent the Dundulis'. The Dundulis' reached a settlement agreement with Mr. Balas and Mr. Katchadoorian; the Dundulis' will move their float so there is nothing protruding over a line 17 ft from the terminal end of the canal. They will come to the Select Board with an application to the Conservation Commission for an order of conditions, request to the Select Board is rather than devising a formula or rule, they look at each property and application regarding factors unique to those properties. The Dundulis' have more frontage than Mr. Pentikis. Hope there will not be a one float per property, the Dundulis' property has plenty of room for 2 boats. Noted that some pictures of the Dundulis' floats are shown in locations that are not accurate, it will be 17 ft or more from the bulkhead and the Dundulis' are hoping to implement this settlement agreement.

Mr. Jones asked Mr. Hoyt about the 2 boats. Attorney Hoyt said a neighbor used their float. They have become aware that there is a concern about that and will not continue that practice going forward; most of the time one float is sed absent the occasional use by a family member. Mr. Jones said it cannot be used by a neighbor, but by a temporary guest. Could the Dundulis' move it down more than 17 ft? Attorney Hoyt said this was what was negotiated by the Dundulis'. 17 is an agreed upon compromise and Attorney Hoyt does not know if they could go larger.

Attorney Wood does not object to a reasonable size float at the Katchadoorian property, he objects to the common dock, but a 24-26' float in corner with bow in would not be a problem. This is not a 1 boat 1 property solution. An additional condition they would suggest is the bow of the boat facing west could not protrude beyond the float. The only expert testimony is from his expert who presented substantial information.

Mr. Costa shared his screen and reviewed the Katchadoorian's property and noted this work. Mr. Agro, who is an expert boat captain, came up with this plan.

Mr. Aglow said that if you push off from the stern of his boat, pull forward, go in neutral, and then back out of there.

Mr. Jones asked about the boat coming in, the second boat on Mr. Pentikis' property. Mr. Pentikis would make a wide turn, bow close to neighbor's boat, work the propeller in to get it in there. He did not see the other boat there, the size of the other boat is unknown. He would push off the stern on a southern direction, back out, and come around the other way. Mr. Costa said the applicant wants to use his floats and his 19ft. boat. He mentioned upgrading to a larger vessel, which is why he has 40 ft of float.

Mr. Jones noted a 30' float could get away with a 20 ft dock. Mr. Costa said you could have 40 ' float with no boat. Doug Jones said the 2 floats are not legal, just because they exist does not mean he has the right to keep them.

Attorney Wood said if they are trying to decide how much, look to percentage of area. Their client has not upgraded to a larger boat yet.

Mr. Brown asked if Mr. Pentikis would consider retrofitting 2 floats into 1 34' and end up with the same 17' offered on the other side of the canal. Attorney Wood said they have considered all options, their opinion is that the plan as presented in the application works and should not be treated the same as Mr.

Dundulis, who has more frontage. The harbormaster felt that it works, realizing they all need to work together.

Mr. Katchadoorian said that this does not show Mr. Balas' boat on his float, 13 ft of space is not enough. Mr. Pentikis wants enough space for his neighbor's boat that has been there since day one and recently disappeared. Mr. Katchadoorian pays waterfront real estate taxes and cannot use his property, but the neighbor across the street can. At Zoning Enforcement Hearing Mr. Pentikis said the second boat was his neighbor's and when asked why you let the neighbor keep his boat on his float, it is because Mr. Pentikis a nice guy. A corner is a corner, he has the same corner as Mr. Balas and he needs more than 13ft.

Attorney Wall said the 17' figure mentioned is what Mr. Balas and the Dundulis' agreed upon after multiple lawsuits, proceedings, much money spent. Mr. Balas made agreement because it is the minimum he needs to get out. The expert testifies it is possible, describing elaborate ways of leaving; outboard motors are different, conditions are variable and you need a safety margin; this is not reasonable and equitable.

Mr. Costa is not asking permission for the neighbor's boat, it is for one boat; the applicant's boat. He wants to use his floats and frontage he paid for, it is a tight corner because the Katchadoorian's lot has a small amount of frontage. Percentage of frontages is the most equitable. He wants to use his floats for his own boat, not his neighbor's boat.

Mr. Jones asked if he's looking for float or floats for his boat, what is that room to work with below what has been proposed for the float/floats size for a single boat.

Attorney Wood said that the application is not for a single boat, it is for the linear length of the float they have, whether it is for one or two boats.

Mr. Jones said the existing condition is the starting point, but the existing condition is not licensed or legal. 40ft is troubling, if it is for his boat, let's use the number for what suits that purpose.

Attorney Wood is agreeing to push the floats together, limit to 13, bow in.

Mr. Jones noted Attorney Wood is stuck with 40 feet. The only expert in the hearing is opining it can work, albeit tight. One has to trust your neighbor is competent in boating. All have been getting along for decades there.

Mr. Balas said it has been difficult with the congestion wrought by nonowner boats. He sat out this season, but it is really tough. He has words with Mr. Heinz when Mr. Balas tries to get out. About a week ago Mr. Balas asked a Heinz family member to shut his motor off because the fumes were going in his house, he noticed a large fishing boat was pumping diesel fumes into his house, asked him to shut off the diesel and the operator said no, he had to get it up to temperature. Mr. Balas is paying for waterfront frontage, understands he will not use his entire waterfront to tie up and commented that the last person to benefit is someone who does not own there. One Select Board member asked if there is more room to give, there is, but there is plenty of room to go around for owners. The guests that run his boat is the enforcer, he makes sure no one gets near Mr. Pentikis and the Dundulis floats.

Public Comment: none.

**Mr. Jones motion to close the hearing. Second Mr. Brown. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, aye.**

Discussion:

Mr. Brown read the engineers report and the arrangement appears workable, he is concerned they may be causing an unsafe navigational situation.

Mr. Jones cannot support the 40 ft float.

Ms. Taylor agrees with Mr. Brown and that tightness of the area and cannot predict the wind or tide.

Attorney Duffy said this is a 4/5 vote for special permit.

Mr. Jones noted the logistics, if the application is for a 40 ft float, it is unknown if they can approve for different size. He would be willing to consider something less than 40 ft.

Mr. Jones said they can make a decision to continue their discussion.

Mr. Brown said there have been other actions by other boards in interim.

Mr. Patterson said there is more than enough float on Mr. Dundulis' property, he could moor his boat closer to the entrance of the canal.

Mr. Brown noted Mr. Dundulis' Attorney was there to caution against a widespread decision that would affect other neighbors.

Mr. Patterson feels they are moving in the right direction, but it is more of mooring boats in such a way they can both move in and out without colliding with each other.

Chair English Braga has heard issue of nonhomeowner usage of the docks for boats. It has been the crux of the conflict. This matter has gone on for a long time. Goal is always reaching a resolution. Both Attorneys have worked diligently to resolve, it is incumbent on the Select Board to make findings and decision.

Mr. Jones would prefer to approve with 30' of docks, but unknown if they have that flexibility to make that adjustment to the plan. They have no legal docks at this time. This would give them enough room for a larger boat and a temporary guest.

Attorney Duffy said that the Select Board is to act upon application before them. It is always risky to try to broker a deal on the fly. No testimony has been heard regarding the implications of a 30 ft dock, it has all been on 40 ft.

Mr. Brown asked Attorney Duffy, if not approved, can they come back to request something different. If denied, cannot come back for 2 years unless the permit request is substantially different.

Mr. Brown said the floats have been there a long time, understandable the paperwork was not done.

Options are voting up or down on application in front of the Select Board.

Can the Select Board direct the applicant to try to reach a resolution? Attorney Duffy said they cannot, they only have so much time to decide a special permit, it is unknown how far along they are before it is constructive approval. Chair English Braga said that is why they continued it, unknown the tolling and Ch. 19 affect.

Attorney Mullin explained that tolling existing permits and local board duties is broad and does not specify. It would apply equally to a ch. 91 license.

**Mr. Brown motion to reopen the hearing. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, aye.**

Mr. Brown asked Attorney Wood and Mr. Costa, if they would reconfigure the dock at 35 feet?

Attorney Wood cannot say that he has the authority of his client at this time to broker something else. Even if closed and voted on, there is time to process the decision under the Zoning Act, they could caucus with their client and discuss it. He is not in contact with his client given this hearing is remote. They may have some time under the act.

Mr. Jones noted all the continuances were troubling, what was going on?

Attorney Wood said there have been ongoing conversations and they thought they may see Mr. Katchadoorian's application to the Conservation Commission. They have worked hard to resolve, not successful.

Mr. Jones asked about the referenced navigation problems? This was the result of a deposition in pending litigation against the Select Board for constructive approval for the common dock special permit. The only expert they have is the one paid for by Attorney Wood's client. Attorney Wood said that harbormaster had no role here and if shellfish was an issue, their noncomment is defacto no comments.

Chair English Braga noted the comment was it was the proposed dock would not have impact on general navigation because only the applicant and abutters would be impacted.

Mr. Brown asked Mr. Agro what the optimum setback is for one of these docks from the end of the bulkhead.

Mr. Agro said the presence of a shoal was identified, it was from the northwestern corner of bulkhead and 6.5 feet to where it drops off quickly. If that shoal was not there, the minimum setback would be the width of the dock itself.

Mr. Brown asked what would be best practice if designing the float arrangement? Mr. Agro said that Mr. Pentikis' boat and float moved back, Mr. Katchadoorian's boat would have to do a similar technique to current due to the shoal. There are concerns with that, if they shortened Mr. Pentikis' dock, it does not affect maneuvering into the spot. Attorney Wall said at 13 ft wide, that is the widest part, not at the bow. Bow to bow, he could actually go forward 4-5 ft to then backup. The arrows presented by Mr. Costa that Mr. Agro drew are not completely accurate. Mr. Agro said he needs to be back far enough so the width of his boat is not touching Mr. Katchadoorian's boat. On the plan, 3-4 ft between boats when at dock.

Mr. Jones noted that the one dock, one boat proposal has been done around Falmouth, allowing storage of 1 boat with the exception of visiting boat for an hour or so tie up. He would condition the 40 ft for docking of one boat all around Falmouth.

Mr. Costa said that all took shape when first pier proposed up the middle. He met with Mr. Katchadoorian and Mr. Pentikis were in his office with no attorneys, tried to work it out, and they cannot agree. They are at an impasse. All continuances and efforts were trying to get to a decision.

**Mr. Jones motion to close the hearing. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, aye.**

Findings:

1. Bulkhead is licensed and approved.
2. For many years they had 2 20' floats used at a property with 1 used by property owner.
3. Continuation of 40' makes it difficult for neighbor to use their boat.
4. Application as proposed is possible to navigate, but it is tight area to do that.
5. The applicant proposing to shift 40' to give greater access to the neighbor.

**Mr. Paterson motion to deny the application. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, aye.**

**7:45 p.m. BUSINESS**

1. Discussion/update on COVID-19 issues

Scott McGann, Health Agent, today's count is 238. 11 lifeguards tested positive, some are residents of other towns. Individuals at a nursing home were affected, that has subsided with asymptomatic only. The Health Department is doing enforcement and follow up. Falmouth Hospital at 0 patients with COVID-19. State has seen had an uptick. Outdoor gathering size decreased from 100 to 50 people, food service to restaurant only, practicing use of masks and social distancing. Average about 5 noncluster cases per week.

Mr. Jones said numbers sound great, but many would not count for our numbers, likely residents of where they are visiting from. Look at caseload as being higher that what it is reported.

Sam Patterson asked for update on availability of testing? Scott McGann said averaging 5-600 tests per week in Falmouth. The laboratories are at max., there has been a delay in receiving the test results. CVS, Convenient MD, Mashpee clinic, and Falmouth Hospital are offering the PCR test and that is best at this time. Cape Cod Healthcare requires a doctor's order.

Mr. Brown asked if there was any follow up to the accuracy of the lab used by the Dennis testing site. Mr. McGann said it is unique to the test, results are considered probable cases, up to 30% error rate, and reporting delay. It is recommended that all get tested by the PCR.

- Discussion of suggested "mandatory mask zone"

Mr. McGann said it is about enforcement and trying to drive compliance. This was brought up at the Board of Health (BOH) meeting, they support these zones on Main Street and Woods Hole areas with similar density.

Chair English Braga noted the need to think about who that impacts when talking about enforcement. Who will need to implement/enforce the policies?

Mr. Brown noted the Governor's order is that if you cannot social distance 6 feet apart, you need to wear a mask. Posting signs to put people on notice may help.

Mr. Jones agreed with Mr. Brown and would rather not have the Falmouth Police Department (FPD) take their time to conduct enforcement of the mask zone(s).

Ms. Taylor noted that signs are posted on the bike path, but she does not see people wearing masks. She asked if more information can be provided to the community, noting that she is not advocating for the FPD to take that on.

According to Mr. McGann, when it becomes mandatory, the volume of calls will increase at the Health Department, the mandatory zone can cause those problems. It needs to be clear what the intent is so that Mr. McGann can explain it to those who contact the Health Department.

Chair English Braga noted that even if you have someone to enforce it and can get there in time, it will be spotty. It would not make sense to have a policy if they did not plan for enforcement. To put more work on the FPD or Health Department for enforcement does not seem doable.

FPD Chief Dunne spoke with other PD Chiefs with areas that are mandatory masks. Provincetown does signage, banners, and some visitors do not know the rules. Martha's Vineyard communities educate, have nonpolice officers who are sworn in under the health agent and provide information packets and masks to the public. The FPD is financially strapped this year, no beat people are available because the academy closed down. No walking beat in Woods Hole or on Main Street, he would have to refer back to a civilian to do that.

Dianna Molloy, Board of Health (BOH) Chair, said the BOH is supportive and understand enforcement is the biggest challenge and suggested considering deputizing health ambassadors, sharing information and masks with the public.

Attorney Duffy has no personal experience with health ambassadors, does not see a downside to it. Attorney Mullin noted the Select Board and/or BOH shall use care to prevent spreading of disease.

Mr. Johnson-Staub said that given it is 8/10/20 and hiring new employees takes about a month or so, it is unlikely this is an option for the current season. Volunteers could be located more quickly, need to be thoughtful about following clear directions to the message and their authority.

Mr. Jones suggested proclaiming these areas as mask zones and then worry about the enforcement in the future.

Mr. Patterson wants to be cautious about a rebellious response by someone who may have COVID-19. There is an issue, liability issues.

Mr. Brown asked if there is a supply of mask and flyers they could hand out? Mr. McGann said they would have to get more masks and noted the conversations about this issue are not pleasant.

The Select Board noted that a possibility may be to have two stationary places where there is a sign that says there is a mandatory mask order in place with someone there making masks available along with literature. This would remove the element of a confrontation.

Mr. Brown noted a fine and enforcement would enhance the signage. Mr. McGann said it increases the intensity, doing that is going away from ambassadorship to enforcement.

Mr. Jones is more interested in educating people than enforcement.

Chair English Braga asked if there is something the Select Board needs to do if they make something mandatory and not include a consequence? Attorney Duffy was not sure, if thinking of mandatory zone, they should probably ask someone to think about a plan for enforcement.

Mr. Suso said if the Select Board wants to pursue a voluntary education idea, have a reasonable chance of short term success and enhance the wearing of masks. If you add enforcement, could create unintended consequences.

Diana Molloy, suggested a focus on social distancing, start with the education piece, maybe if things still need to continue, they can plan for enforcement.

Chief Dunne will forward to Town Counsel the policies and procedures from Provincetown and Oak Bluffs. An escalating fine is used in those communities, but emphasis is on education not enforcement.

**Mr. Jones motion to create two Mask Advisory Zones in Woods Hole from Water Street to Luscombe Avenue and on Main Street from the Village Green to Shore Street. These are the areas in Town where one must wear a mask because one cannot social distance in these areas. Second Mr. Brown. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, aye.**

- Discussion of Cape Cod Times August 6, 2020 Lifeguard Article  
Concern was that some info in the article was incorrect re: CDC best practices.

Mr. Johnson-Staub explained that the Town followed CDC guidelines for lifeguards who tested positive or were exposed to COVID-19. Presentation of some of the details. If an employee is known to have tested positive or has reported symptoms, the employee must be removed from service for isolation. Any employee exposed to someone who is known to have exposure has been removed from service. All employees are required to self screen for COVID-19 symptoms daily. At the start of each workday, employees fill out automated email distribution. Walked through the CDC website FAQ section. Those who had no known exposure and no symptoms were allowed to work after taking advantage of the Town making the testing available.

## 2. Status/update on automatic sprinkler ban

Steve Rafferty, Water Superintendent, and Peter McConarty, DPW Director.

Mr. Rafferty noted a positive effect from the ban and most are cooperating. Tank level holding steady in the morning hours. Printed door hangers to notify anyone in violation of the ban, put out about 200 flyers so far. There has been no rain fall. Ban was a bit of surprise to people, not unusual to have water bans. Many communities have some sort of water use ban. Managing water supply as we go forward is being addressed, the Town needs to look at getting the Fresh Pond Well back online, but the State owns the water and permits it back to us. Only get water if not being used for nonessential use, looking at irrigation desires with being sure there is enough water for regular needs. Working on interim short term solution for water pressure issues. This ban will remain in effect through around September/October 2020.

Doug Jones noted ban for automatic irrigation systems. If manually turned on then off, it may technically be a violation. A couple people are not in their house and their irrigation system running, not sure how to contact them to shut it off. If you use a sprinkler connected to your hose, that is not included in this ban.

Mr. Brown has received comments from landscapers, he feels they overlooked landscaping. When it is new, can new construction be watered for the first year? Mr. Rafferty said those can be hand watered. They can set up hoses and put a timer on the hose. Mr. Brown asked if they could set their new construction timer at night, can that be worked around?

Attorney Mullin explained that Town bylaw 233 sections 4 and 5 say a water restriction declaration applies to all public and private use and if the water is Town water, not private well. There is no carve out for a particular user or property type.

Paul Raposa, Raposa Landscaping, asked for emergency selective relief from the water ban. Some clients have new landscaping who will lose the money that they paid for landscaping. Exemption for new lawns and plantings until established was requested.

Chair English Braga noted the Select Board cannot supersede the confines of the bylaw. This ban is only effectuated when necessary. The bylaw is for automatic sprinkler systems.

Mr. Brown said the only way to give relief were to rescind their vote and make it advisory.

Peter McConarty, DPW Director, said this is not the first year they have had conversations on the water usage in Town. Water usage is up 20% this year. Only allowed out of Water Management Act to draw so much water, last year we got to 97% of our allocation, this year we are 20% over. There are a lot of new roads and developments going on in Town, 460 in last 2.5 years; all those dwellings/residences have water connections. This is extreme situation and will be an ongoing issue in coming years. This will be continuing discussion.

Mr. Rafferty noted we have a contract for water from the Upper Cape Water Supply, this year there is a well they are doing some work on this year, so limited ability to get extra water from them.

Mr. Suso noted this is also about fire protection.

Mr. Patterson noted we source water from a sole source aquifer, so need to be mindful of the water we use for future generations.

3. Approve request for variance to sign code – Cumberland Farms Inc., located at 8 Old Meeting House Road and 400 East Falmouth Highway, continued from July 27, 2020

The Select Board last met regarding this item on 7/27/20, Cumberland Farms is looking for 2 freestanding signs and a wall sign. Wall sign was granted by the BOS, concerns about the freestanding signs, they front 2 streets, and suggested that Cumberland Farms remove the request for free standing sign on Old Meetinghouse Rd. and instead put a wall sign. Attorney Douglas Troyer shared his screen with 2 proposed wall signs. Front type wall sign put on the side of the building. The other change was Teaticket Cumberland Farms (TT) sign discussion and proposed to use the same sign at this location.

Mr. Jones did not recall approving the other sign. It is 40% bigger than what the sign code allows and he did not want to make that mistake again.

Mr. Brown noted he did not know why it was approved, however it was the recommendation of the Select Board at the last meeting to use the same sign as was approved at TT.

Chair English Braga noted that she did not find the TT sign as large as she thought it might be. She agrees with Mr. Brown, that was the direction they gave to the applicant and the applicant subsequently did what the Select Board suggested.

Mr. Jones noted dangerous precedent.

Looking for a foot; the height is the same, the front sign is longer than the one on the side, looking for a height increase by about a foot. The sign is internally lit blue on both sides.

Mr. Brown is inclined to work with the sign as described, since they were willing to remove the second freestanding sign.

Mr. Patterson expressed concern about the internally lit sign and control over how bright that is. He would like to see a restriction on how bright the luminary may be.

Ms. Taylor found the facts troublesome, the TT sign is 40% over the size the Town allows, even though told to go back and mimic TT, the Select Board will allow a sign that exceeds it by 40%.

**Mr. Joes motion approval to grant the variance of the wall signs. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, aye.**

**Ms. English Braga motion approval of the application for the variance. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, no.**

4. Announce November 2020 Town Meeting schedule

Mr. Suso referred to the suggested schedule in the packet. Encouraging any/all to consider passing on the November Town Meeting so the warrant articles can be kept to a minimum. They still need to reconvene to address 30 articles from Spring Town Meeting. Suggesting closure of warrant on 8/21 or 8/28. Mr. Suso recommends 8/21/20.

Mr. Patterson feels artificially moving the deadline up 3 weeks could affect important articles. Should be able to have discussion with people submitting the articles and ask them to go forward in Spring Town Meeting. Mr. Jones agreed.

**Mr. Patterson motion to close the warrant on 9/11/20. Second: none.**

Brown would like to hear from Staff about why that date proposed. Mr. Johnson-Staub noted that the conversation was about COVID-19 and still may not be in position to have lengthy town meeting in the fall, so thought it appropriate to consider a concerted effort to reduce the number of articles submitted.

Mr. Jones was leaning more towards 8/28/20.

Chair English Braga noted addressing pressing needs and the shorter the warrant is better for health purposes; she is happy with either date.

Mr. Brown suggested considering the 8/28/20 date.

Julian Suso noted purpose of earlier date was to send message it is not business as usual and even if submitted by an August date, the Select Board may need to carry things over to Spring Town Meeting.

Chair English Braga would like to reach out to the community and other committee/boards to have that conversation.

**Mr. Jones motion approval of the posted agenda and the 8/28/20 closure of the warrant. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, aye.**

5. Presentation from Charter Review Committee on proposed articles

Peter Clark asked the Select Board if they would like to hear about all 11 of the proposed articles, noting none will make a difference of whether the Town runs or not.

Mr. Jones asked to hear about 2 to 3 total. These would have to go until next November, because if voted in April, there is no time to get them on the ballot in May.

Attorney Duffy said the Charter amendment go to November Town Meeting. Mr. Clark said if they hold for a year from November, the committee will go on complete recess.

Attorney Duffy explained that if the Charter Review Committee goes to the next year, the Committee can submit a final report to the Select Board anytime and the Select Board has the authority to bring up the charter amendment, the committee could be reviewed but does not need to stay in existence the entire time.

Mr. Clark is willing to make the presentation a year from November.

5 amendments in first category, all presented last November and coming back to the Select Board. P. 5 of the presentation was noted to be one with practicality, because no one is deemed responsible for whether someone is removed for missing meetings. Recommend the process shall begin in 30 days.

Last category page 14, removed the names of 4 committees from the Charter that did not meet definition they were putting in. There is still 4 committees that are really advisory. Recreation Committee objected because there was not time to discuss with them. Recommend a solution they have not been able to go to the Recreation Committee to talk with them. It would name all 5 bodies that are recommended to the Community Preservation Committee. Remove the old A32 language. He will carry this to the Recreation Committee to see how they feel about it.

p. 7 5 recommendations that may be regrouped into 3.

p. 9 The Select Board policy leadership, added and evaluated for consistency with the local comprehensive plan. The strategic plan consistent with the local comprehensive plan. Include the Planning Board and Select Board may make recommendations and the Select Board as chief executing board of the Town.

p. 11 clarifying the process.

The Town Manager shall assure the actions of Town agencies are evaluated for consistency with the local comprehensive plan, strategic plan, and capital improvement plan.

The Select Board is comfortable considering 5-6 warrant articles.

6. Vote to change polling place location for Precinct 5

**Mr. Jones motion approval to change the polling place location to Elizabeth Seton Meeting Hall. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, aye.**

7. Annual town committee reappointments

**Mr. Jones motion approval of Certified Weighers in the packet to terms ending 6/30/20. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, aye.**

8. Discussion of special events scheduled from September through December and follow-up actions

Mr. Suso noted a listing of special events September through end of the year have already approved. Weddings can be accommodated. Unlikely public events will be able to be held due to the pandemic.

**Mr. Jones motion to recommend rescinding approval of events through the end of the year previously approved. If the event organizer comes to the Select Board with a plan consistent with Governor Baker's orders it will be reconsidered. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, aye.**

Zelda McGregor, Tour de Falmouth, ready to share their readapted plan. That plan would be reviewed by the Town Manager's Office and then reviewed by staff.

**Chair English Braga motion approval of the three weddings and the need to comply with the Governor's order. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye; Mr. Jones, aye.**

Staff will reach out to the new applicants, ask them to share how they will adjust to the Governor's orders.

9. Discussion on future reopening of town hall/town buildings

Reopening to the public, this not occur until a date later in the month of September. People are working, but the buildings remain not open to the public.

10. Minutes of Meetings:  
Public Session

June 4, 2020

**Mr. Patterson motion approval. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye. Absent: Mr. Jones.**

June 15, 2020

**Mr. Patterson motion approval. Second Ms. Taylor. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye. Absent: Mr. Jones.**

11. Individual Select Board Member's reports

Chair English Braga:

Press release there was meeting with relevant department heads, Mr. Brown, Chair English Braga, and Mr. Suso regarding offering more parking at the resident beaches. That process is underway, but will not include Old Silver or Chapoquoit.

Recognized the Falmouth Public Library for continuing to serve the community.

Mr. Patterson:

Reminded that email from Ed McMahon regarding the Cape Cod and Islands Selectmen's and Counselors Meeting Mike Palmer will talk about mail in voting; Christy Senatori will discuss the census.

School Committee held a parent forum Tuesday, it is dynamic and adaptive. Three models of remote learning were discussed. They are looking at all options, logistics, and it is very complex. Patrick Murphy ordered PPE for students and staff. Special needs masks. Special developmental courses for teachers.

Ms. Taylor

Asked for a list of the subcommittees, when they meet, and who name of the Chair.

Mr. Brown:

Assembly of Delegates meeting: Charter Review recommended the term remaining the same and recall only before commissioners and not for the Assembly.

12. Town Manager's report

Mr. Jones met last Thursday with Mr. Johnson-Staub, Mr. Brown, and the Marks Building Advisory Committee regarding procedures/processes anticipated going forward.

The Select Board Annual Strategic Planning Retreat is 8/17/20, they are looking into a space that allows for social distancing with a 5pm start. Any concerns/opinions may be emailed to the Chair. The next Select Board business meeting will be 8/24/20.

**Mr. Jones motion to adjourn at 11:31 pm. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Brown, aye; Ms. Taylor, aye. Absent: Mr. Jones.**

Respectfully Submitted,  
Jennifer Chaves  
Recording Secretary

## REPORT

TO: Select Board

FROM: Julian M. Suso

JMSuso

DATE: August 21, 2020

- The Board will convene your final business meeting of August on Monday at 7PM in virtual session.
- Under Summary of Actions, we are seeking the Board's authorization (based on the earlier direction you provided a few months ago) to proceed to issue the RFP for lease of the Emerald House. Be advised that the zoning of this parcel significantly limits the entity which could respond to/occupy this building (essentially non-profit).
- You will be hosting a public hearing on the request for a variance under the Town's Flow Neutral Bylaw to allow a wastewater connection for the parcel at Spring Bars Road and Worcester Court on which a Wendy's Restaurant is proposed to be located. Your Board packet will include the guidelines you have previously adopted for considering such a variance request. Given the recent newspaper publicity, a large number of emails have been received on this topic.
- Under Covid-19 Business, we will be providing an update on our observations with the "awareness campaign" which the Board initiated at your last regular meeting with the creation of "Mandatory Mask Zones" in both Woods Hole and downtown Falmouth. We are not recommending the need for enforcement action at this time, as we believe that this educational awareness process is showing some success and should be continued. Further, there is no evidence of any incidences of spread of the coronavirus within the Falmouth community at these or other locations.
- Chief Ed Dunne will be joining me for an update to the Board on Civil Service matters in the Police Department. We will be summarizing the continued pursuit of the Captain's promotional examination, as adherence to Civil Service regulations continue to delay the completion of this important process. Also, the Board will recall that we have an upcoming (spring) Town Meeting warrant article #27 – proposed removal of the Police Department from State Civil Service. In spite of the continued frustration with the multiple State Civil Service delays and obstacles to moving forward efficiently to provide qualified Police Officer candidates and secure timely

promotions, given the overall request we have transmitted to all to “shorten” the upcoming Town Meeting process in the midst of this pandemic as well as potentially taking the opportunity to continue our ongoing internal discussions with the Police Officers, Sergeants and Lieutenants Unions, Chief Dunne and I are prepared to recommend to the Board that you consider “indefinitely postponing” this article at this time.

- As a reminder, Moderator David Vieira has affirmed the re-convening of spring Town Meeting (and its 30+ remaining articles) for 7PM on Monday, September 14 in the Falmouth High School Field House.
- Falmouth Schools have announced an anticipated return to classes beginning Monday, September 21. We continue to work with Superintendent Lori Duerr and the School Department in multiple areas in support of this important re-opening.
- Town Hall and Town administrative offices will be closed on Monday, September 7 for the Labor Day Holiday.
- With (spring) Town Meeting re-convening on Monday, September 14, the Select Board’s next regular business meeting will be on Monday, September 21.