



Posted 11.12.2020 at 4:30pm by JAD

**SELECT BOARD
AGENDA
Tuesday, November 17, 2020
7:00pm**

The Select Board Regular Meeting is being held virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L.c.30A. S.20. Interested individuals can listen in and participate by phone and/or online by following the link and phone # below.

UpperTH ProWebinar is inviting you to a scheduled Zoom meeting.

Topic: Select Board

Time: Nov 17, 2020 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/83756629196?pwd=cm9YQlYza1pqYmJpdHVUbVRVakNYUT09>

Meeting ID: 837 5662 9196

Passcode: 418833

Find your local number: <https://us02web.zoom.us/u/knzR8pfaC>

Dial by your location

+1 253 215 8782 US

+1 301 715 8592 US

One tap mobile

+13126266799,,123906012# US (Chicago)

+19294362866,,123906012# US (New York)

Agenda Items

- 1) National Grid pole hearing – Oak Hill Rd (7:00)
- 2) Tax Classification hearing (7:10)
- 3) Report from the Open Space Committee (7:20)
- 4) Insurance Advisory Committee recommendation (7:35)
- 5) Bromfield House Committee interviews (8:15)
- 6) Public Communication (8:55)
- 7) Approve minutes 11/3 (9:00)
- 8) Town Administrator Report - miscellaneous issues & discussion items (9:05)
- 9) Action/Discussion items (9:15):
 - a) Transfer Station discussion
 - b) Harvard Conservation Trust conservation restrictions on Cruft Lane
 - c) ZBA membership change: Steve Moeser to associate member & Michael Lawton to full member
 - d) Review Select Board various budgets prior to submission
- 10) Select Board Reports

***Next Select Board Regular Meeting
Tuesday, December 1, 2020
7:00pm***

Questions contact – Autumn Kubiak 508-860-6446

PETITION FOR JOINT OR IDENTICAL POLE LOCATIONS

North Andover, Massachusetts

**To the Board of Selectmen
Of Harvard, Massachusetts**

Massachusetts Electric Company d/b/a National Grid and Verizon New England, Inc requests permission to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures, along and across the following public way:

Oak Hill Road - National Grid to install 1 JO Pole on Oak Hill Road beginning at a point approximately 150 feet east of the centerline of the intersection of Oak Hill Road and Slough Road. Install 1 stub pole for new pole line to serve 2 customers.

Location approximately as shown on plan attached

Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as it may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked – Oak Hill Road - Harvard - Massachusetts.

No. 29034957 September 24, 2020

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

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

Massachusetts Electric Company d/b/a National Grid
BY Pat Cody
Engineering Department

VERIZON NEW ENGLAND, INC.
BY Albert C. Bessette
Manager / Right of Way

WGRFD

ORDER FOR JOINT OR IDENTICAL POLE LOCATIONS

To the Board of Selectmen - Harvard, Massachusetts

Notice having been given and public hearing held, as provided by law,
IT IS HEREBY ORDERED: that Massachusetts Electric Company d/b/a National Grid and VERIZON NEW ENGLAND INC. (formerly known as NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY) be and they are hereby granted joint or identical locations for and permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Companies dated the 24th day of September, 2020.

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

Poles shall be of sound timber, and reasonable straight, and shall be set substantially at the points indicated upon the plan marked – Oak Hill Road - Harvard - Massachusetts

No. 29034957 Dated September 24, 2020. Filed with this order

There may be attached to said poles by Massachusetts Electric Company d/b/a National Grid and Verizon New England Inc. such wires, cables, and fixtures as needed in their business and all of said wires and cables shall be placed at a height of not less than twenty (20) feet from the ground.

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

Oak Hill Road - National Grid to install 1 JO Pole on Oak Hill Road beginning at a point approximately 150 feet east of the centerline of the intersection of Oak Hill Road and Slough Road. Install 1 stub pole for new pole line to serve 2 customers.

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

I hereby certify that the foregoing order was adopted at a meeting of the of the City/Town of _____, Massachusetts held on the _____ day of _____ 20 .

Massachusetts City/Town Clerk.
20 .

Received and entered in the records of location orders of the City/Town of
Book _____ Page _____

Attest:

City/Town Clerk

I hereby certify that on _____, 20____, at _____ o'clock, M
at _____ a public hearing was held on the petition of
Massachusetts Electric Company d/b/a National Grid and VERIZON NEW ENGLAND, INC.

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

City/Town Clerk.

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

Board or Council of Town or City, Massachusetts

CERTIFICATE

I hereby certify that the foregoing is a true copy of the location order and certificate of
hearing with notice adopted by the _____ of the City of
Massachusetts, on the _____ day of _____, 20____, and recorded with the
records of location orders of the said City, Book _____, Page _____. This certified copy
is made under the provisions of Chapter 166 of General Laws and any additions thereto or
amendments thereof.

Attest:
City/Town Clerk

Harvard

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To the Board of Selectmen - Harvard, Massachusetts

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Massachusetts

City/Town Clerk. 20 .

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poles, wires, and fixtures under said order. And that thereupon said order was duly adopted.

City/Town Clerk.

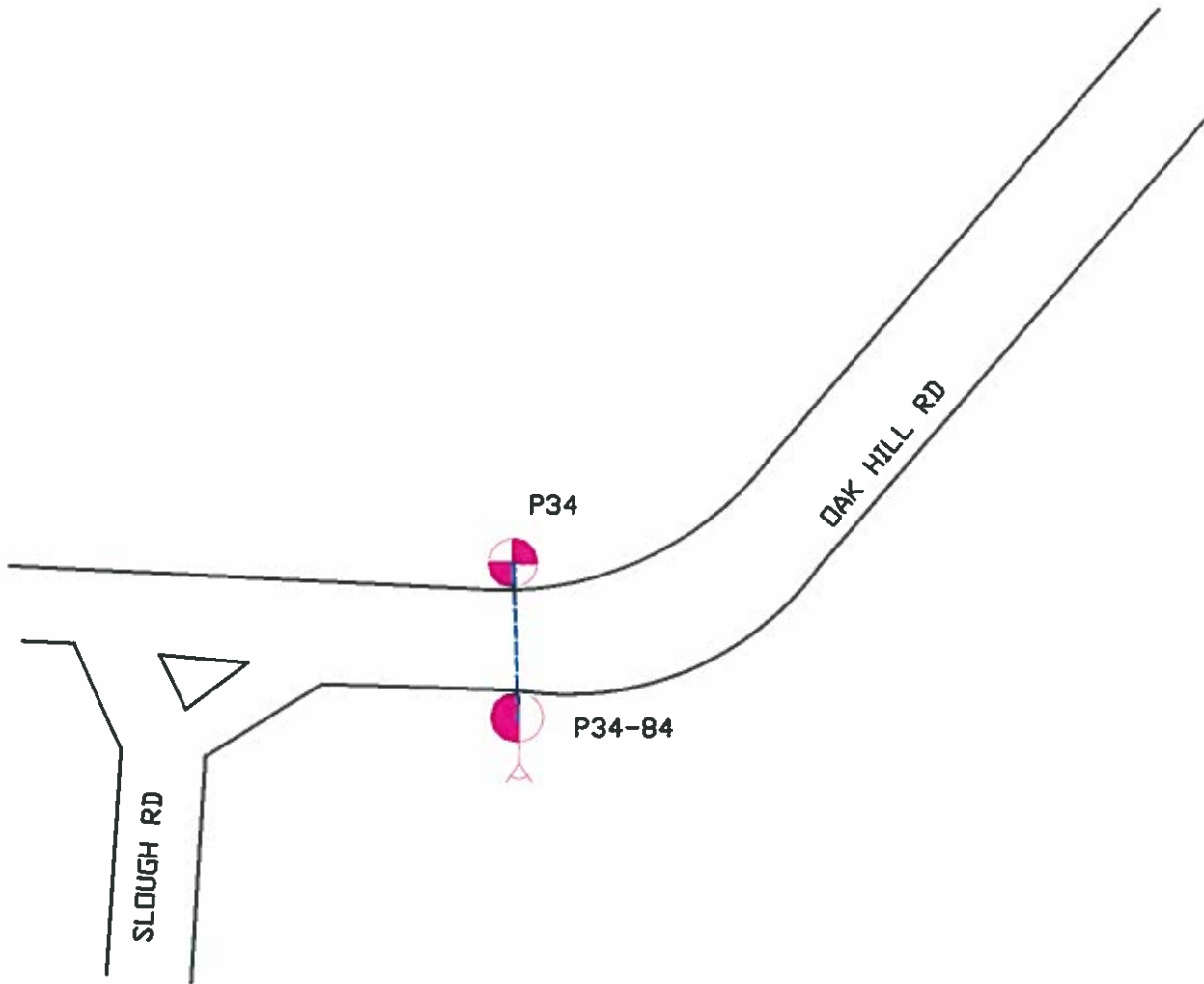
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Board or Council of Town or City, Massachusetts





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Massachusetts, on the _____ day of _____, 20____, and recorded with the
records of location orders of the said City, Book _____, Page _____. This certified copy
is made under the provisions of Chapter 166 of General Laws and any additions thereto or
amendments thereof.

Attest:
City/Town Clerk



LEGEND

-  EXISTING JO POLE
-  PROPOSED JO POLE
-  PROPOSED OVERHEAD CABLE
-  PROPOSED ANCHOR

Petition Sketch

Date: 9/14//2020

Designer: KUBIAA

Work Request: 29034957

85 Dak Hill Rd

Harvard, MA

Exhibit A - NOT TO SCALE

The exact location of said facilities to be established by and upon the installation and erection of the facilities thereof.





Fiscal Year 2021
Tax Classification Hearing

November 17, 2020

Harvard Town Assessor

David Manzello - Town Assessor

Harald M. Scheid - Regional Assessor

Michael J. Saltsman - Associate Regional Assessor

Carol Dearborn- Assistant Assessor

Introduction

Prior to the mailing of 3rd quarter tax billings, the Select Board hold a public hearing to determine the percentage of the Town's property tax levy to be borne by each major property class. The responsibility and procedures are described in Chapter 40, Section 56 of the Massachusetts General Laws. The steps in completing the Classification Hearing are outlined below. Also provided is information about the levy, property assessments, and recommendations made by the Town Assessor.

Steps in Setting Tax Rates

Pre-classification Hearing Steps

- Step 1: Determination of the property tax levy (Budget Process)
- Step 2: Determine assessed valuations (Assessor)
- Step 3: Tabulate assessed valuations by class (Assessor)

Classification Hearing Steps

- Step 4: Classification hearing presentation (Assessor & Select Board)
- Step 5: Determine tax shift options (Select Board)
- Step 6: Voting a tax shift factor (Select Board)

Post Classification Hearing Steps

- Step 7: Sign the LA-5 Classification Form (Select Board)
- Step 8: Send annual recap to DOR for tax rate approval (Assessor)
- Step 9: Obtain DOR approval of tax rates (DOR)

Terminology

The following are definitions of the terms frequently used in the discussion of tax rates.

Levy: The tax levy (or levy) is the amount of property taxes to be raised. The levy amount is determined by the budget. The total amount of the approved budget less revenues from other sources like motor vehicle excise, municipal fees, and state aid is the amount to be raised from property taxation.

Levy Ceiling: The levy ceiling is 2.5 percent of the full value of the Town. Based on the Harvard aggregate valuation of \$1,297,039,551 the town cannot levy taxes in excess of \$32,425,989.

New Growth Revenue: Property taxes derived from newly taxable properties like new construction, additions, renovations, subdivisions, and personal property. The assessors have tabulated new growth revenues of \$159,345.

Levy Limit: Also referred to as the "maximum allowable levy", this is calculated by adding 2.5 percent of the previous year's levy limit plus new growth revenue for the present fiscal year to last year's levy limit. Exceeding the levy limit requires an override of Proposition 2 ½. The maximum allowable levy for FY2021 is \$24,530,705

Excess Levy Capacity: Excess levy capacity is the difference between the levy and the levy limit. The town will have \$211,213.41 in excess levy capacity in FY2021.

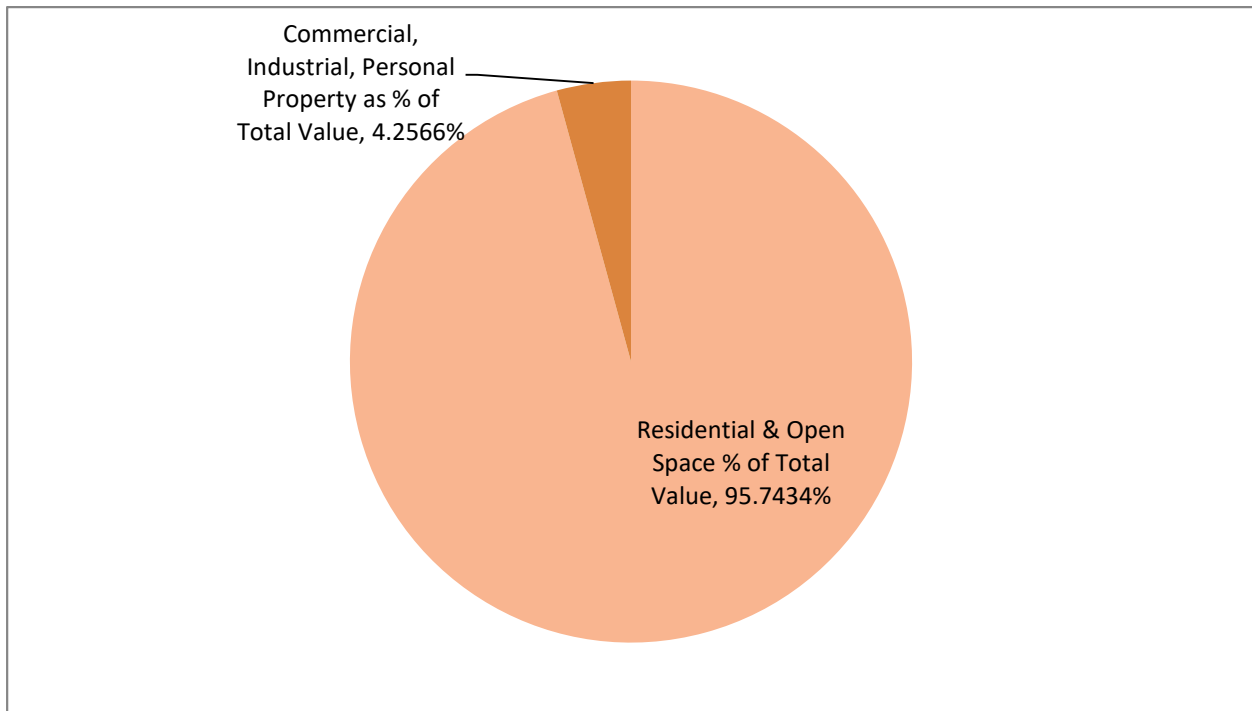
The Fiscal Year 2021 Levy Limit and Amount to be Raised

The following is a calculation of Harvard's levy limit for fiscal year 2021.

FY2020 Levy Limit	\$20,906,887
Levy increase allowed under Prop. 2 ½	\$522,672
New Growth Revenue	\$159,345
FY2021 Overrides	0
Debt Exclusions	\$2,941,801
FY2021 Maximum Allowable Levy	\$24,530,705
Levy Ceiling	\$32,425,989
Levy to be raised	\$24,319,491.59
Excess Levy Capacity	\$211,213.41

Valuations by Class Before Tax Shift

<u>Major Property Class</u>	<u>Value</u>	<u>Percent</u>	<u>Res vs. CIP%</u>
Residential	\$ 1,241,830,080	95.7434%	95.7434%
Commercial	\$ 38,401,900	2.9607%	
Industrial	\$ 2,497,100	0.1925%	4.2566%
Personal Property	\$ 14,310,471	1.1033%	
Total	\$ 1,297,039,551	100.0000%	100%



Summary of Assessments (LA4)

The interim-revaluation requires the verification, analysis, and use of arms-length sales from calendar year 2019 for the residential class. Sales from calendar years 2018 and 2019 were used to value the condominium, apartment, vacant land, commercial, and industrial property classes. Market trends may indicate that different property types may change in value more or less than other property types.

The average single family home value saw an increase of 5.2%. The condominiums class increased about 7.9% with variations from complex to complex. Vacant land decreased about 4%. Commercial and industrial classes remained basically flat. Individual parcel valuations may vary from the class average due to data updates and corrections, new construction, and the effects of market trends on their specific characteristics.

Property Type	Parcel Count		Residential	Commercial	Industrial	Personal
101-Single Family	1,696		\$1,075,146,880			
102-Condominiums	158		\$46,903,400			
103,109-Misc Res	24		\$20,667,200			
104-Two Family	19		\$12,611,200			
105-Three Family	2		\$1,022,500			
111-125-Apartments	4		\$5,134,500			
130's-Vacant Land	244		\$20,777,500			
300-393-Commercial	51			\$32,431,900		
400-452-Industrial	16				\$2,422,400	
600's-Forestry	20	33		\$62,700		
700's-Agricultural	37	41		\$735,400		
800's-Recreation	18	13		\$2,772,900		
012-043-Mixed Use	11		\$59,566,900	\$2,399,000	\$74,700	
500-552-Pers. Prop	78					\$14,310,471
TOTALS BY CLASS	2,465		\$1,241,830,080	\$38,401,900	\$2,497,100	\$14,310,471
Total Taxable Properties						\$1,297,039,551
Exempt Properties (Count 280)						\$208,402,000

Means Tested Senior Exemption

This year marks the second year Harvard will be implementing its Means Tested Senior Tax Exemption applicable to certain long term residents who qualify for the Massachusetts Circuit Breaker Income Tax Credit. After reviewing the applications received, the Assessor has determined that 10 applicants will qualify for the exemption, resulting in an estimated award of \$34,618.19 in total exemptions. Per the requirements of the exemption program as passed at Town Meeting, this amount will be raised through a burden shift to the rest of the Residential class. Based on this year's tax rate, this will result in a \$.03 increase in the Residential tax rate.

Tax Rates

Based on an anticipated vote to maintain a single tax rate, the Town Assessor has calculated the following tax rates needed to raise the tax levy:

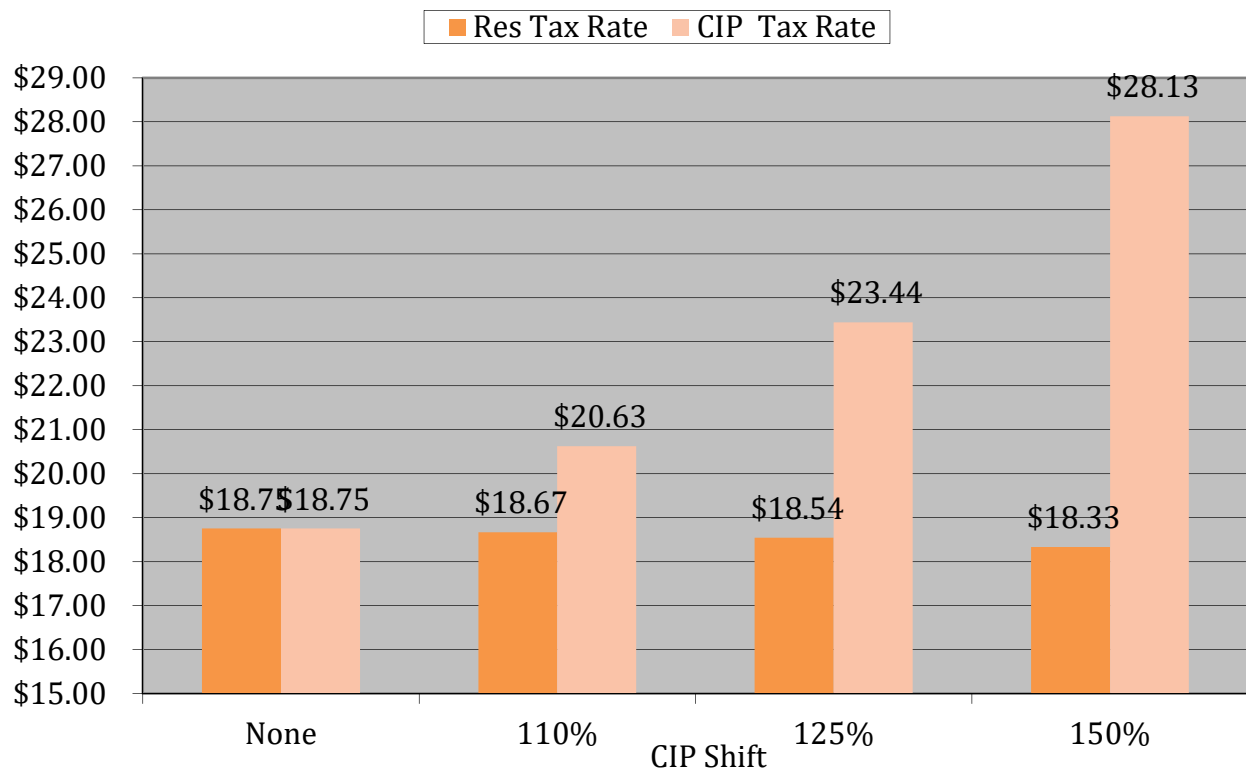
<u>Property Class</u>	<u>FY2021</u>	<u>FY2020</u>
Residential	\$18.78	\$18.47
Commercial	\$18.75	\$18.44
Industrial	\$18.75	\$18.44
Personal Property	\$18.75	\$18.44

Note that the FY2021 tax rate is an estimate only and may change upon Department of Revenue review.

Shifting the Tax Burden

Municipalities with a large commercial/industrial tax base often see fit to shift the tax burden to help maintain lower residential taxes. Given Harvard's very small commercial and industrial base, it would take a large shift in C/I taxes to yield a modest residential tax reduction. For every \$1.00 the commercial, industrial and personal property tax rate is increased, the residential rate would only see a decrease of 5¢.

Harvard FY2021 Tax Classification Options Using a Residential Factor

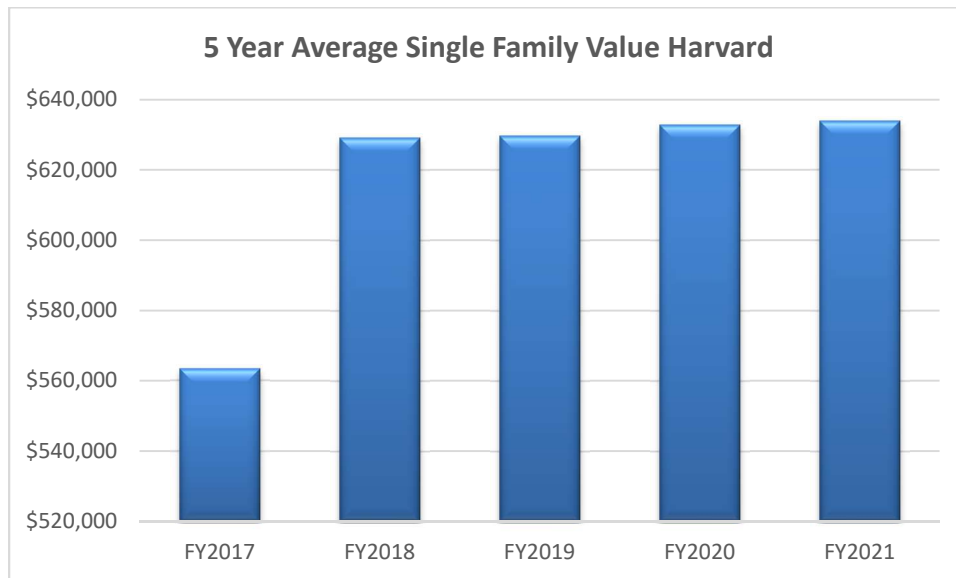


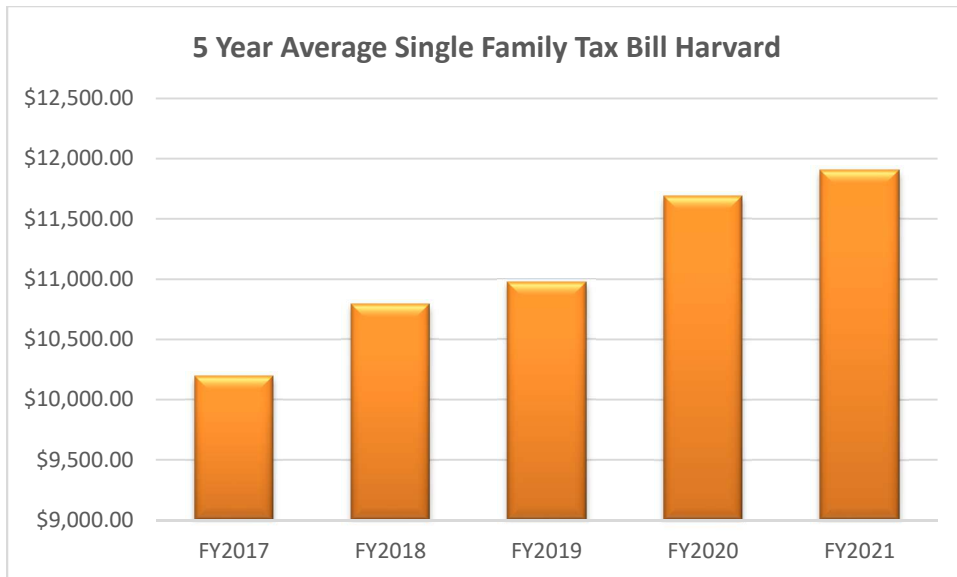
Property Type Examples	FY2021		Taxes by Shift		
	Valuation	100%	110%	125%	150%
Residential Average Single Family	\$ 633,931	\$ 11,886.21	\$ 11,833.36	\$ 11,754.10	\$ 11,621.99
Tax Bill Change			\$ (52.84)	\$ (132.11)	\$ (264.22)
Residential Change %			0%	-1%	-2%
Commercial Store/Restaurant	\$ 635,920	\$ 11,923.49	\$ 13,115.84	\$ 14,904.37	\$ 17,885.24
Tax Bill Change			\$ 1,192.35	\$ 2,980.87	\$ 5,961.75
Industrial Warehouse	\$ 151,400	\$ 2,838.75	\$ 3,122.63	\$ 3,548.44	\$ 4,258.13
Tax Bill Change			\$ 283.88	\$ 709.69	\$ 1,419.38
CIP Change %			10%	25%	50%

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Tax Bill Change			\$ 283.88	\$ 709.69	\$ 1,419.38
CIP Change %			10%	25%	50%

Tax Impacts

The average single family parcel value saw a modest increase from \$632,900 in FY2020 to \$633,931 for FY2021 and the average tax bill will increase by 1.7% from \$11,689.09 in FY2020 to \$11,886.21 in FY2021.





Town Assessor Recommendation

The Town Assessor recommends that the Select Board adopt a single tax rate to be applied to all classes of property in Harvard.

Voting a Tax Shift Factor (proposed motion)

The Harvard Select Board votes in accordance with M.G.L., Ch. 40, Sec. 56, as amended, the percentage of local tax levy which will be borne by each class of real and personal property, relative to setting the Fiscal Year 2020 tax rates and set the Residential Factor at 1.0, with a corresponding CIP shift of 1.0, pending approval of the town's annual tax recap by the Massachusetts Department of Revenue.

Town of Harvard Open Space Committee Charge

The Goals

- Using the 2016 Open Space and Recreation ~~Master~~ Plan (“~~Plan~~OSRP”) as a starting point, develop a process for prioritizing lands for open space preservation and recreational needs based on current and anticipated future demand.
- ~~In addition, the Committee will participate in periodic updates to the 2016 Master Plan.~~
- Evaluate and recommend land for Possible acquisition for open space and recreational use.
- Advise the Town on land acquisition and open space protection by assessing the Town’s right-of-first refusal on land coming out of Chapter 61, and evaluate any surplus land or tax-default properties that may come up.
- Provide guidance for future development or redevelopment of the Town’s land for passive or active recreation, which also includes open space, trails, natural features, landscape and viewshed.
- Develop a capital improvement plan for the protection and development of open space and recreation.
- Act as Town liaison with individuals and land protection advocacy groups working to protect open space or develop recreational facilities.
- Work with Town boards to identify private/non-profit, State and Federal funding sources.
- Assist in updating the Open Space & Recreation Plan when required by the State, and provide interim updates as needed.
- Work with other Town Boards & Committees to implement the Goals and Objectives of the Town’s Open Space and Recreation Plan.
- Identify which group is responsible for maintenance of ~~each property~~land acquired for open space and recreational use.
- Present a semi- annual report at a duly convened Select Board meeting.

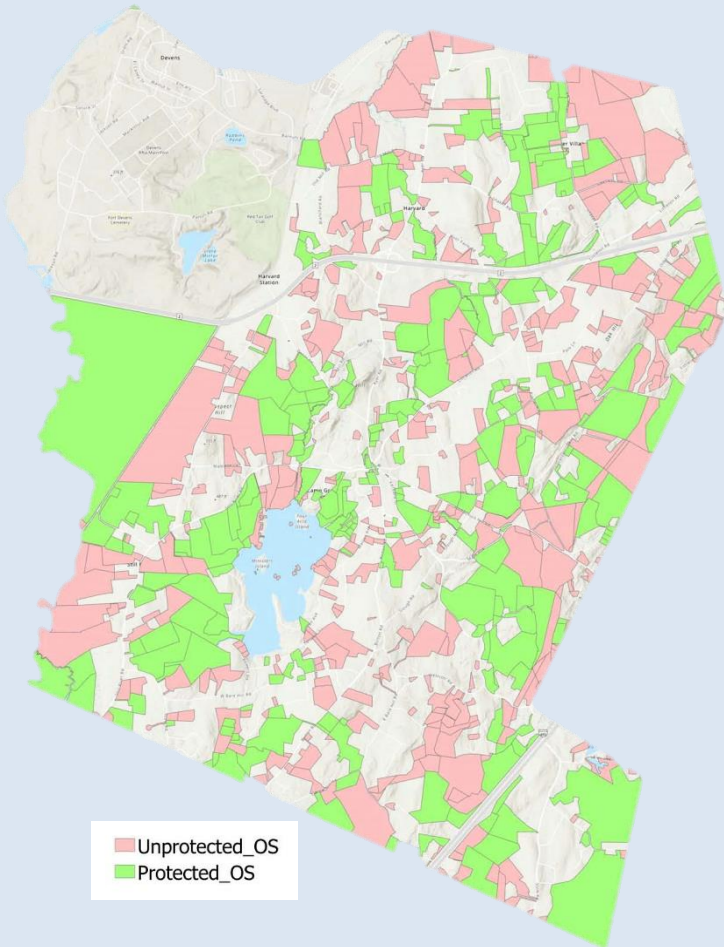


Town of Harvard
Open Space Committee

Select Board Update

November 17, 2020

Open Space in Harvard



Land Category	Acres	% of Harvard
Protected Open Space		
ConCom	1832	14%
Park & Rec	71	1%
Water & Sewer	18	0%
Federal & State	1138	9%
APR	202	2%
CR	534	4%
TOTAL Protected Open Space	3776	29%
Unprotected Open Space		
Chapter 61 (forest)	694	5%
Chapter 61a (agriculture)	1534	12%
Chapter 61b (recreation)	410	3%
Non-profit Organizations	510	4%
Harvard Conservation Trust	273	2%
Town - Bare Hill Pond	300	2%
Town - municipal & schools	161	1%
TOTAL Unprotected Open Space	3882	30%
TOTAL all Open Space	7658	58%
TOTAL all Harvard	13150	100%

} 24%

Source: 2016 Town of Harvard Open Space & Recreation Plan

OSC Goals (from Select Board charge)

Ongoing Activities

- {Evaluate and recommend land for} Possible acquisition for open space and recreational use.
- Advise the Town on land acquisition and open space protection by assessing the Town's right-of-first refusal on land coming out of Chapter 61 and evaluate any surplus land or tax-default properties that may come up.
- Work with Town boards to identify private/non-profit, State and Federal funding sources.
- Act as Town liaison with individuals and land protection advocacy groups working to protect open space or develop recreational facilities.
- Identify which group is responsible for maintenance of each property

OSC Future Work

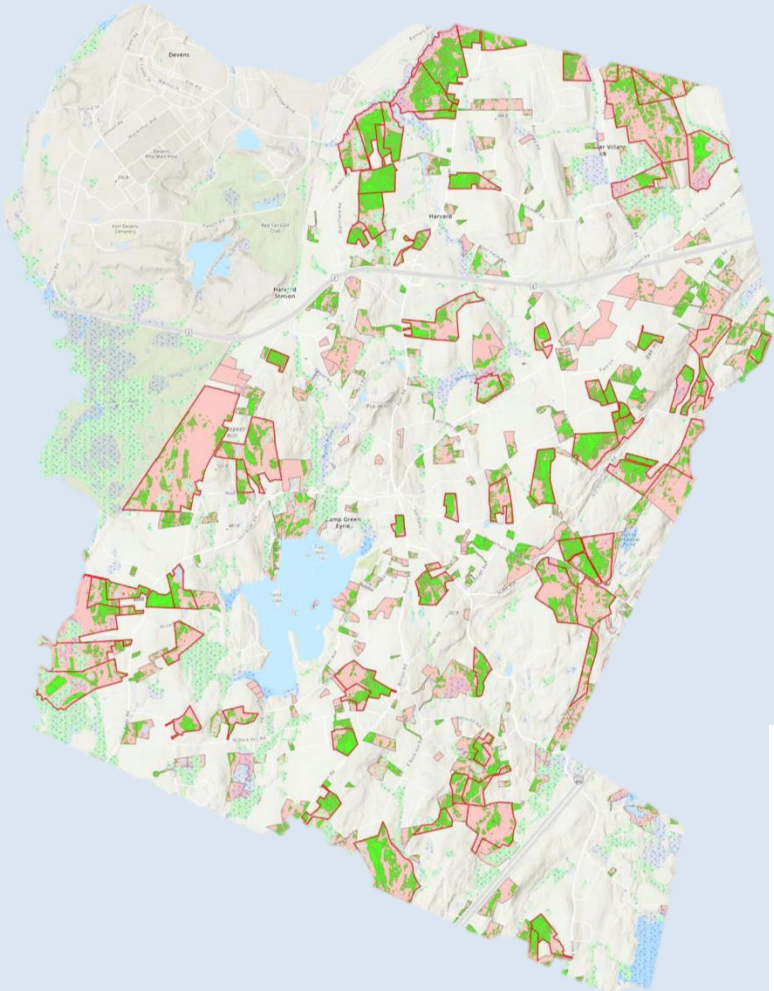
- Provide guidance for future development or redevelopment of the Town's land for passive or active recreation, which also includes open space, trails, natural features, landscape and viewshed.
- Assist in updating the Open Space & Recreation Plan when required. In addition, the Committee will participate in periodic updates to the Plan.
- Work with other Town Boards & Committees to implement the Goals and Objectives of the Town's Open Space and Recreation Plan.

OSC Goals (from Select Board charge)

OSC to Develop for 2020

- Using the Master Plan (“Plan”) as a starting point, develop a process for prioritizing lands for open space preservation and recreational needs based on current and anticipated future demand.
- Develop a capital improvement plan for the protection and development of open space and recreation.
- Present a semi- annual report at a duly convened Select Board meeting.

Suitable Active Recreation Land

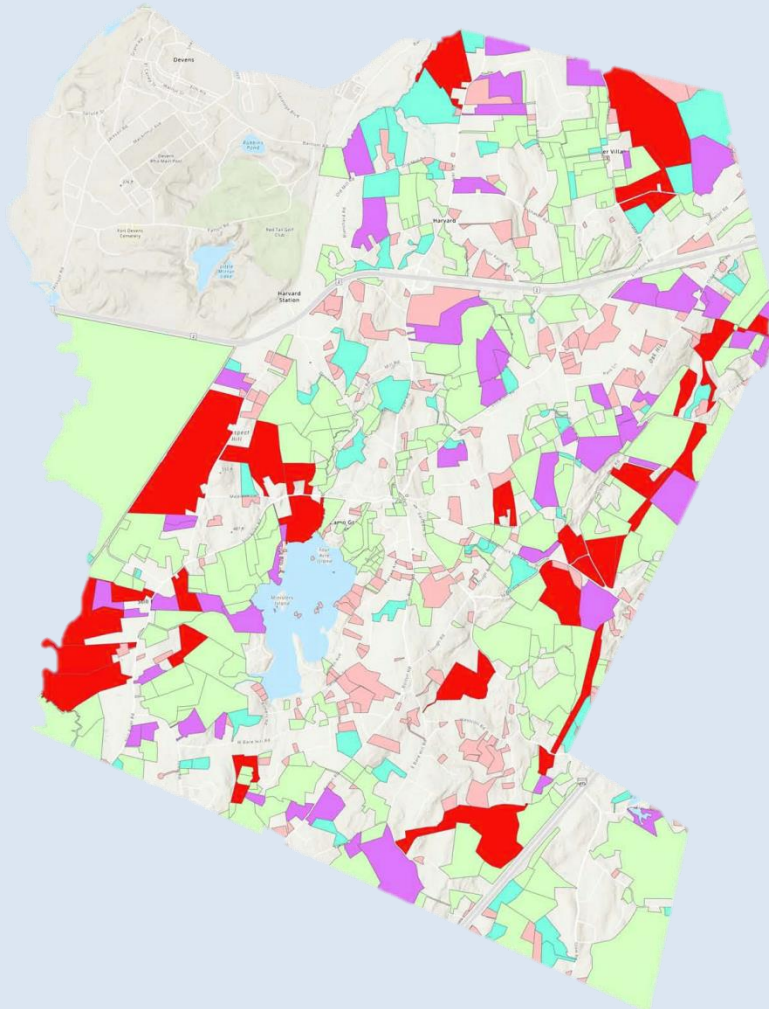


Identify land with

- Adequate size to support playing fields that is
 - Level topography
 - Not in wetland/water buffers
- Road access (*tbd*)



OS Protection Prioritization



Protect open space for

- Agriculture
- Ecologically Significant Areas
- OS Corridors for Humans and Wildlife
- Water & Wetlands

OS Capital Improvement Plan

- **Active Recreation**

- No capital spend for active recreation since Harvard Park¹
- Athletic fields are currently over utilized²
- Feasibility studies of existing P&R properties proposed to CPC

- **Open Space Protection**

- Average capital spend by Town of \$171K / year
- Supplemented by \$525K / year average from other sources
- Suggests \$175K / year by Town in the future (inclusive of CPA funding¹)

1. The Town is required to annually allocate 10% of the CPA revenue (~\$30-35K) to Open Space Protection and Active Recreation.
2. Athletic Field Planning Subcommittee, "Update to Select Board", 11/19/2019

OSC Charter

- OSC suggests minor clarifying changes to the original charter
 - “Master Plan” = 2016 OSRP
 - Evaluate and recommend land for possible acquisition for open space and recreational use.
 - Timing of major updates to the 2016 OSRP determined by the State
 - Identification of group responsible for maintenance when purchased
- OSC’s role in deal brokering and fund raising needs clarification

Supporting Information

Prioritization for OS Preservation & Active Recreation

What land should be evaluated ?

OS

- Municipal land without buildings
- Charitable organization land without buildings
- Non-commercial land
- Non-residential land except for land in Chapter 61x and certain large properties not in Chapter 61x

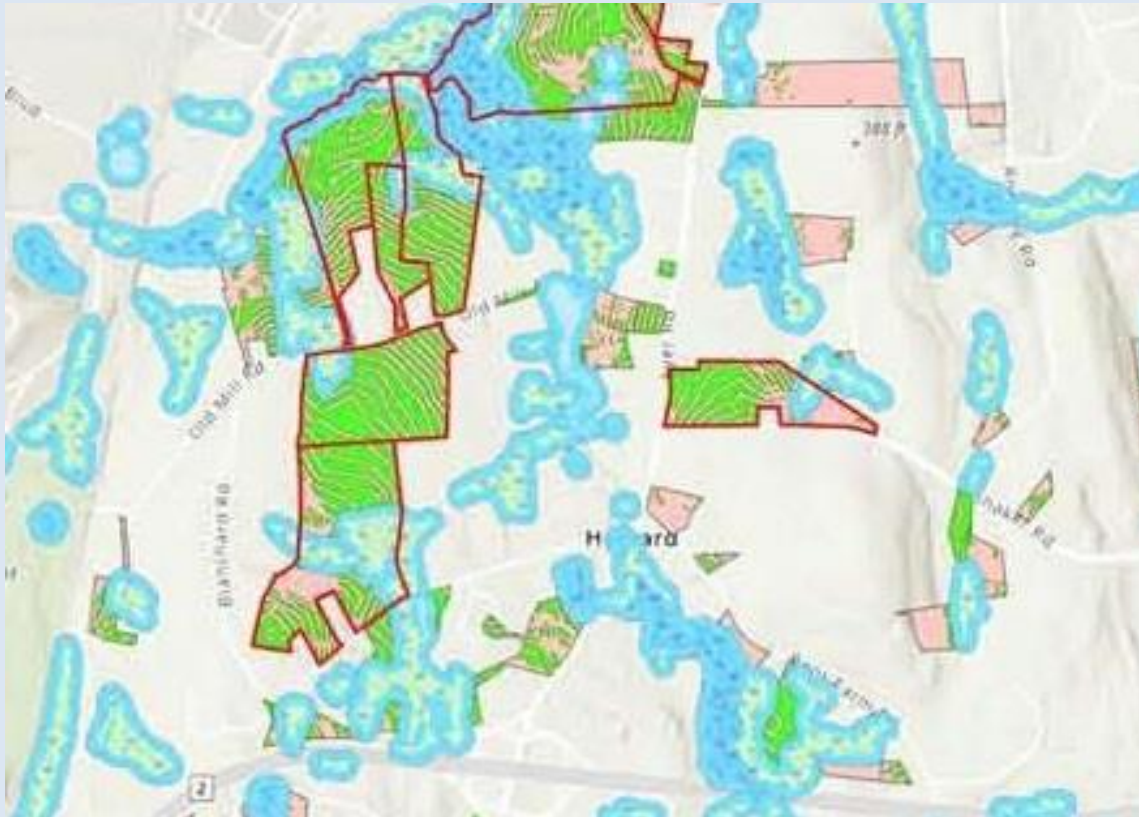
Protected OS

- APRs /CRs
- All Town owned land
- All land owned by Land Trusts

Unprotected OS

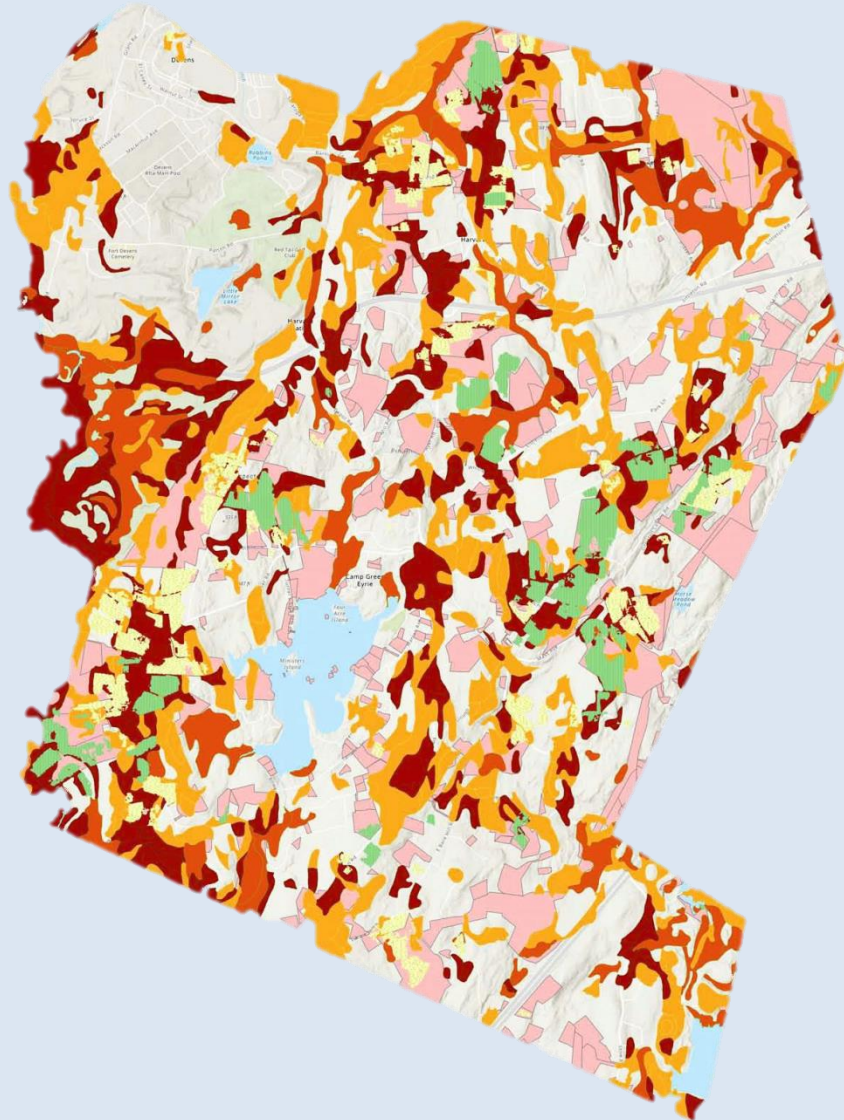
- Land owned by non-profits which are not Land Trusts
- All Chapter 61x land
- Large residential properties > 20 Ac not in Chapter 61x
- *For Active Recreation only*, all vacant Municipal land

Suitable Active Recreation Land



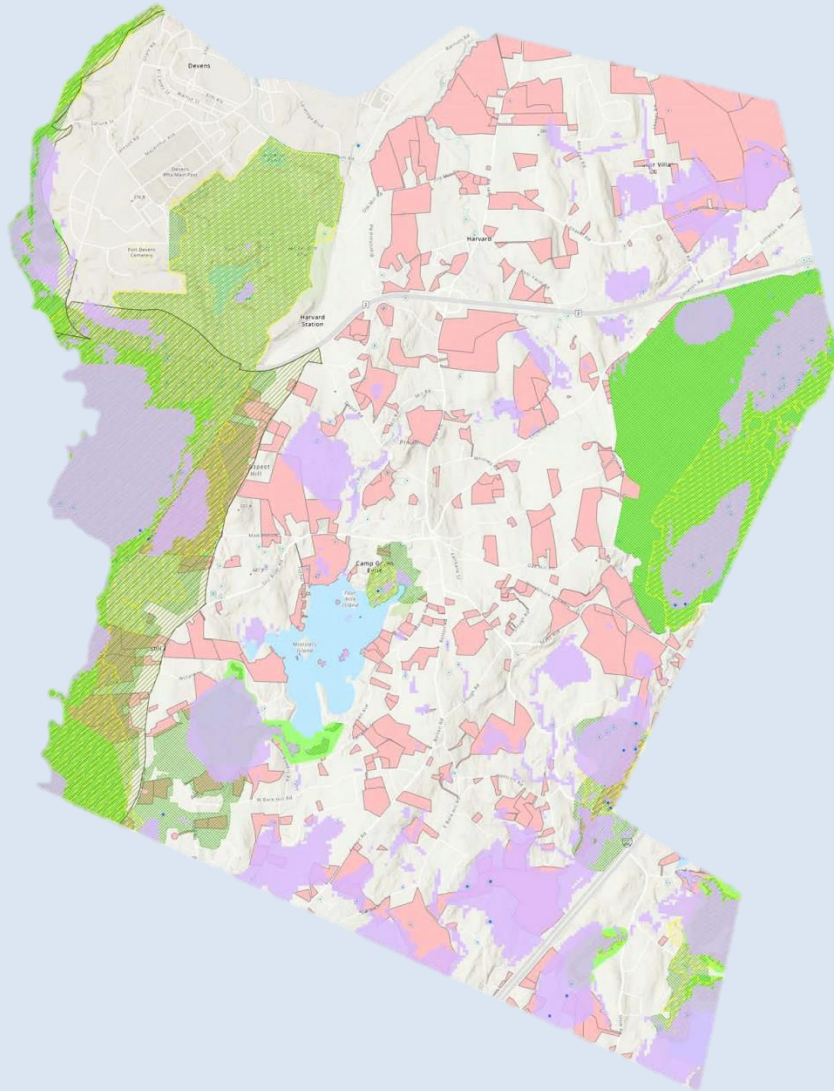
-  Suitable Rec Land > 3 Ac
-  Suitable Rec Land
-  Water/Wetland Buffer
-  Unprotected_OS
-  Marsh/Bog
-  Wooded marsh
-  Open Water

OS Protection – Agricultural Preservation



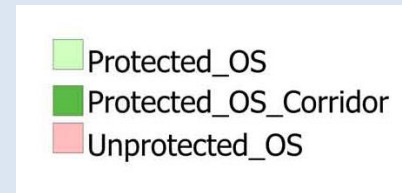
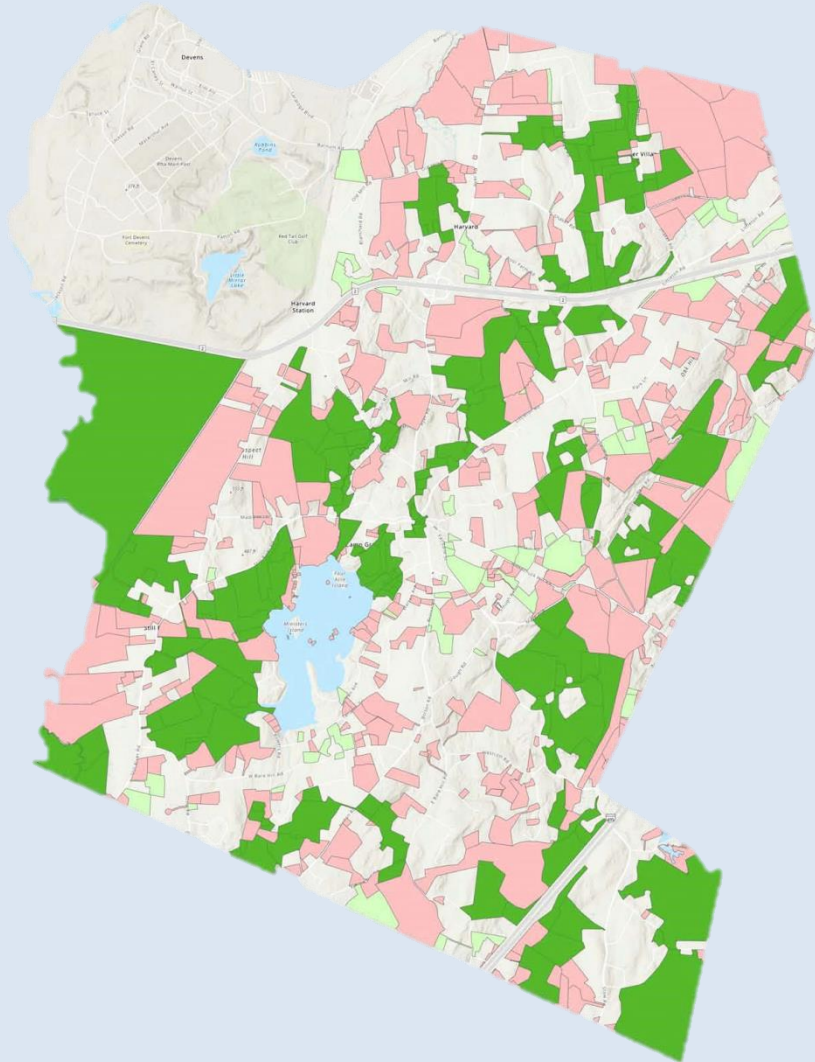
- Cultivated
- Pasture/Hay
- All Areas Are Prime Farmland
- Farmland of Unique Importance
- Farmland of Statewide Importance
- Unprotected_OS

OS Protection – Ecologically Significant Areas

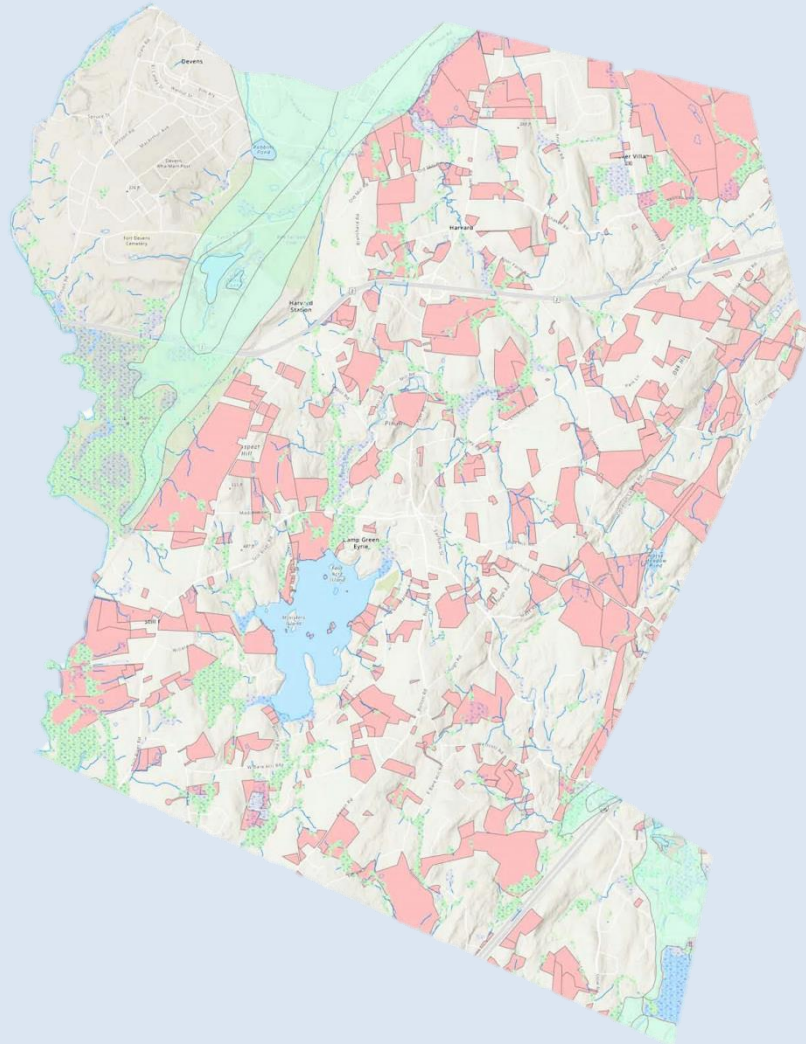


- Potential Vernal Pools
- NHESP Certified Vernal Pools
- CAPS High Ecological Integrity
- NHESP Natural Communities
- Areas of Critical Environmental Concern
- NHESP Priority Habitats of Rare Species
- BioMap2 Core Habitat
- BioMap2 Critical Natural Landscape
- Unprotected_OS

OS Protection – Proximity to Protected OS



OS Protection – Water / Wetlands



-  Aquifers
-  Marsh/Bog
-  Wooded marsh
-  Shoreline
-  Stream
-  Unprotected_OS

Open Space Protection Costs

Past Spend (2013 - 2020)

Open Space	Year	Acres	Purchase Price ^{1,2}	Funding Source ¹					
				Town	HCT	SVT	MA / Fed	Abutter Lot ³	Trade Lot ⁴
Hoch	2013	11	200	200					
Brown	2013	42	675		675				
Fuller-Dudley Woods	2014	15	831	150	20			300	361
Willard	2015	48	550	550					
Mass Ave	2016	24	280	280					
Horse Meadows Knoll	2017	50	700		175	225			250
Smith	2018	13	38	38					
Grady	2018	10	330		330				
Callahan	2020	8	275		275				
Westward Orchards	2020	11	350		350				
CHP APR	2020	75	2500	150	tbd	tbd	1239		
	Total	307	6729	1368	1825	225	1239	300	611
	Yearly average	38	841	171	228	28	155	38	76

- Notes:
1. all costs are in K\$
 2. gifts are not included
 2. costs do not include ancillary fees such as legal, engineering, and maintenance
 3. Abutter lots are protected in perpetuity by Conservation Restrictions
 4. Trade lots have no conservation protection

TOWN OF HARVARD

VOLUNTEER APPLICATION (12/02/2008)



Thank you for your interest in serving the town of Harvard. Please complete this application to be kept informed of volunteer opportunities and/or to apply for a specific position or fill a vacancy when one occurs. You may be also be contacted based on your stated areas of interest for other opportunities to volunteer. Your application will be kept on file for 3 years.

Date of Application: November 06, 2020

Applicant Information:

Name: James Burns

Address: 50 ayer rd harvard mass 01451

Home/Work Phone # [REDACTED] **Mobile Phone#** [REDACTED]

Email Address: harvardmaple@gmail.com

Indicate below which Board(s) or Committee(s) are of interest to you:

broomfield house

Have you previously been a member of a Board, Committee or Commission (either in Harvard or elsewhere)? If so, please list the Board name and your approximate dates of service:
yes con com

Do you have any time restrictions? YES NO
not really

Are you a registered voter? YES NO

Please list your present occupation and employer (you may also attach your résumé or CV)

Jim Burns Engines inc. historic and sports engine rebuilding

Do you, your spouse, or your employer have any current or potential business relationship with the Town of Harvard that could create a conflict of interest? (If YES, please describe the possible conflict) Spouse works at Harvard elementary school...?

Please outline any education, special training or other areas of interest you have that may be relevant to the appointment sought.

I lived in a old house for quite some time and have a historic understanding of Harvard and to some extent old homes.

Received by Town of Harvard

Return to: Town Of Harvard, 13 Ayer Road, Harvard MA 01451 or email jdoucet@harvard.ma.us

TOWN OF HARVARD

VOLUNTEER APPLICATION (12/02/2008)



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Date of Application: October 30, 2020

Applicant Information:

Name: Bill Ference

Address: 1 Bolton Rd. Harvard MA 01451

Home/Work Phone # [REDACTED] **Mobile Phone#** [REDACTED]

Email Address: bill.ference@gmail.com

Indicate below which Board(s) or Committee(s) are of interest to you:

Bromfield House Committee

Have you previously been a member of a Board, Committee or Commission (either in Harvard or elsewhere)? If so, please list the Board name and your approximate dates of service:

No

Do you have any time restrictions? YES NO

No time restrictions

Are you a registered voter? YES NO

Please list your present occupation and employer (you may also attach your résumé or CV)

Owner, William Ference Catering. Education: Williams College, B.A., 2007

Do you, your spouse, or your employer have any current or potential business relationship with the Town of Harvard that could create a conflict of interest? (If YES, please describe the possible conflict) No

Please outline any education, special training or other areas of interest you have that may be relevant to the appointment sought.

I am interested in helping the committee thoughtfully consider all reasonable uses of the property and ultimately propose a future use to the Select Board.

To ensure the most thoughtful recommendation, the Committee will need to consider public input, potential revenues or costs, the aesthetic impact of any use, benefits to residents, and the Bromfield Trust's historical guidance.

I'm committed to open-mindedly considering all future uses without prejudice. Thanks for your

Received by Town of Harvard

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TOWN OF HARVARD

VOLUNTEER APPLICATION (12/02/2008)



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Date of Application: October 29, 2020

Applicant Information:

Name: Stephen C Ford

Address: 45 Jacob Gates Road

Home/Work Phone # [REDACTED]

Mobile Phone# [REDACTED]

Email Address: SteveFord45@gmail.com

Indicate below which Board(s) or Committee(s) are of interest to you:

Bromfield House

Have you previously been a member of a Board, Committee or Commission (either in Harvard or elsewhere)? If so, please list the Board name and your approximate dates of service:
yes Finance Commirtte and Personnel Board Brookine MA 1980s

Do you have any time restrictions? YES NO

Are you a registered voter? YES NO

Please list your present occupation and employer (you may also attach your résumé or CV)

Self employed

Do you, your spouse, or your employer have any current or potential business relationship with the Town of Harvard that could create a conflict of interest? (If YES, please describe the possible conflict) NO

Please outline any education, special training or other areas of interest you have that may be relevant to the appointment sought.

see attached bio

Received by Town of Harvard

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STEPHEN C. FORD

CEO

Steve was a founder of Fitzgerald, Stevens & Ford in 1981 and has been CEO since 1987. During this time Fitzgerald, Stevens & Ford has become known for its expertise in consulting with organizations and individuals going through change and coaching managers in managing the impact of change. Steve has developed FS&F's practices in: Leadership Assessment and Development; Succession Planning; Developing Leadership Pathways; Executive, Performance and Transition Coaching; Team Building.

Steve was a founding director of OI Partners in 1987. Steve served is currently Chairman of OI, having previously served in this role for a total of four years in the 1990s. While he was Chair during 1992 to 1995, the organization tripled in size and enhanced its reputation as the innovator in coaching and leadership development and career transition services. Currently OI has almost 200 offices in 27 countries. Steve is leading OI through the strategic planning and implementation of a major restructuring to facilitate further growth.

Steve has worked in the assessment, development coaching, and employment field since 1969. Between 1979 and 1984 he started two other human resource service firms: Carpenter Consultants, a placement agency, and Staff Management, an employee leasing firm. Previously, Steve worked for ten years with two employment agencies, including Rogers & Sands from 1971 to 1979.

Steve has an M.B.A. from Northeastern University and a B.A. from Denison University. Steve holds the Certificate of Director Education from NACD; is a Certified Personnel Consultant, and is also certified in numerous assessment tools.

He is active in governance, human resources, and business organizations. Steve is currently on the Board of the New England Chapter of NACD and the Board of Corporators, Emerson Hospital, Concord, MA. He was the founding Chair of the New England Directors Registry (a clearinghouse for directorship candidates and Boards seeking directors) and was Chair of the Boston Breakfast Series for NACD New England; President of Boston Human Resources Association and Co-Chair of the Host Committee for the national conference of American Society for Healthcare Human Resources Administration. Steve was Co-Director/Secretary of the 128 Venture Group for ten years.

TOWN OF HARVARD

VOLUNTEER APPLICATION (12/02/2008)



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Date of Application: October 28, 2020

Applicant Information:

Name: Patricia Jennings

Address: 11 Faairbank St., POBox 483, Harvard, Ma 01451

Home/Work Phone # [REDACTED] **Mobile Phone#** [REDACTED]

Email Address: pjennings1152@charter.net

Indicate below which Board(s) or Committee(s) are of interest to you:

Bromfield House Committee

Have you previously been a member of a Board, Committee or Commission (either in Harvard or elsewhere)? If so, please list the Board name and your approximate dates of service:

War Monument Restoration

War Monument Comm 2018 to present, 4th of July

Do you have any time restrictions?

No

YES

NO

Are you a registered voter?

YES

NO

Please list your present occupation and employer (you may also attach your résumé or CV)

Retired

Do you, your spouse, or your employer have any current or potential business relationship with the Town of Harvard that could create a conflict of interest? (If YES, please describe the possible conflict) No

Please outline any education, special training or other areas of interest you have that may be relevant to the appointment sought.

I have a continuing interest in the community of Harvard, have excellent resources for information and help and very much want to see the Bromfield area reinvented in a way that is a tribute to the town of Harvard.

Received by Town of Harvard

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TOWN OF HARVARD

VOLUNTEER APPLICATION (12/02/2008)



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Date of Application: October 28, 2020

Applicant Information:

Name: Steve wirch

Address: 46 Fairbanks St

Home/Work Phone # [REDACTED]

Mobile Phone# [REDACTED]

Email Address: Stevewirch@gmail.com

Indicate below which Board(s) or Committee(s) are of interest to you:

Bromfield house committee

Have you previously been a member of a Board, Committee or Commission (either in Harvard or elsewhere)? If so, please list the Board name and your approximate dates of service:

No

Do you have any time restrictions?
I work days

YES

NO

Are you a registered voter?

YES

NO

Please list your present occupation and employer (you may also attach your résumé or CV)

Engineer

Do you, your spouse, or your employer have any current or potential business relationship with the Town of Harvard that could create a conflict of interest? (If YES, please describe the possible conflict) No

Please outline any education, special training or other areas of interest you have that may be relevant to the appointment sought.

My property abuts the Bromfield House, I've been a resident since 2000.

Received by Town of Harvard

Return to: Town Of Harvard, 13 Ayer Road, Harvard MA 01451 or email jdoucet@harvard.ma.us

Select Board Minutes

Tuesday, November 3, 2020 7:00pm

The Select Board Regular Meeting was held virtually in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L.c.30A. S.20.

Select Board participants:

Chair Alice von Loesecke, Rich Maiore, Kara Minar, Stu Sklar, Lucy Wallace

Town Department attendees:

Town Administrator Tim Bragan, Assistant Town Administrator/HR Director Marie Sobalvarro, Executive Assistant Julie Doucet, Facilities Manager Jeff Hayes, Community & Economic Development Director Chris Ryan

Additional participants:

National Grid rep. Laura Napolitano, Park & Rec Chair Bob O'Shea, Planning Board Chair Justin Smith

National Grid upcoming pole hearing – Oak Hill Road

National Grid Representative Laura Napolitano explained this request is for two poles on a public right of way that will provide service up a private drive. The two homeowners on the private way are aware of the line going up the driveway. Town Administrator Tim Bragan has spoken with abutter Don Green who has no issues with the proposal. Bragan explained National Grid is interested in beginning the project sooner than the actual hearing that is set for November 17th thus why the discussion on this agenda. The board members agreed there would be no penalties if National Grid begins the project now.

Update on the old library roof

Facilities Manager Jeff Hayes has proposed a metal eaves water diverter instead of a tarp to stop the water infiltration to the building. He has received pricing of \$18,750. The diverters would be installed around the entire perimeter of the building. He expects this to help patch the leaks noted in the Gale Report. Hayes will utilize funds from the facilities management fund for this project. Hayes noted this is a temporary measure that can last up to a year. He reported the contractor can start the project in early December.

Senior Housing Bylaw timeline & process

Community & Economic Development Director Chris Ryan and Planning Board Chair Justin Brown provided an outline of their timeline and process moving forward. Brown reviewed their phased approach following a monthly timeline. Ryan added the phases will flow together with surveys included to assist with crafting questions for the various focus groups. As they make revisions the drafts will be posted on the town website for easy viewing. Minar noted December can be a tough month to hold focus groups and suggested maybe they start sooner. As a former Planning Board member, she recommended they focus on what is achievable as a first step with plans to continue refinement of the bylaw.

Update from the Commission on Disabilities

Commission Chair Davida Bagetelle came to discuss their draft bylaws taken from the Mass Department of Disabilities. The document was reviewed with some suggested revisions from the Select Board members and Town Administrator. They also discussed options with respect to term limits. Bagetelle explained with members maybe only available to commit for a short time having an initial one year term and then two year terms seems more reasonable than having three year terms. The Select Board members were open to this concept. In addition, Bagetelle asked if the Select Board would consider adopting Chapter 40, Section 22G which would allow

allocation of fines collected for parking in a handicapped spot for use by the commission. The board members felt this was a fair request.

Public Communication

School Committee Chair Susan Mary Reddinger read a statement from the School Committee regarding the possible changes to health care for employees. (Appendix A)

Council on Aging appointment

CoA Chair Beth Williams was please to recommend Nancy Weber for appointment. By a roll call vote, Wallace – Aye, Minar – aye, Maiore – aye, Sklar – aye, von Loesecke – aye, the board voted unanimously to recommend Nancy Webber for appointment.

Minutes

By a roll call vote, Wallace – aye, Minar – aye, Maiore – aye, Sklar – aye, von Loesekce – aye, the board voted unanimously to approve minutes of 10/20, as amended.

Town Administrator Report

Bragan reported on the following items:

- COA Director, Debbie Thompson, has been chosen, among others, as a COA Director of the Year. Everyone knows what we have a magnificent COA Director in Harvard. This is a wonderful recognition of COA Directors and Debbie in particular for the work they do and she does on behalf of “her” seniors and our Town especially during these difficult times.
- Follow-up from last meeting – The Select Board did not pick a date to implement the new fees and needs to advise what its wishes are. Jeff is looking at the Plumbing, Gas, and Electrical pay issue and that will be ready for review in December. I would suggest setting January 1st as the date to implement all of the changes that were made. The board agreed with the January start date.
- The Town received word that we have been awarded a Sustainable Materials Recovery Program Municipal (SMRP) Grant in the amount of \$6,650 (see attached) this year which is \$1,400 increase over last year’s \$5,250. The reason for the increase is that we received four (4) additional points due to implementing the SMART program.
- The meeting in Lancaster regarding the new large scale automatic machine gun range at South Post is next Monday (November 9, 2020) and when I get the meeting info I will pass it on to all of you. As stated in my email on Monday they received and incorporated the questions from the Town.
- Attorney Hank Naughton, Napoli Law, contacted me with respect to the Town joining a class action suit regarding PFAS/PFOA. I checked with Town Counsel and his recommendation is as follows, “I advise that the Town proceed with the free evaluation and investigation...” He goes on to say that “a decision can be made after that is done.” Mr. Naughton expressed the following, “I am happy to speak with you and your Board at any point to answer any questions that may exist, no obligation required.”
- A group of us (Tom Murphy (NV5), Pete Jackson (Bromfield Trustees), Manny Lindo (Historical Commission), Kara McGuire Minar (Select Board), Tim Kihart (DPW Director), and myself) met last Thursday morning regarding the Pond Road pole location and the guide wire location which is necessary for the new school project. Everyone agreed with the location of both and the Board will get this item at their next meeting. Our next meeting will deal with the potential walkway along the inside wall along Pond Road.
- Yesterday the Governor discussed the pandemic and as Massachusetts’ numbers continue to rise he is instituting further restrictions for gatherings (indoor and outdoor) and new requirements for face coverings while in public even if social distancing can be met. (see attached orders)
 - Stay at home advisory between 10PM and 5AM unless grocery shopping, address health needs, walking, or going to or coming home from work.
 - Gatherings: (There are exceptions but this is the gist)

- Indoor – goes from 25 to 10 and nothing continuing after 9:30 PM even in your home.
 - Outdoor – goes from 50 to 25 and nothing continuing after 9:30 PM even in your home.
 - Face Coverings must be worn out in public even if social distancing can be maintained. Few exceptions.
- The November budget update is such that the State is in its interim budget for five months now and hopefully by Thanksgiving the legislature will have a budget in place for the remaining seven months. The attached was a somewhat positive article from the State House News Service regarding comments made by Governor Baker with respect to the FY22 State Budget (see attached).
- The DPW has started (11/1/2020) their winter schedule, which we are trying this year for the first time. This is similar to other communities and we will evaluate it at the end of the season. The schedule is now five days per week (Monday through Friday) from 7AM to 3PM.
- The Board will be reviewing their office budget and other Select Board related budgets at the meeting of the 17th.
- Town Office, COA and Library employees will be taking the Friday after Thanksgiving off once again this year. Also, given the likelihood of smaller family and friend gatherings on Thanksgiving we anticipate that more people will be preparing for a different Thanksgiving and will close Town Offices at 3PM to allow our employees to get last minute items and prepare to celebrate the holiday.
- We will be having a hearing for Carlson Orchards on December 1, 2020 and on December 15, 2020 the board will have before them license renewals for 2021.
- This year Christmas falls on a Friday and once again we will be closing the offices at 1PM on Christmas Eve and as usual New Year's Eve day will be a regular work day for everyone.

Discuss jurisdiction over the town common areas with Park & Recreation Commission Chair

Park & Rec Chair Bob O'Shea said the commission has been discussing the idea of having the Select Board retain jurisdiction over the common areas instead of the commission. O'Shea believes this will make the process for use of the common simpler. At their meeting last night he said the commissioners were not unanimous in this idea. He said some commissioners were in favor, some against and others that did not have a preference. O'Shea noted with this possible change some budgeting areas will need to be addressed such as costs for fertilizer & lime, electricity and associated costs for use of the Civic Rec program. O'Shea shared the current rules and regulations the commission adheres to for use of the common. The board members agree with the concept and instructed the town administration staff to assist with the details.

Review report on Tax Title properties

Bragan said the list of delinquent tax payers will be advertised as in the past and these properties are currently in tax title. He said the tax taking process can take up to a year. Rich Maiore will bring the list to the Open Space Committee for their input.

Discuss noise ordinance

The town does not have a noise bylaw and most complaints are from construction projects. The Select Board members agreed to ask the Building Inspector to add verbiage on permits that states construction hours are Monday through Saturday 7:00am to 6:00pm and no earlier Sundays than 10am or what he may advise.

Discuss a Select Board policy encouraging board/committee members set up a dedicated Gmail account for town business

Kara Minar has been working on how to propose encouraging volunteers to use a dedicated Gmail account solely for town business. She explained the main reasons for this are to minimize issues with personal email addresses if a public records request or open meeting violation were to come up and to have some uniformity in addresses. Minar proposed first initial last name and then the Harvard zip code: example KMinar01451@[gmail.com](mailto:example@gmail.com).

The board members liked the idea and agreed if any volunteer currently has a town business email address already they would not need to change it. An email will go out to all volunteers about the new procedure.

Discuss a Select Board policy for use of free cash/OPEB funds during financial crisis

Due to the current financial climate the board will wait until early next year to revisit this topic.

Acknowledge resignation of Brian Wickman from the Commission on Disabilities

The board recognized the resignation and will send a letter of thanks.

Select Board Reports

Stu Sklar reported the War Monument Restoration Committee is finalizing the names for the memorial this week.

Alice von Loesecke said the Capital Planning & Investment Committee has begun reviewing requests.

Lucy Wallace is working with Chris Ryan, Willie Wickman and Mark Mikitarian on the Mass Cultural grant for the old library roof.

The meeting was adjourned at 9:09pm.

Documents referenced:

Pole petition request – dated 10.12.2020

PB – timeline and process – dated 11.3.2020

Com on Disabilities – email dated 10.28.2020 and draft bylaws date Oct 2020

Draft Park & Rec article – dated 11.3.2020

Tax Title Report – dated 10.21.2020

Wickman resignation letter – dated 10.29.2020

GRANTOR: Margaret Coyle Nestler
Trustee of and acting as such on behalf of the Turtle Rock Realty Trust
See Trustee's Certificate Recorded herewith at
the Worcester Registry of Deeds
GRANTEE: Trustees of the Harvard Conservation Trust
u/d/t dated June 16, 1973 recorded with the Worcester
District Registry of Deeds at Book 5356, Page 462
and registered as Document No. 35112
ADDRESS OF PREMISES: 30 Cruft Lane,
Harvard, Worcester County, Massachusetts 01451
FOR GRANTOR'S TITLE SEE: Worcester District
Registry of Deeds at Book 60658, Page 60 and Book 51543 Page 227
(portion of said premises)

**CONSERVATION RESTRICTION
AND
EASEMENTS**

Margaret Coyle Nestler, Trustee of and acting as such on behalf of the Turtle Rock Realty Trust u/d/t September 24, 2013 (see Trustee's Certificate recorded herewith), with an address of 31 Cruft Lane, Harvard, MA 01451, constituting all of the owners, for my successors and assigns ("Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grant with QUITCLAIM COVENANTS to the Trustees of the Harvard Conservation Trust, u/d/t dated June 16, 1973 and recorded with the Worcester District Registry of Deeds ("Registry") at Book 5356, Page 462 and registered as Document No. 35112, having an address of 102 Prospect Hill Road, Harvard, Worcester County, Massachusetts 01451, as it may be amended, and its successors and permitted assigns ("Grantee"), for nominal consideration, IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Conservation Restriction on land located in Harvard, Massachusetts, which land consists of 13.94 acres ("Premises"), which Premises is identified as the "Conservation Restriction Area" on a survey plan of land prepared by David E. Ross Associates, Inc. dated July, 2020, entitled "Conservation Restriction and Easement Plan of Land in Harvard, Mass. owned by Turtle Rock Realty Trust" recorded herewith at Plan Book _____, Plan _____ ("CR Plan"), with the following areas expressly excluded from this Conservation Restriction: (i) "Building Area #30" as shown on said CR Plan; (ii) the "Right of Way" as shown on a plan dated June 6, 1977 recorded with said Registry at Plan Book 450, Plan 67; (iii) the "Right of Way" shown on a plan dated June 3, 1985 recorded with said Registry at Plan Book 538, Plan 5; and (iv) all the land East of Bowers Brook as shown on said CR Plan. A reduced copy of the recorded CR Plan is attached hereto as Exhibit A.

I. PURPOSES:

This Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the 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 purposes, in a natural, scenic and undeveloped condition, and to prevent any use or change that would materially impair or interfere with its conservation and preservation values (“conservation values”).

The conservation values include the following:

- Open Space and Scenic Landscape Preservation. The Premises contributes to the protection of the scenic and natural character of Harvard. The Premises abuts over 190-acres of permanently protected conservation land to the east, west and north, and protection of the Premises advances multiple goals and objectives of Harvard’s *Open Space & Recreation Plan, 2016*, such as, “Develop a system of interconnected trails for non-vehicular travel,” “Identify and protect open space critical to protecting Harvard’s water resources, and “Preserve habitat for native plants, animals and threatened species.” The Premises is identified in the Massachusetts Department of Conservation and Recreation’s *Scenic Landscape Inventory* as being located in a “Distinctive” landscape that is recommended for preservation as area of the “highest visual quality.”
- Water Resource and Flood Plain Protection. The Premises contains 930 feet of frontage on Bowers Brook, and a significant portion of its acreage lies within the Federal Emergency Management Agency’s *Flood Hazard* zone. The protection of this floodplain will ensure the continued availability of flood storage during major storm events and maintain landscape resiliency, as well as contribute to the overall water quality and recharge of Bowers Brook.
- Protection of Wildlife Habitat. The Premises contains varied array of habitat types from forested wetland, to vernal pools, to meadow, to upland forest, all within a complex of existing conservation lands. The Premises is identified by The Nature Conservancy and Massachusetts Audubon Society’s *Mapping and Prioritizing Parcels for Resilience* as a “medium priority” parcel for protection based on “habitat quality” and “climate change resilience”.

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 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, including the Reserved Rights and Exceptions, 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, waste or other substance or material whatsoever or the installation of underground storage tanks;
- (4) Cutting, removing or otherwise destroying trees, grasses or other vegetation;
- (5) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, wildlife habitat, or archaeological conservation;
- (6) Use, parking or storage of vehicles including motorcycles, mopeds, all-terrain vehicles, trail bikes, snowmobiles, drones 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;
- (7) 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, all such potential uses are hereby extinguished;
- (8) The use of the Premises for more than *de minimis* commercial recreation, business, residential or industrial use;

- (9) The disruption, removal, or destruction of the stone walls or granite fence posts on the Premises;
- (10) Any other use of the Premises or activity which is inconsistent with the purpose of this Conservation Restriction or which would materially 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 materially impair the conservation values or purposes of this Conservation Restriction:

- (1) Permits. The exercise of any right reserved by Grantor under this Paragraph B shall be in compliance with zoning, the Wetlands Protection Act, and all other applicable federal, state and local laws, rules, regulations, and permits. The inclusion of any reserved right requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit should be issued.
- (2) Septic. With prior notice to and approval by the Grantee in accordance with Section II.C below, the installation, maintenance, repair, and replacement of a septic system for the residence at 30 Cruft Lane. Said approval shall only be granted upon a showing that the Grantor's existing septic system has failed and that by reason of soil limitations, ground or surface water limitations, topography, or geology, no practical alternative site exists within said "Building Area #30."
- (3) Vegetation Management. Selective minimal cutting, pruning, and removal of brush, trees, and vegetation to: 1) prevent, control or remove hazards, disease, insect or fire damage, or 2) preserve the present condition of the Premises, including vistas, woods roads, fence lines, stone walls, trails, and open fields and meadows.
- (4) Forestry. With prior notice to and approval of Grantee in accordance with Section II.C. below, the right to conduct, or to permit others to conduct, sound silvicultural uses of the Premises, including the right to harvest forest products predominantly for the purpose of enhancing the health and quality of the forest, and including the right to construct minimally improved woods roads, in accordance with a Forest Management or Stewardship Plan, and, if required by state regulations, a Forest Cutting Plan pursuant to M.G.L. c.132 §§40-44, as amended, prepared by a professional forester licensed to practice forestry in Massachusetts pursuant to M.G.L. c.132, §§ 47-49, which plans shall be consistent with this Conservation Restriction. All cutting operations shall be supervised by a licensed forester.
- (5) Non-native or nuisance species. The removal of non-native or invasive species, the interplanting or broadcast planting of native species, defined as species that are native to Worcester County by current published lists of native species, including *The Vascular Plants of Massachusetts: A County Checklist*, First Revision (2011), by Melissa Dow

Cullina, Bryan Conolly, Bruce Sorrie, and Paul Somers, published by the Massachusetts Division of Fish and Wildlife, Natural Heritage and Endangered Species Program, or as identified in a similarly acceptable publication available in the future and the control of non-native or invasive species in a manner that minimizes damage to surrounding, non-target species and preserves water quality.

- (6) Agriculture. Primarily for domestic and homesteading purposes and in keeping with the current rural character of the Premises, fruit and vegetable gardening, and the rearing, sheltering, and pasturing of farm animals typical of those found on New England farms, including but not limited to chickens, horses, cattle and sheep; and within the natural capacity of the Premises as determined by best practices and recommendations for sustainable animal husbandry promulgated by the Massachusetts Department of Agricultural Resources. With prior notice and approval by the Grantee, in accordance with Section II.C. below, of a Farm Conservation Plan prepared by the U.S. Department of Agriculture Natural Resources Conservation Service or its successor agency, the use of the Premises for any agricultural activity that materially alters the current condition of the field as open pasture, including but not limited to: tilling, row cropping, orcharding and the rearing, sheltering, and pasturing of farm animals beyond the natural carrying capacity of the Premises. All agriculture and associated activities on the Premises shall not diminish or impair the conservation values.
- (7) Fencing and Minor Agricultural Structures. Installation, repair, removal, and/or replacement of agricultural fences, and minor agricultural structures such as, but not limited to, watering troughs, low-profile lean-to or crop tunnels for shade or shelter, and mobile poultry units. For the purposes of this Section II.B.7, fully enclosed and stationary barns, sheds, hoop houses, out buildings, etc. are expressly deemed not to be “minor agricultural structures”.
- (8) Composting. The stockpiling and composting of stumps, trees and brush limbs and similar biodegradable materials originating on the Premises, provided that such stockpiling and composting is in locations where the presence of such activities will not materially impair the purposes (including scenic values) of this Restriction. No such activities will take place closer than one hundred (100) feet from any wetland, waterbody or stream. All exercise of this Reserved Right shall take into account sensitive areas and avoid harm to nesting species during nesting season.
- (9) Wildlife Habitat Improvement. With prior notice to and approval of Grantee in accordance with Section II.C. below, 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.
- (10) Archaeological Investigations. The conduct of archaeological activities, including without limitation survey, excavation and artifact retrieval, following submission of an archaeological field investigation plan and its approval in writing by Grantee and the State Archaeologist of the Massachusetts Historical Commission (or appropriate successor official).

- (11) Trails. The marking, clearing and maintenance of existing trails. With prior notice to and approval of the Grantee, the construction of or relocation of trails, provided that any construction or relocation results in trails that are no wider than six (6) feet.
- (12) 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, the Reserved Rights, and the protected conservation values;
- (13) Outdoor Passive Recreational Activities. Fishing, boating, hunting, hiking, horseback riding, cross-country skiing, bird watching and other non-motorized outdoor recreational activities that do not materially alter the landscape, do not degrade environmental quality, or do not involve more than minimal use for commercial recreational activities.
- (14) Motorized Vehicles. The use of motorized vehicles in conjunction with exercising the Reserved Rights permitted under this Conservation Restriction. No part of this Section II.B shall be interpreted or understood to allow for the use of motorized vehicles solely for recreational purposes.
- (15) Well and Water Supply For "Building Area #30". The existing water supply for the residence in "Building Area #30" as shown on the CR Plan is located in the Premises covered by this Conservation Restriction and is shown as "EX. WELL" on the CR Plan. The Grantor, its successor and assigns, reserves the right to repair, install, replace and maintain the well and well shed and all related components, including but not limited to pipes, pumps, electrical service and other items to ensure that the residence in "Building Area #30" is provided with an adequate water supply. To the extent that such work results in any disturbance of the soil surface in the area of the Conservation Restriction, the Grantor shall be obligated to return the surface to its original topography and to re-seed any disturbed areas with native species.
- (16) Right of Way & Grantor's Access to Building Area: Exclusion from Conservation Restriction. The Premises does not include the area described as a "Right of Way" shown on the Plan dated June 6, 1977 recorded with said Registry at Plan Book 450, Plan 67 and the "Right of Way" shown on the Plan dated June 3, 1985 recorded with the Registry at Plan Book 538, Plan 5 (hereinafter collectively "Right of Way"). The Grantor, her heirs, successors and assigns, retains full title unencumbered by this Conservation Restriction, with the absolute and unrestricted right to do the following: (i) maintain, repair, pave, improve, upgrade and replace any or all portions of the Right of Way; (ii) undertake the installation of any overhead or underground utilities, including but not limited to electric, septic, water, telephone, cable services or any other utility service of any kind under, in or on the Right of Way; (iii),to travel on said Right of Way by motor vehicle, on foot, on horseback and by any other means; (iv),to re-grade, deposit material, create and maintain drainage structures and to discharge water and snow from the driveway onto the adjacent land; and (v) generally to take all necessary and reasonable action to ensure that the Right of Way is functional and provides an effective means of ingress and egress from "Building Area #30" as shown on said CR Plan. Activities of the Grantor in the Right of Way are

not subject to the limitation that they may not materially impair the conservation values or purposes of this Conservation Restriction.

- (17) Site Restoration. Any work undertaken in conjunction with the Reserved Rights described in this Section II.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 Section II.B, any disturbed areas shall be restored substantially to the conditions with respect to soil material, grade, and vegetated ground cover that existed prior to said work.

C. 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 60 days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within 60 days of receipt of Grantor's request. Grantee's approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not materially impair the purposes of this Conservation Restriction.

Failure of Grantee to respond in writing within 60 days shall be deemed to constitute approval by Grantee of the request as submitted, so long as the request sets forth the provisions of this paragraph relating to deemed approval after 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.

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.

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. Forbearance Not a Waiver.

Any forbearance by Grantee to exercise its rights under this Conservation Restriction in the event of any violation shall not be deemed or construed as a waiver of such rights. No delay or omission by Grantee to exercise such rights shall be deemed or construed to waive 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, and its duly authorized agents or representatives, the right to enter the Premises and the Right of Way (notwithstanding that the Right of Way is not part of 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.

The Grantor grants a non-exclusive perpetual easement to the Grantee and the public to pass over that portion of the area shown on the CR Plan as "10' Wide Access Easement" (hereinafter the "Access Easement Area") as such Access Easement Area extends to the area shown on the CR Plan on the adjacent property as the 30' Wide Trail Easement. Said non-exclusive easement is located within the Right of Way shown on the CR Plan. Public access is limited to daylight hours,

i.e. from dawn to dusk each day. Public access is limited to pedestrians, hikers, cross country skiers, bird watchers and other outdoor enthusiasts to pass to and from other conservation lands by means of a single trail, with all use limited to non-motorized use and non-vehicular use. With the exception of dogs belonging to the residents of 30 and 31 Cruft Lane, dogs shall not be permitted within the Access Easement Area, and Grantee shall take reasonable measures to notify trail users of this prohibition, which shall include the posting of appropriate signage at the trailhead, and notification in any plans, guides or descriptions of the trail published by the Grantee.

Should the Grantor not maintain that portion of the Premises shown as “OPEN MEADOW” on the CR Plan in open condition through mowing, grazing, or other allowed means for a period of twenty-four (24) months, such that there is substantial regrowth of woody vegetation in the meadow, then with thirty (30) days written notice, the Grantee shall have the right, but not the obligation, to enter the Premises to carry out mowing or other such allowed activity to keep the fields in an open condition consistent with the Conservation Values.

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 Section V.B below, subject, however, to any applicable law which expressly provides for a different disposition of the proceeds and after complying with the terms of any gift, grant, or funding requirements. 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 equal to the proportionate value that this Conservation Restriction bears to the value of the unrestricted property. Such proportionate value of the Grantee’s property right shall remain constant.
- 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. Grantee shall receive from said damages the entire proportionate value described in Section V.B. above, including value attributed to improvements within the Premises made or expanded after the Effective Date; Grantor and Grantee shall share all expenses incurred in proportion to their interest in the Premises and Grantor shall receive the remaining proceeds. 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. ASSIGNABILITY

- A. Running of the Burden. The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.
- B. Execution of Instruments. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; the Grantor, on behalf of herself and her successors and assigns, appoint the Grantee her attorney-in-fact to execute, acknowledge and deliver any such instruments on her behalf. Without limiting the foregoing, the Grantor and her successors and assigns agree themselves to execute any such instruments upon request.
- 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 General Laws of Massachusetts. 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 20 days prior to any 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 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 Conservation Restriction to a non-fee owner that is qualified under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts in order to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

X. AMENDMENT

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

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 General Laws have been obtained, and it has been recorded in a timely manner in the Worcester District 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: Margaret Coyle Nestler, Trustee
Turtle Rock Realty Trust
P.O. Box 495
Harvard, Massachusetts 01451

To Grantee: Trustees of the Harvard Conservation Trust
P.O. Box 31
Harvard, MA 01451

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.

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 Massachusetts General Laws Chapter 184, Sections 31-33. 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 M.G.L. Chapter 184, Section 32 by any municipal officials and by the Secretary of Energy and Environmental Affairs is not to be construed as representing the existence or non-existence

of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

- B. Homestead. The Grantor hereby releases, agrees to waive, subordinate, and release any and all Massachusetts General Law Chapter 188 Homestead rights she 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 M.G.L. c. 188 10 (e).
- C. 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.
- D. Attached hereto and incorporated herein by reference are the following:

Signature pages:

Grantor

Grantee Acceptance

Approval by Town of Harvard Select Board

Approval of the Secretary of Energy and Environmental Affairs.

Exhibits:

Exhibit A: Reduced Copy of the CR Plan

WITNESS my hand and seal this ____ day of _____, 2020,

Margaret Coyle Nestler, Trustee

Turtle Rock Realty Trust

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss:

On this ____ day of _____, 2020, before me, the undersigned notary public, personally appeared Margaret Coyle Nestler, 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:

ACCEPTANCE OF GRANT

This Conservation Restriction from Margaret Coyle Nestler, Trustee of and acting as such on behalf of the Turtle Rock Realty Trust was accepted by the Trustees of the Harvard Conservation Trust this ____ day of _____, 2020.

By: _____

Its: _____, duly authorized

COMMONWEALTH OF MASSACHUSETTS

Worcester, 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 he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

APPROVAL OF SELECT BOARD

We, the undersigned, being a majority of the Select Board of the Town of Harvard, hereby certify that at a public meeting duly held on _____, 2020, the Select Board voted to approve the foregoing Conservation Restriction from Margaret Coyle Nestler, Trustee of and acting as such on behalf of the Turtle Rock Realty Trust to the Trustees of the Harvard Conservation Trust pursuant to Section 32 of Chapter 184 of the General Laws of Massachusetts.

TOWN OF HARVARD SELECT BOARD:

Alice Von Loesecke

Richard D. Maiore

Kara Minar

Stuart Sklar

Lucy Wallace

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, 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 he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

**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 Margaret Coyle Nestler, Trustee of and acting as such on behalf of the Turtle Rock Realty Trust to the Trustees of the Harvard Conservation Trust has been approved in the public interest pursuant to Massachusetts General Laws, Chapter 184, Section 32.

Dated: _____, 2020

KATHLEEN A. THEOHARIDES
Secretary of Energy and Environmental Affairs

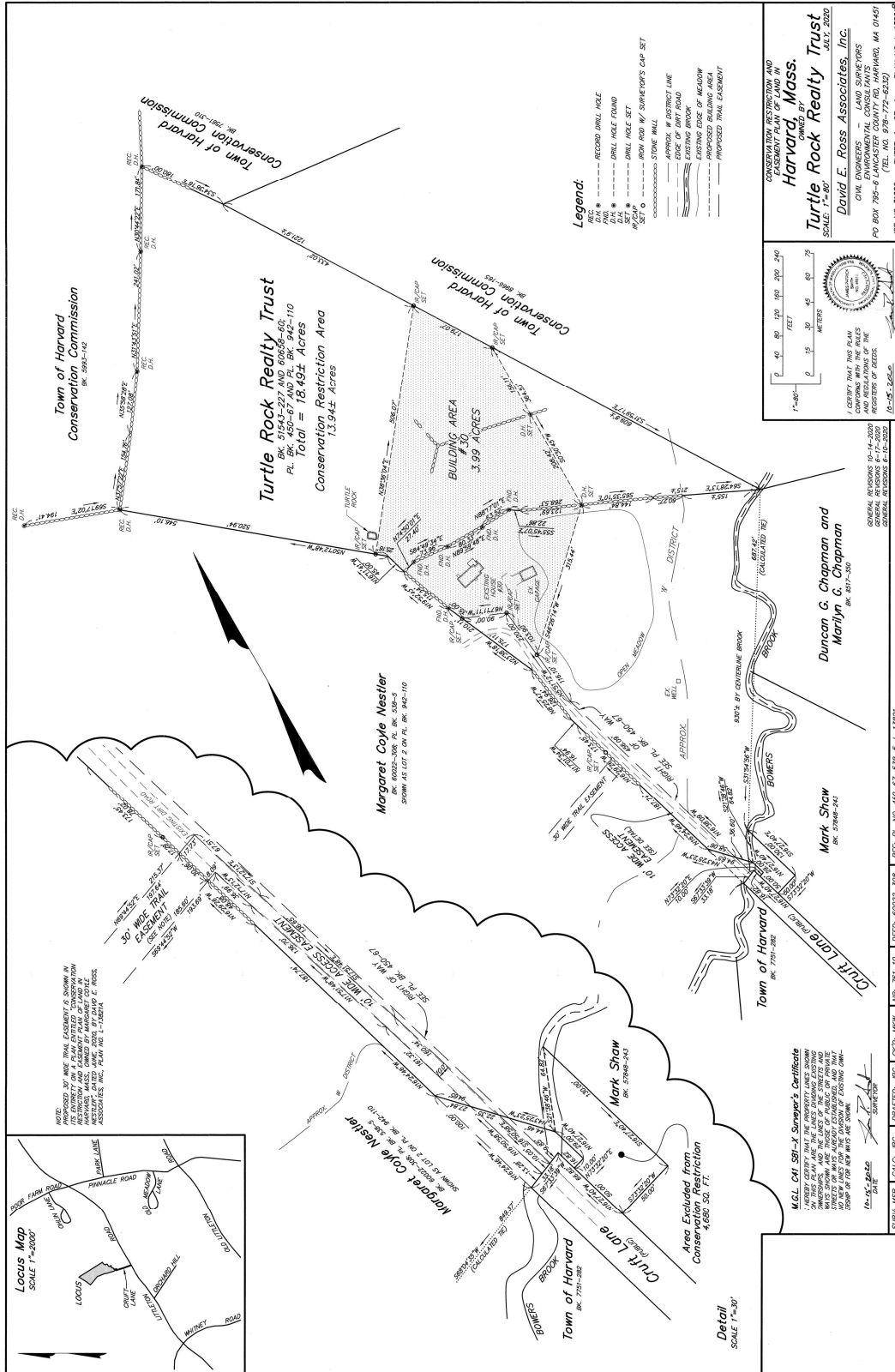
COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, 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:

EXHIBIT A – Reduced Copy of CR Plan



GRANTOR: Margaret Coyle Nestler
GRANTEE: Trustees of the Harvard Conservation Trust
u/d/t dated June 16, 1973 recorded with the Worcester
District Registry of Deeds at Book 5356, Page 462
and registered as Document No. 35112
ADDRESS OF PREMISES: 31 Cruft Lane,
Harvard, Worcester County, Massachusetts 01451
FOR GRANTOR’S TITLE SEE:
Worcester District Registry of Deeds at
Book 60022, Page 308 (a portion of said premises)

**CONSERVATION RESTRICTION
AND
EASEMENTS**

Margaret Coyle Nestler, being the owner, with an address of 31 Cruft Lane, Harvard, Massachusetts 01451, constituting all of the owners, for my successors and assigns (“Grantor”), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grant with QUITCLAIM COVENANTS to the Trustees of the Harvard Conservation Trust, u/d/t dated June 16, 1973 and recorded with the Worcester District Registry of Deeds (“Registry”) at Book 5356, Page 462 and registered as Document No. 35112, having an address of 102 Prospect Hill Road, Harvard, Worcester County, Massachusetts 01451, as it may be amended, and its successors and permitted assigns (“Grantee”), for nominal consideration, IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Conservation Restriction on land located in Harvard, Massachusetts, which land consists of 20.05 acres (“Premises”) and is a portion of the land identified on a survey plan of land prepared by David E. Ross Associates, Inc. dated July 2020, entitled “Conservation Restriction and Easement Plan of Land in Harvard, Mass. owned by Margaret Coyle Nestler” recorded herewith at Plan Book _____, Plan _____ (“CR Plan”). The following areas are expressly excluded from this Conservation Restriction: (i) “Building Area #31” as shown on said CR Plan; (ii) the “Right of Way” as shown on a plan dated June 6, 1977 recorded with said Registry at Plan Book 450, Plan 67; and (iii) the “Right of Way” shown on a plan dated June 3, 1985 recorded with said Registry at Plan Book 538, Plan 5. A reduced copy of the recorded CR Plan is attached hereto as Exhibit A.

I. PURPOSES:

This Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the 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 purposes, in a natural, scenic and undeveloped condition, and to prevent any use or change that would materially impair or interfere with its conservation and preservation values (“conservation values”).

The conservation values include the following:

- Open Space and Scenic Landscape Preservation. The Premises contributes to the protection of the scenic and natural character of Harvard. The Premises abuts over 190-acres of permanently protected conservation land to the east, west and north, and protection of the Premises advances multiple goals and objectives of Harvard’s *Open Space & Recreation Plan, 2016*, such as, “Develop a system of interconnected trails for non-vehicular travel,” “Identify and protect open space critical to protecting Harvard’s water resources, and “Preserve habitat for native plants, animals and threatened species.” The Premises is identified in the Massachusetts Department of Conservation and Recreation’s *Scenic Landscape Inventory* as being located in a “Distinctive” landscape that is recommended for preservation as area of the “highest visual quality.”
- Water Resource and Flood Plain Protection. The Premises contains over 800 feet of frontage on Bowers Brook, and a significant portion of its acreage lies within the Federal Emergency Management Agency’s *Flood Hazard* zone. The protection of this floodplain will ensure the continued availability of flood storage during major storm events and maintain landscape resiliency, as well as contribute to the overall water quality and recharge of Bowers Brook.
- Protection of Wildlife Habitat. The Premises contains varied array of habitat types from forested wetland, to vernal pools, to meadow, to upland forest, all within a complex of existing conservation lands. The Premises is identified by The Nature Conservancy and Massachusetts Audubon Society’s *Mapping and Prioritizing Parcels for Resilience* as a “medium priority” parcel for protection based on “habitat quality” and “climate change resilience”.

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 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, including the Reserved Rights and Exceptions, 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, waste or other substance or material whatsoever or the installation of underground storage tanks;
- (4) Cutting, removing or otherwise destroying trees, grasses or other vegetation;
- (5) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, wildlife habitat, or archaeological conservation;
- (6) Use, parking or storage of vehicles including motorcycles, mopeds, all-terrain vehicles, trail bikes, snowmobiles, drones 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;
- (7) 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, all such potential uses are hereby extinguished;
- (8) The use of the Premises for more than *de minimis* commercial recreation, business, residential or industrial use;
- (9) The disruption, removal, or destruction of the stone walls or granite fence posts on the Premises;

- (10) Any other use of the Premises or activity which is inconsistent with the purpose of this Conservation Restriction or which would materially 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 materially impair the conservation values or purposes of this Conservation Restriction:

- (1) Permits. The exercise of any right reserved by Grantor under this Paragraph B shall be in compliance with zoning, the Wetlands Protection Act, and all other applicable federal, state and local laws, rules, regulations, and permits. The inclusion of any reserved right requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit should be issued.
- (2) Septic. With prior notice to and approval by the Grantee in accordance with Section II.C. below, the installation, maintenance, repair, and replacement of a septic system for the residence at 31 Cruft Lane. Said approval shall only be granted upon a showing that the Grantor's existing septic system has failed and that by reason of soil limitations, ground or surface water limitations, topography, or geology, no practical alternative site exists within "Building Area #31."
- (3) Vegetation Management. Selective minimal cutting, pruning, and removal of brush, trees, and vegetation to: 1) prevent, control or remove hazards, disease, insect or fire damage, or 2) preserve the present condition of the Premises, including vistas, woods roads, fence lines, stone walls, trails, and open fields and meadows.
- (4) Forestry. With prior notice to and approval of Grantee in accordance with Section II.C. below, the right to conduct, or to permit others to conduct, sound silvicultural uses of the Premises, including the right to harvest forest products predominantly for the purpose of enhancing the health and quality of the forest, and including the right to construct minimally improved woods roads, in accordance with a Forest Management or Stewardship Plan, and, if required by state regulations, a Forest Cutting Plan pursuant to M.G.L. c.132 §§40-44, as amended, prepared by a professional forester licensed to practice forestry in Massachusetts pursuant to M.G.L. c.132, §§ 47-49, which plans shall be consistent with this Conservation Restriction. All cutting operations shall be supervised by a licensed forester.
- (5) Non-native or nuisance species. The removal of non-native or invasive species, the interplanting or broadcast planting of native species, defined as species that are native to Worcester County by current published lists of native species, including *The Vascular Plants of Massachusetts: A County Checklist*, First Revision (2011), by Melissa Dow Cullina, Bryan Conolly, Bruce Sorrie, and Paul Somers, published by the Massachusetts Division of Fish and Wildlife, Natural Heritage and Endangered Species Program, or as identified in a similarly acceptable publication available in the future and the control of

non-native or invasive species in a manner that minimizes damage to surrounding, non-target species and preserves water quality.

- (6) Agriculture. Primarily for domestic and homesteading purposes and in keeping with the current rural character of the Premises, fruit and vegetable gardening, and the rearing, sheltering, and pasturing of farm animals typical of those found on New England farms, including but not limited to chickens, horses, cattle and sheep, and within the natural capacity of the Premises as determined by best practices and recommendations for sustainable animal husbandry promulgated by the Massachusetts Department of Agricultural Resources. With prior notice to and approval by the Grantee, in accordance with Section II.C. below, of a Farm Conservation Plan prepared by the U.S. Department of Agriculture Natural Resources Conservation Service or its successor agency, the use of the Premises for any agricultural activity that materially alters the current condition of the field as open pasture, including but not limited to: tilling, row cropping, orcharding, and the rearing, sheltering, and pasturing of farm animals beyond the natural carrying capacity of the Premises. All agriculture and associated activities on the Premises shall not diminish or impair the conservation values.
- (7) Fencing and Minor Agricultural Structures. Installation, repair, removal, and/or replacement of agricultural fences, and minor agricultural structures such as, but not limited to, watering troughs, low-profile lean-to or crop tunnels for shade or shelter, and mobile poultry units. For the purposes of this Section II.B.7, fully enclosed and stationary barns, sheds, hoop houses, out buildings, etc. are expressly deemed not to be “minor agricultural structures”.
- (8) Composting. The stockpiling and composting of stumps, trees and brush limbs and similar biodegradable materials originating on the Premises, provided that such stockpiling and composting is in locations where the presence of such activities will not materially impair the purposes (including scenic values) of this Restriction. No such activities will take place closer than one hundred (100) feet from any wetland, waterbody or stream. All exercise of this Reserved Right shall take into account sensitive areas and avoid harm to nesting species during nesting season.
- (9) Wildlife Habitat Improvement. With the prior notice to and approval of Grantee, in accordance with Section II.C. below, 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.
- (10) Archaeological Investigations. The conduct of archaeological activities, including without limitation survey, excavation and artifact retrieval, following submission of an archaeological field investigation plan and its approval in writing by Grantee and the State Archaeologist of the Massachusetts Historical Commission (or appropriate successor official).

- (11) Trails. The marking, clearing and maintenance of the existing meadow trail. With prior notice to and approval of the Grantee, the construction of or relocation of trails, provided that any construction or relocation results in trails that are no wider than six (6) feet.
- (12) 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, the Reserved Rights, and the protected conservation values;
- (13) Outdoor Passive Recreational Activities. Fishing, boating, hunting, hiking, horseback riding, cross-country skiing, bird watching and other non-motorized outdoor recreational activities that do not materially alter the landscape, do not degrade environmental quality, or do not involve more than minimal use for commercial recreational activities.
- (14) Motorized Vehicles. The use of motorized vehicles in conjunction with exercising the Reserved Rights permitted under this Conservation Restriction. No part of this Section II.B. shall be interpreted or understood to allow for the use of motorized vehicles solely for recreational purposes.
- (15) Viewshed. The right to create, improve and maintain a view (which view is further documented in the Baseline Report), on the area described as “View Easement Building Area #31” as shown on the CR plan (“Viewshed”), together with the right to cut any trees, brush and other vegetation within said Viewshed that restrict or impinge in any way on distant views. Any trees necessary to be cut shall be cut off as close to the ground as possible, with all wood cut to remain the property of the Grantor, or all stumps must be ground on site or removed to enable annual mowing of the Viewshed area. All brush shall be chipped on site or placed in piles that provide wildlife habitat and do not significantly obstruct movement by reptiles and amphibians. No cutting shall take place more often than once every three years and said cutting shall be completed within a four-week period. Any cutting or associated actions carried out under this Section II.B.15 shall be done in manner that minimizes impact to wildlife movement, particularly turtles moving through this area to the south facing slope during nesting season, and to the trail, which is referenced and identified in Section IV. below, and following any cutting or associated actions the trail shall be left in condition that is suitable for safe and enjoyable public use.
- (16) Right of Way & Grantor’s Access to Building Area: Exclusion from Conservation Restriction. The Premises does not include the area described as a “Right of Way” shown on the Plan dated June 6, 1977 recorded with said Registry at Plan Book 450, Plan 67 and the “Right of Way” shown on the Plan dated June 3, 1985 recorded with the Registry at Plan Book 538, Plan 5 (hereinafter collectively “Right of Way”). The Grantor, her heirs, successors and assigns, retains full title unencumbered by this Conservation Restriction, with the absolute and unrestricted right to do the following: (i) maintain, repair, pave, improve, upgrade and replace any or all portions of the Right of Way; (ii) undertake the installation of any overhead or underground utilities, including but not limited to electric, septic, water, telephone, cable services or any other utility service of any kind under, in or on the Right of Way; (iii),to travel on said Right of Way by motor vehicle, on foot, on horseback and by any other means; (iv),to re-grade, deposit material, create and maintain

drainage structures and to discharge water and snow from the driveway onto the adjacent land; and (v) generally to take all necessary and reasonable action to ensure that the Right of Way is functional and provides an effective means of ingress and egress from “Building Area #31” as shown on said CR Plan. Activities of the Grantor in the Right of Way are not subject to the limitation that they may not materially impair the conservation values or purposes of this Conservation Restriction.

- (17) Site Restoration. Any work undertaken in conjunction with the Reserved Rights described in this Section II.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 Section II.B., any disturbed areas shall be restored substantially to the conditions with respect to soil material, grade, and vegetated ground cover that existed prior to said work.

C. 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 60 days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. Where Grantee’s approval is required, Grantee shall grant or withhold approval in writing within 60 days of receipt of Grantor’s request. Grantee’s approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not materially impair the purposes of this Conservation Restriction.

Failure of Grantee to respond in writing within 60 days shall be deemed to constitute approval by Grantee of the request as submitted, so long as the request sets forth the provisions of this paragraph relating to deemed approval after 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.

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.

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. Forbearance Not a Waiver.

Any forbearance by Grantee to exercise its rights under this Conservation Restriction in the event of any violation shall not be deemed or construed as a waiver of such rights. No delay or omission by Grantee to exercise such rights shall be deemed or construed to waive 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, and its duly authorized agents or representatives, the right to enter the Premises and the Right of Way (notwithstanding that the Right of Way is not part of 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.

The Grantor grants a non-exclusive perpetual easement to the Grantee and the public to enter upon a portion of the Premises within the “10’ Wide Access Easement” and the “30’ Wide Trail Easement” as shown on the CR Plan. The “10’ Wide Access Easement” is located within the center of the “Right of Way” shown on the plan dated June 6, 1977, recorded with said Registry at Plan Book 450, Plan 67; said easement is shown as “10’ Wide Access Easement” on the CR Plan (hereinafter, the “Access Easement Area”). There is also a pedestrian trail easement thirty (30’) feet in width that extends westerly from the Right of Way to the westerly boundary of the Premises, shown on the CR Plan as “30’ Wide Trail Easement” (hereinafter, the “Trail Easement Area”). The Grantee shall have the right to construct and maintain a single pedestrian path that is no more than ten feet (10’) in width within the Trail Easement Area. The non-exclusive perpetual easements granted to the Grantee and the public to enter upon the 10’ Wide Access Easement and the 30’ Wide Trail Easement are hereinafter referred to as the “Access Easement” and the “Trail Easement”, respectively.

The Access Easement and Trail Easement granted to the Grantee and the public pursuant to this Conservation Restriction are granted subject to and upon the following conditions: (i) public access is limited to daylight hours, i.e. from dawn to dusk each day, (ii) public access is limited to pedestrians, hikers, cross country skiers, bird watchers and other outdoor enthusiasts to pass to and from other conservation lands by means of a single trail, with all use limited to non-motorized use and non-vehicular use, (iii) public access on the Trail Easement Area is limited to a single pedestrian trail no more than ten (10) feet in width in the Trail Easement Area as defined and shown in the Baseline Report and as shown on the CR Plan; (iv) Grantee shall be responsible for maintenance and repair of the trail within the Trail Easement Area, any necessary relocation of the trail within the Trail Easement Area shall maintain the ten (10) foot width, and under no circumstances shall there ever be more than a single trail traversing the Trail Easement Area. With the exception of dogs belonging to the residents of 30 and 31 Cruft Lane, dogs shall not be permitted within the Access Easement Area and Trail Easement Area, and Grantee shall take reasonable measures to notify trail users of this prohibition, which shall include the posting of appropriate signage at the trailhead, and notification in any plans, guides or descriptions of the trail published by the Grantee.

Should the Grantor not maintain that portion of the Premises shown as “OPEN MEADOW” on the CR Plan in open condition through mowing, grazing, or other allowed means for a period of twenty-four (24) months, such that there is substantial regrowth of woody vegetation in the meadow, then with thirty (30) days written notice, the Grantee shall have the right, but not the obligation, to enter the Premises to carry out mowing or other such allowed activity to keep the fields in an open condition consistent with the Conservation Values.

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 Section V.B. below, subject, however, to any applicable law which expressly provides for a different disposition of the proceeds and after complying with the terms of any gift, grant, or funding requirements. 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 equal to the proportionate value that this Conservation Restriction bears to the value of the unrestricted property. Such proportionate value of the Grantee's property right shall remain constant.
- 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. Grantee shall receive from said damages the entire proportionate value described in Section V.B. above, including value attributed to improvements within the Premises made or expanded after the Effective Date; Grantor and Grantee shall share all expenses incurred in proportion to their interest in the Premises and Grantor shall receive the remaining proceeds. 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. ASSIGNABILITY

- A. Running of the Burden. The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.
- B. Execution of Instruments. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; the Grantor, on behalf of herself and her successors and assigns, appoint the Grantee her attorney-in-fact to execute, acknowledge and deliver any such instruments on her behalf. Without limiting the foregoing, the Grantor and her successors and assigns agree themselves to execute any such instruments upon request.
- 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 General Laws of Massachusetts. 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 20 days prior to any 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 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 Conservation Restriction to a non-fee owner that is qualified under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts in order to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

X. AMENDMENT

If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this

Conservation Restriction or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Sections 31-33 of Chapter 184 of the General Laws of Massachusetts. Any amendments to this conservation restriction shall occur only in exceptional circumstances. The Grantee will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net gain in conservation value. All expenses of all parties in considering and/or implementing an amendment shall be borne by the persons or entity seeking the amendment. Any amendment shall be consistent with the purposes of this Conservation Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and if applicable, shall comply with the provisions of Article 97 of the Amendments to the Massachusetts Constitution, and any gifts, grants or funding requirements. Any amendment shall be recorded in the Worcester District Registry of Deeds.

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 General Laws have been obtained, and it has been recorded in a timely manner in the Worcester District 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: Margaret Coyle Nestler
Post Office Box 495
Harvard, Massachusetts 01451

To Grantee: Trustees of the Harvard Conservation Trust
P.O. Box 31
Harvard, MA 01451

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.

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 Massachusetts General Laws Chapter 184, Sections 31-33. 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 M.G.L. Chapter 184, Section 32 by any municipal officials and by the Secretary of Energy and Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.
- B. Homestead.

The Grantor hereby releases, agrees to waive, subordinate, and release any and all Massachusetts General Law Chapter 188 Homestead rights she 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 M.G.L. c. 188 10 (e).
- C. 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.
- D. Attached hereto and incorporated herein by reference are the following:

Signature pages:

Grantor

Grantee Acceptance

Approval by Town of Harvard Select Board

Approval of the Secretary of Energy and Environmental Affairs.

Exhibits:

Exhibit A: Reduced Copy of the CR Plan

DR

WITNESS my hand and seal this ____ day of _____, 2020,

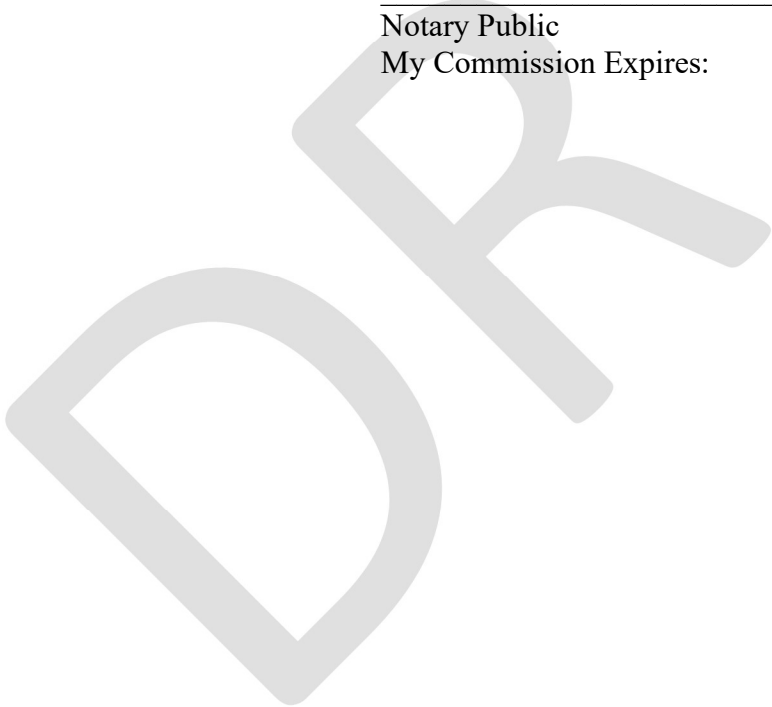
Margaret Coyle Nestler

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss:

On this ____ day of _____, 2020, before me, the undersigned notary public, personally appeared Margaret Coyle Nestler, 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:



ACCEPTANCE OF GRANT

This Conservation Restriction from Margaret Coyle Nestler was accepted by the Trustees of the Harvard Conservation Trust this _____ day of _____, 2020.

By: _____

Its: _____, duly authorized

COMMONWEALTH OF MASSACHUSETTS

Worcester, 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 he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

APPROVAL OF SELECT BOARD

We, the undersigned, being a majority of the Select Board of the Town of Harvard, hereby certify that at a public meeting duly held on _____, 2020, the Select Board voted to approve the foregoing Conservation Restriction from Margaret Coyle Nestler to the Trustees of the Harvard Conservation Trust, pursuant to Section 32 of Chapter 184 of the General Laws of Massachusetts.

TOWN OF HARVARD SELECT BOARD:

Alice Von Loesecke

Richard D. Maiore

Kara Minar

Stuart Sklar

Lucy Wallace

COMMONWEALTH OF MASSACHUSETTS

Worcester, 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 she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

**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 Margaret Coyle Nestler to the Trustees of the Harvard Conservation Trust 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

SUFFOLK, 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:

Select Board FY22 Personnel and Expense Budget Narrative

The FY22 Select Board budget adheres to the “Financial Expectation” criteria;

- A level-funded budget that holds FY 2022 total spending equal to or less than FY 2021.
- A prioritized list of the top additional spending opportunities **and** the value created for the Town beyond the incremental cost requested if this funding were approved.
- A “disaster budget,” with total spending 5% below FY 2021. In this “hope we do not use” budget, it will be important to articulate:
 - What specific line items you would reduce or eliminate.
 - What services you could no longer provide and the resulting impact on the Town.

while at the same time trying to balance the “Budget Goals” set out by the Board and Finance Committee:

- Follow the Town’s Charter and Master Plan as guidance in decision making.
- In recognition of the financial conditions facing the State and all of its communities we will strive to utilize available funds to enable the Town and its boards to best serve the community and maintain natural and physical resources.
- Provide operating funds that support a long-term view of capital investment and economic development.
- Provide support for open space needs, recreation, conservation, opportunity for housing diversity, and economic development.

Personnel

The staff in the Select Board office wear multiple hats in addition to supporting the Select Board (e.g., assisting Inspectional Services, overseeing Nashoba Valley Regional Dispatch, serving as webmaster, ABCC liaison, etc.) and strive to improve Town operations while controlling costs.

Adopting the revised Personnel Classification and Compensation system two years ago was a positive step toward controlling costs. This change moved us off of built in escalation increases of ~4.25%+, for most Town non-union employees, to a system that provides for Cost Of Living Adjustments (COLAs) based on the Consumer Price Index (CPI) and Merit Based (MB) increases. I point this out to express the fact that our current system already reduces personnel costs.

Current financial constraints make it near difficult to almost impossible to keep pace with other Harvard employees (unionized and non-municipal) and other communities. Further reducing our ability to provide COLAs or merit-based increases (either one or the other, or both) places us at a disadvantage compared to other communities that continue to provide one or the other. This will prove itself to be problematic as we see staff leave to take jobs in these communities. Yes, our short-term benefit is lower labor costs but the loss of institutional knowledge combined with the time it takes to train new individuals far exceeds any savings we hope to have. It is at this point we become a necrotizing organism. We may be able to lose a limb (certain services) and continue on but unless we stem the losses we will get to a point that we will become a shadow (both services and personnel) of our current selves.

Select Board FY22 Personnel and Expense Budget Narrative

In order to maintain personnel costs we made sure they were the same as the adjusted FY21 numbers. This was made easier this year as the Town Administrator's contract is up for renewal and thus there are no set obligations for this position as there were last year. This may change depending on the outcome of negotiations.

Additional Personnel Spending Requests

The Facilities Manager/Building Inspector/Zoning Enforcement Officer position reflects an increase in costs due to the level of certification attained. The current individual, Jeff Hayes, has done a fantastic job in getting his certifications and thus his pay reflects his achievements. While Jeff's achievements help control School Building costs they do little for the Town Budget and accordingly his FY22 increase (\$5,573) will be either absorbed by other areas of the SB budget lines or we will have to increase permit fees to offset this impact. The increased fee solution would require the same level of permits in order to make up the difference in pay between FY21 and FY22. There are too many variables (a portion not in our control) to categorically state that we can do this.

Expenses

There are a few notable changes in the various expense items that fall under the Select Board budget lines. We are moving the Copy Machine and Mail lines to the Finance department as this is where maintenance and supplies are coordinated.

There is only one other increase and that is in Street Lighting which continues to increase. This year we are increasing it by an additional \$1,000 to \$8,000 which is slightly above the \$7,890 the Town Spent on this line in FY20. We will make adjustments in other expense areas to make up this difference. The only other way to address such increases is to switch streetlights to an LED system (we have requested this) or shut off lights completely. The latter poses potential public safety issues and has been pursued in the past.

We have adjusted the electricity, gas, and oil accounts to better reflect actual cost but stayed within the funds appropriated in the prior year. Building/Liability Insurance line is unknown at this time and will be updated once we get our estimate from our insurance carrier. It is expected to have a significant increase as the new school will be on-line in FY22; the net increase (New HES – Old HES) for a full-year of coverage for the new school is \$46k. We have doubled our vehicle deductibles, but the savings is only \$866. I am not sure where the offsetting reduction will come from in order to keep in step with the Select Board/Finance Committee requirements.

On another note, we kept the Purchase of Services line at \$13,000 as I did not know if the Board wished to transfer back the \$10,000 it moved to the Tree Warden budget in FY21. Should the Board wish this change be made we will notify the Tree Warden and make the change.

Top Additional Spending Opportunities

1. Provide COLA adjustments to employees affected by the shift in insurance. The value created by this move, beyond that of the goodwill gesture, is that it may be enough to stop staff from looking elsewhere and retain their knowledge and expertise here in Harvard.

Select Board FY22 Personnel and Expense Budget Narrative

2. Provide for Zoom capabilities on an ongoing basis and for someone to oversee this as the time it takes to do it currently is extraordinary and takes away from time that is needed for other issues.
3. Provide an old vehicle to Facilities Manager/Building Inspector/Zoning Enforcement Officer for in-town use only thus cutting down on mileage costs for one of the most-traveled positions in Town. This would also offset the \$300 in additional insurance costs associated with keeping the additional vehicle on the road. This would also increase the Inspector's dependability to maneuver in and around construction sites during times of bad weather thus reducing the time it takes to do inspections.

Prioritized List of Cuts

The cuts from the Select Board budgets would have to be \$56,420 in order to equal a 5% reduction from FY21 budget. This could not be done without affecting including cuts to personnel.

In priority order, line items which could be reduced would be expense-focused:

1. Reduction in hours for staff. This is the only significant reduction that could be made. A 5% reduction would equate to approximately \$17,000 (does not include Veteran's Agent, Animal Control, or Facilities Management) which would not be enough and thus a greater amount would have to be taken. We also have to be mindful of the size of these reductions as there is a tipping point where individuals would be eligible for unemployment. We have tried to figure this out and believe that point is 10% or less of a 40 hour per week employee (4hrs per week).
2. Additional savings could be had by reducing the Purchase of Services line by \$10,000 (if the SB takes back the money it transferred to the Tree Warden in FY21)
3. We could get additional funds from a variety of lines which include Legal, Public Building expenses, and possibly Town Reports.

Dept #

1121

FY2022

Dept Name: SELECT BOARD

**FY2021 Hours: 2,088 Total Hours (Based on 8 hrs/day Mon-Fri = 40 hrs/wk)*

Employee Name	Position	Total Hours*	Base Rate	Amount
Timothy P. Bragan	Town Administrator	2,088	74.99	156,586.00
Marie C. Sobalvarro	Asst. TA/HR Director	2,089	40.71	85,043.19
Julie Doucet	Executive Assistant	2,089	31.69	66,200.41
				-
				-
				-
				-
				-
				-
				-
				-
				-
				-
				-
TOTAL BASE WAGES				307,829.60
Overtime Wages				
Mileage Wages				5,400.00
Certification Wages				
Education/Training Wages				
Stipends				
On Call Wages				
			TOTAL SALARY & WAGE BUDGET:	313,229.60

Dept #

01151

FY2022

Dept Name: Legal Services

Expense Acct#	Expense Account Name	Amount
53080	Town Counsel	35,000.00
53090	Other Legal Services	20,000.00
TOTAL EXPENSE BUDGET:		55,000.00

Dept #

1543

FY2022

Dept Name: Veteran's Sevices

*FY2021 Hours: 2,088 Total Hours (Based on 8 hrs/day Mon-Fri = 40 hrs/wk)

Employee Name	Position	Total Hours*	Base Rate	Amount
Dwight Detillion	Veteran's Agent	212		5,980.00
				-
				-
				-
				-
				-
				-
				-
				-
				-
				-
				-
				-
				-
TOTAL BASE WAGES				5,980.00
Overtime Wages				
Mileage Wages				
Certification Wages				
Education/Training Wages				
Stipends				
On Call Wages				
			TOTAL SALARY & WAGE BUDGET:	5,980.00

Dept #

01192

FY2022

Dept Name: Public Buildings

*FY2021 Hours: 2,088 Total Hours (Based on 8 hrs/day Mon-Fri = 40 hrs/wk)

Employee Name	Position	Total Hours*	Base Rate	Amount
Eddie Stoffel	Custodian	1,887	17.26	32,569.62
				-
				-
				-
				-
				-
				-
				-
				-
				-
				-
				-
TOTAL BASE WAGES				32,569.62
Overtime Wages				1,000.00
Mileage Wages				
Certification Wages				
Education/Training Wages				
Stipends				
On Call Wages				
		TOTAL SALARY & WAGE BUDGET:		33,569.62

Dept #

VARIOUS

FY2022

Dept Name: Inspections & Animal Control

Expense Acct#	Expense Account Name	Amount
01241-		
53010	Facility Mngr./Building Insp.	4,000.00
01292-		
53010	Animal Control	750.00
	TOTAL EXPENSE BUDGET:	4,750.00

Dept #

VARIOUS

FY2022

Dept Name: Other Select Depts.

Expense Acct#	Expense Account Name	Amount
01120-		
53011	Town Audit	21,000.00
01131-		
57300	Finance Committee	200.00
01152-		
54200	Personnel Board	100.00
01193-		
52750	Bldg/Liab Insurance	213,825.00
01195-		
53400	Town Reports	5,000.00
01395-		
53200	Mont. Reg. Voc. Tech.	76,572.00
01424-		
52100	Street Lighting	8,000.00
01709-		
59130	Debt Issuance/BAN Int.	35,000.00
	TOTAL EXPENSE BUDGET:	359,697.00