

SELECT BOARD

AGENDA

Tuesday, November 19, 2019

7:00pm

**Town Hall Meeting Room
13 Ayer Road, Harvard, MA 01451**

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

- 1) *Call Meeting to Order – Rich Maiore***
- 2) *Harvard Conservation Trust review of proposed Oak Hill Rd conservation restriction (7:00)***
- 3) *Final report from the Housing @ Hildreth House Committee (7:10)***
- 4) *Park & Recreation Commission's Athletic Field Subcommittee interim report (7:15)***
- 5) *Public Communication (7:35)***
- 6) *Town Administrator report – miscellaneous issues & discussion items (7:40)***
- 7) *Action/Discussion Items: (7:55)***
 - a) *Recognize resignations from the Cultural Council: Anne Butterfield & Rich Marcello***
 - b) *Update on Complete Streets proposal and next steps***
 - c) *Act on Harvard Commission on Disabilities***
 - d) *Act on additional architect request for Hildreth House Phase II***
- 8) *Select Board Reports***

NEXT SCHEDULED MEETING

Town Hall Meeting Room

December 3, 2019

7:00pm



November 13, 2019

Harvard Select Board
c/o Julie Doucet, Executive Assistant
Town of Harvard
13 Ayer Road
Harvard, MA 01451

Re: *Finnegan-Oak Hill Orchard Conservation Restriction* Approval Request

Dear Select Board,

Enclosed please find a copy of the conservation restriction ("CR") being granted by Mark and Hilary Finnegan to the Harvard Conservation Trust on a portion of their property on Oak Hill Road. Also enclosed are a sketch map of the project area, and the Municipal Certification form signed by the Harvard Conservation Commissioners attesting to the conservation values and public benefit of the CR.

We respectfully seek the Board's approval of this CR pursuant to Sections 32 of Chapter 184 of the Massachusetts General Laws. We look forward to discussing the project and answering any questions the Board may have at its meeting on November 19th.

Please do not hesitate to contact with any questions or requests in the interim; I can be contacted at doutman@harvardconservationtrust.org, or (978) 456-9292.

Sincerely,

A handwritten signature in blue ink, which appears to read "David Outman". The signature is fluid and cursive.

David Outman
Executive Director

GRANTOR: Mark D. Finnegan & Hilary B. Finnegan

GRANTEE: Harvard Conservation Trust, a Massachusetts charitable organization established under a Declaration of Trust dated June 16, 1973, recorded at Book 5356, Page 462 and as amended by a First Amendment dated June 19, 2002 recorded at Book 27006 Page 29 and Second Amendment dated December 5, 2018 recorded at Book 59831, Page 35.

ADDRESS OF PREMISES: 120 Oak Hill Road, Harvard, MA

FOR GRANTOR'S TITLE SEE: Worcester County Registry of Deeds Book 38605, Page 387.

CONSERVATION RESTRICTION

We, Mark D. Finnegan and Hilary B. Finnegan, husband and wife, of 120 Oak Hill Road, Harvard, Massachusetts, and for our 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 Harvard Conservation Trust, a Massachusetts charitable organization established under a Declaration of Trust dated June 16, 1973, recorded at Book 5356, Page 462 and as amended by a First Amendment dated June 19, 2002 recorded at Book 27006 Page 29 and Second Amendment dated December 5, 2018 recorded at Book 59831, Page 35, and its permitted successors and assigns (“Grantee”), for nominal consideration of less than One Hundred Dollars (\$100.00), IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Conservation Restriction on land known as Lot 2-A and located at, 120 Oak Hill Road, Harvard containing 1.55 acres (“Premises”), which Premises is more particularly described in Exhibit A and shown in the attached plans included in Exhibits B1, B1-2 and B2, all of which are incorporated herein and attached hereto.

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 impair or interfere with its Conservation Values (“Conservation Values”). The Grantor and the Grantee share the common purpose of conserving the Premises and these Conservation Values for present and future generations.

The Conservation Values include the following:

- Open Space Protection. The Premises contributes to the protection of Harvard’s scenic and natural character and protecting the Premises will enhance the open-space value of these and nearby lands. The Premises abuts or is in close proximity to lands already conserved, including

properties subject to the Westward Orchards Agricultural Preservation Restriction (Carlson Orchards).

- Soils. The entire Premises contains Paxton Fine Sandy Loam of which the United States Natural Resources Conservation Service (“NRCS”) classified 0.87 acres as Farmland of Statewide Importance and 0.46 acres as Prime Farmland.
- Working Farmland. This Conservation Restriction will ensure that the orchard and open fields within the Premises remain permanently available for agriculture consistent with the Conservation Values.
- 495/MetroWest Development Compact Plan. The Premises abuts Priority Preservation Area 125-5. The 495/MetroWest Development Compact Plan, sponsored by the Commonwealth of Massachusetts’ Executive office of Housing and Economic Development (March 2012), identifies this area as “Preservation Area 3” in the Town of Harvard. “Priority Preservation Areas” (PPAs) are areas within a city or town that deserve special protection due to the presence of significant environmental factors and natural features, such as endangered species habitats or areas critical to drinking water supply, scenic vistas, areas important to a cultural landscape, or areas of historical significance.”
- Protecting Scenic Views. The Premises is plainly visible from Oak Hill Road, a public way Harvard designated as a Scenic Road under the Massachusetts Scenic Road Act (G.L. c. 40 §15).
- Massachusetts Scenic Landscape Inventory. The Premises is identified as “Distinctive” (areas of highest visual quality) in the Massachusetts Department of Conservation and Recreation’s Scenic Landscape Inventory. This Inventory identifies landscapes that should be protected to conserve and protect natural, cultural, and recreational resources across the Commonwealth.

Consistency with Clearly Delineated Federal, State, or Local Governmental Conservation Policy. The Town of Harvard’s Open Space and Recreation Plan, 495/MetroWest Development Compact Plan, US Department of Agriculture’s Natural Resources Conservation Service, and the Massachusetts Scenic Landscape Inventory show or state that protecting the Conservation Values present on the Premises, in perpetuity, qualify as ‘conservation purposes’ as defined in 26 CFR 1.170A-14(d)(1) and other definitions regarding ‘qualified conservation contributions’ found at 26 CFR 1.170A-14.

Baseline Documentation Report The Premises and its Conservation Values, including its current uses and state of improvement, are described in a Baseline Documentation Report (“BDR”) prepared by Grantor with the Grantee’s cooperation, consisting of maps, photographs, and other documents on file with the Grantee and referenced herein. The BDR is: (i) acknowledged by Grantor and Grantee to be a complete and accurate representation of the Premises’ condition and values on this Conservation Restriction’s Effective Date (see section XI), (ii) intended to fully comply with applicable Treasury Regulations, and (iii) intended to serve as an objective information baseline for subsequent monitoring for compliance with this Conservation Restriction’s terms. Notwithstanding

the foregoing, the parties may utilize any evidence of the Premises' condition on its Effective Date other than the BDR, if the BDR is unavailable or does not adequately address the issues presented.

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

A. Prohibited Acts and Uses

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

- (1) Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, sign, fence, billboard or other advertising display, antenna, utility pole, tower, solar panel, solar array, conduit, line or other temporary or permanent structure or facility on, above or under the Premises;
- (2) Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit or otherwise making topographical changes to the area;
- (3) Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings generated off-site, waste or other substance or material whatsoever or the installation of underground storage tanks;
- (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, or any other motorized vehicles on the Premises;
- (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 disruption, removal, or destruction of the stone walls or granite fence posts on the Premises;
- (9) The use of the Premises for business, residential or industrial purposes; and
- (10) Any other use of the Premises or activity which is inconsistent with the purpose of this Conservation Restriction or which would impair its Conservation Values.

B. Reserved Rights and Exceptions

The Grantor reserves the right to conduct or permit the following activities and uses on the Premises, but only if such uses and activities do not impair the Conservation Values or Purposes of this Conservation Restriction.

- (1) Vegetation Management. Removing brush, pruning and cutting to prevent, control or remove hazards, disease, insect or fire damage, or to preserve the Premises' present condition, woods roads, fence lines, trails, and meadows, provided that all fence lines along Oak Hill Road are sight pervious.
- (2) Non-native or nuisance species. To remove non-native or invasive species, plant native species, and control species in a manner that minimizes damage to surrounding, non-target species and preserves water quality.
- (3) Wildlife Habitat Improvement. With prior notice to Grantee, measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare or endangered species including selective planting of native trees, shrubs and plant species.
- (4) Archaeological Investigations. To conduct archaeological activities, including without limitation survey, excavation and artifact retrieval, following submission of an archaeological field investigation plan to Grantee and the State Archaeologist of the Massachusetts Historical Commission (or appropriate successor official) written approval, and following notice to the Grantee.
- (5) Trails. To mark, maintain, and, following notice to the Grantee, create trails or relocate existing trails.
- (6) Signs. To erect, maintain and replace signs with respect to trespass, trail access, sale of the Premises, the Grantor's and Grantee's interests in the Premises, any gift, grant, or other applicable source of support for the conservation of the Premises, the Reserved Rights, and the Conservation Values.
- (7) Outdoor Passive Recreational Activities. Hunting, hiking, horseback riding, cross-country skiing and other non-motorized outdoor recreational activities that do not materially alter the landscape, and do not degrade environmental quality.
- (8) Agriculture. Provided no soils are removed, the use, operation, and maintenance of the Premises: 1) as a fruit tree orchard, including all associated activities commonly carried out in maintaining the orchard for commercial production, such as the spraying of pesticides and fungicides; and 2) following notice to the Grantee, for (a) rearing, sheltering, and pasturing of farm animals typical of those found on New England farms; and (b) other agricultural activities including but not limited to: converting the Premises from orchard to open pasture, tilling, and row cropping.

- (9) Fencing and Minor Agricultural Structures. To install, repair, remove, and/or replace agricultural fences, and minor structures such as, but not limited to, watering troughs, drip irrigation systems, low-profile lean-to or crop tunnels for shade or shelter, and mobile poultry units, provided that any such fencing or structure is consistent with the scenic Purposes of this Conservation Restriction (e.g. all fence lines along Oak Hill Road shall be sight pervious). For the purposes of this Section II(B)(9), fully enclosed and stationary barns, sheds, hoop houses, out buildings, etc. with poured or drilled and anchored foundations are expressly deemed not to be “minor agricultural structures.”
- (10) Site Restoration. Any work undertaken in conjunction with the Reserved Rights described in this Paragraph B shall seek to minimize harm to the Conservation Values. Upon completion of any site work, all disturbed areas shall be restored to a condition consistent with the Conservation Values.
- (11) Composting. The stockpiling and composting of stumps, trees, brush, limbs, and similar biodegradable materials originating on the Premises, provided that such stockpiling and composting is in locations where the presence of such activities will not impair the Conservation Values (including scenic values).
- (12) Best Management Practices. The exercise of any right reserved by Grantor herein shall follow, when available and if applicable, established, up to date, and regionally-applicable Best Management Practices or similar standards developed by a governmental agency or other entity with known expertise in the area of practice and designed to protect the natural features potentially affected by the Grantor’s action(s).
- (13) Permits, Regulations, Laws. The exercise of any right reserved by Grantor under this Paragraph B shall comply 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 the Grantee or the Commonwealth takes any position whether such permit should be issued.

C. Notices.

Whenever notice to 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 this Conservation Restriction’s Purposes, Conservation Values, Prohibited Acts and Uses, and Reserved Rights and Exceptions.

III. LEGAL REMEDIES OF THE GRANTEE

A. Legal and Injunctive Relief.

The rights hereby granted 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 its 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 to enforce 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.

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 Grantor acknowledges violating this Conservation Restriction or a court of competent jurisdiction issues a final decision declaring that a violation occurred.

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 Premises' condition pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

D. Acts Beyond the Grantor's Control

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

IV. ACCESS

The Grantor hereby grants to the Grantee, or its duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction. **THIS CONSERVATION RESTRICTION DOES NOT GRANT ANY RIGHTS OF ACCESS TO THE GENERAL PUBLIC.**

Should Grantor not maintain the Premises in active agriculture or in an open field condition through mowing, grazing, or other allowed means for a period of 24 consecutive months, such that the existing orchard as shown in the baseline report is no longer commercially viable, or if converted to other annual crop and/or open field there is substantial regrowth of woody vegetation, then Grantee, with thirty (30) days written notice to the Grantor followed by a second written notice to the Grantor sent between thirty (30) days and sixty (60) days after the first notice, or with the Grantor's written permission, may enter the Premises to carry out clearing, tree removal, vegetative cutting, mowing or other such activity to keep the Premises in an open condition consistent with the Conservation Values and the Grantor's agricultural or open field condition as used immediately prior to said 24 consecutive month period.

V. EXTINGUISHMENT

A. If circumstances arise in the future such as render the purpose of this Conservation Restriction impossible to accomplish, this Conservation Restriction can only be terminated or extinguished, whether in whole or in part, pursuant to applicable law after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs (and court proceedings, if necessary to ensure compliance with 26 U.S. Code § 170(h) and applicable regulations thereunder). If any change in conditions ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with paragraph V. B. below, subject, however, to any applicable law which expressly provides for a different disposition of the proceeds. Grantee shall use its share of the proceeds in a manner consistent with the Conservation Values and Purposes set forth herein.

B. Proceeds. Grantor and Grantee agree that the donation of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction, as determined and established on the Effective Date (see section XI), 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 paragraph V. B. above, including value attributed to improvements within the Premise made or expanded after the Effective Date; Grantor shall pay all expenses incurred and 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 Values and Purposes set forth herein.

VI. DURATION & ASSIGNABILITY

- A. Running of the Burden. The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and its successors and assigns 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 hereby appoints the Grantee their attorney-in-fact to execute, acknowledge and deliver any such instruments on their behalf. Without limiting the foregoing, the Grantors 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 Purposes of this Conservation Restriction continue to be carried out; that the Assignee is not an owner of the fee in the Premises, and the Assignee, at the time of the assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and is a donee eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts. Any assignment will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VII. SUBSEQUENT TRANSFERS

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in every deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold interest and to notify the Grantee not less than twenty (20) days prior to the execution of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

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

VIII. ESTOPPEL CERTIFICATES

Upon request by the Grantor, the Grantee shall, within forty-five (45) days, execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance or non-compliance with any obligation of the Grantor contained in this Conservation Restriction. Grantor shall pay all of Grantee's expenses arising from such request, including reasonable charges for staff time and attorney's fees.

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 first assigning this Conservation Restriction to a non-fee owner qualified under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder and eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts 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. The Grantee will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net beneficial or neutral effect on the Conservation Values. 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: (i) be consistent with the Purposes and Conservation Values, (ii) not affect its perpetual duration, (iii) be approved by the Grantee and MA Secretary of Energy and Environmental Affairs, (iv) comply with Article 97 of the Amendments to the Massachusetts Constitution, if applicable, and (v) be recorded in the applicable 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 the applicable registry of deeds.

XII. NOTICES

Any notice, demand, request, consent, 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 a method requiring proof of receipt, postage pre-paid, addressed as follows:

To Grantor: Mark D. Finnegan & Hilary B. Finnegan
120 Oak Hill Road
Harvard, MA 01451

To Grantee: Harvard Conservation Trust
102 Prospect Hill Road
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 Chapter 184, Sections 31, 32, and 33 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the Purposes of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability. If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remaining provisions 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 Chapter 184, Section 32 of the Massachusetts General Laws by any municipal officials and by the Secretary of Energy and Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

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

C. Subordination. The Grantor attests that there is no 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:

Grantors: Mark D. Finnegan and Hilary B. Finnegan
Grantee: Harvard Conservation Trust
Approval: Town of Harvard Select Board
Approval: Secretary of Energy and Environmental Affairs.

Exhibits:

Exhibit A: Legal Description of Premises
Exhibit B1: Reduced Copy Unrecorded Survey Plan of the Premises
Exhibit B1-2: Excerpt from the Unrecorded Survey Plan shown in Exhibit B1
Exhibit B2: Reduced Copy Plan recorded at Plan Book 808, Plan 91

The remainder of this page is intentionally blank; signature pages follow.

WITNESS our hands and seals this ____ day of November 2019,

Mark D. Finnegan

Hilary B. Finnegan

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss:

On this _____ day of November 2019, before me, the undersigned notary public, personally appeared Mark D. Finnegan and Hilary B. Finnegan, and proved to me through satisfactory evidence of identification, their government issued drivers licenses, to be the persons whose names are signed above, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public: Ray Lyons
My Commission Expires: May 30, 2025

ACCEPTANCE OF GRANT

This Conservation Restriction from Mark D. Finnegan and Hilary B. Finnegan was accepted by the Harvard Conservation Trust this _____ day of November 2019.

By: _____

Thomas Cotton

Its: President, duly authorized

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss:

On this _____ day of November 2019, before me, the undersigned notary public, personally appeared Thomas Cotton, 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 November _____, 2019, the Select Board voted to approve the foregoing Conservation Restriction from Mark D. Finnegan and Hilary B. Finnegan to the Harvard Conservation Trust, in the public interest pursuant to Section 32 of Chapter 184 of the General Laws of Massachusetts.

SELECT BOARD:

Lucy Wallace

Alice Von Loesecke

Kara Minar

Rich D Maiore

Stuart Sklar

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss:

On this _____ day of November 2019, before me, the undersigned notary public, personally appeared Lucy Wallace, Alice Von Loesecke, Kara Minar, Rich D Maiore, and Stuart Sklar, known to me personally to be the persons whose names are signed above, and acknowledged to me that they 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 Executive Office of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction from Mark D. Finnegan and Hilary B. Finnegan to the Harvard Conservation Trust has been approved in the public interest pursuant to Massachusetts General Laws, Chapter 184, Section 32.

Dated: _____, 2019

KATHLEEN A. THEOHARIDES
Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss:

On this _____ day of _____, 2019, 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 he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

EXHIBIT A

Legal Description of the Premises

The Premises subject to this Conservation Restriction is the entirety of the land shown and identified as “Lot 2-A 1.55 Acres” on an unrecorded plan entitled “Plan of Land in Harvard, Mass. prepared for Westward Orchards, Inc.” Scale: 1” = 40’, dated January 22, 2003 and approved by the Town of Harvard Planning Board on February 23, 2003, a reduced copy of which is attached hereto in Exhibit B1 (the “Plan”) with an expanded excerpt shown in Exhibit B1-2. The Premises, as shown on the Plan, is bounded and described as follows:

Beginning at a corner of stone walls at the southerly side of Oak Hill Road at the Premise’s most northwesterly point, thence heading

- N 85° 39’ 31” E Two hundred forty seven and 31/100 feet (247.31) along Oak Hill Road and a stone wall to a point, then turning and running;
- S 7° 39’ 39” W One hundred forty and 00/100 feet (140.00) along other land of Grantors to a point, thence;
- S 12° 00’ 00” E Two hundred and 00/100 feet (200.00) along other land of Grantors to a point, then turning and running;
- N 86° 10’ 22” W Two hundred six and 27/100 feet (206.27) along Parcel “A” as shown on the Plan to a stone wall, then turning and running;
- N 11° 59’ 43” W by two courses totaling Three hundred eight and 54/100 feet (308.54), along a stone wall; the first course being:
Twenty eight and 50/100 feet (28.50) along land n/f of Karen S. Zaikis to an iron pin; and the second course being:
Two hundred eighty and 04/100 feet (280.04) along land n/f of Cynthia Russo to the point of beginning.

Said Premises containing 1.55 acres and is a portion of the land shown and identified as “Lot 2-B 2.42 Acres” on a plan entitled “Plan of Land in Harvard, Mass. prepared for owner Westward Orchards, Inc.” Scale: 1” = 40’, dated December, 2003, approved by the Town of Harvard Planning Board on February 2, 2004, and recorded in Plan Book 808 as Plan 91; a reduced copy of which is attached hereto in Exhibit B2.

EXHIBIT B1

Reduced Copy Unrecorded Survey Plan that includes the Premises (Lot 2-A)

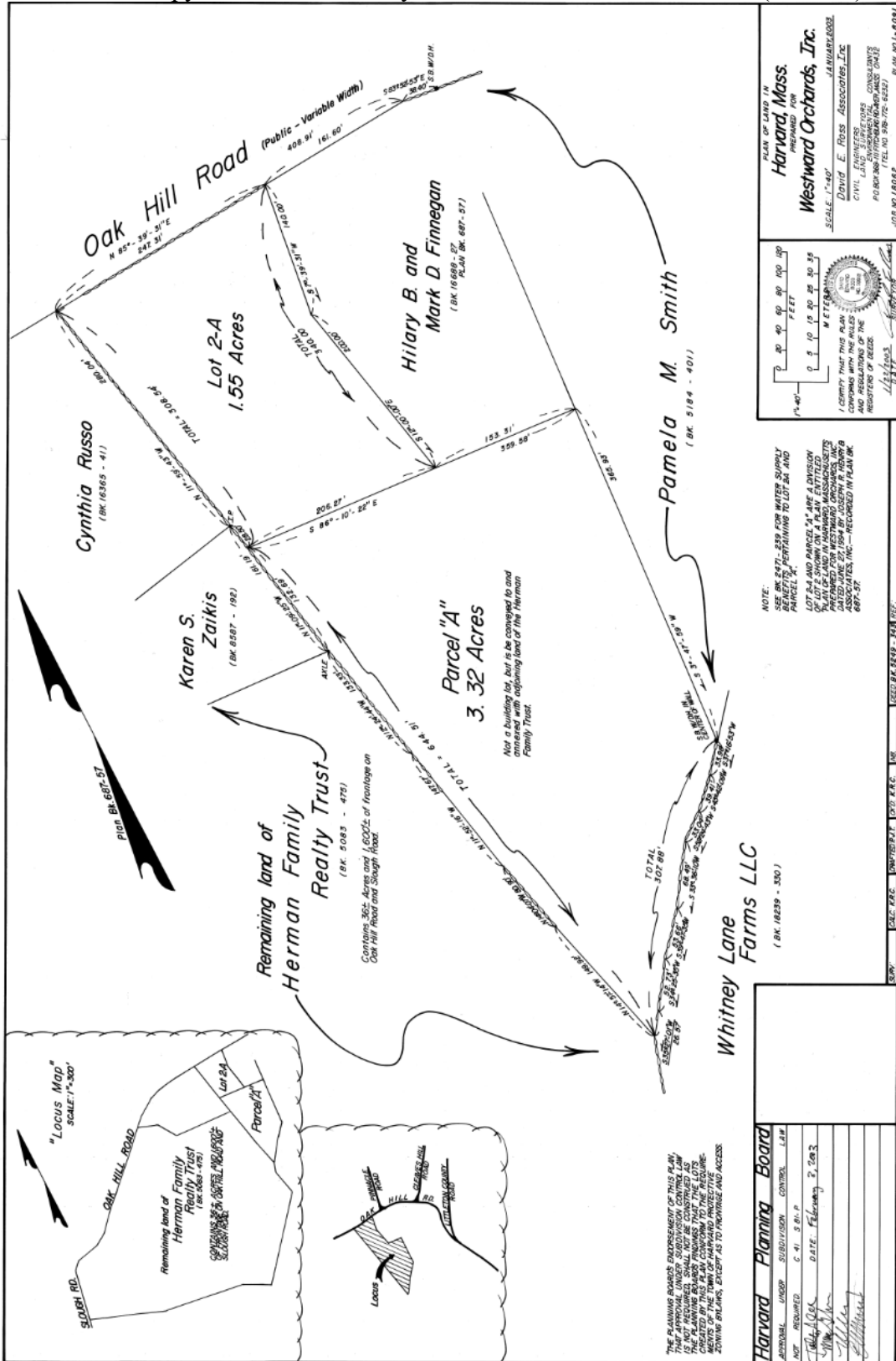


EXHIBIT B1-2

“The Premises”

Excerpt from the Unrecorded Survey Plan shown in Exhibit B1

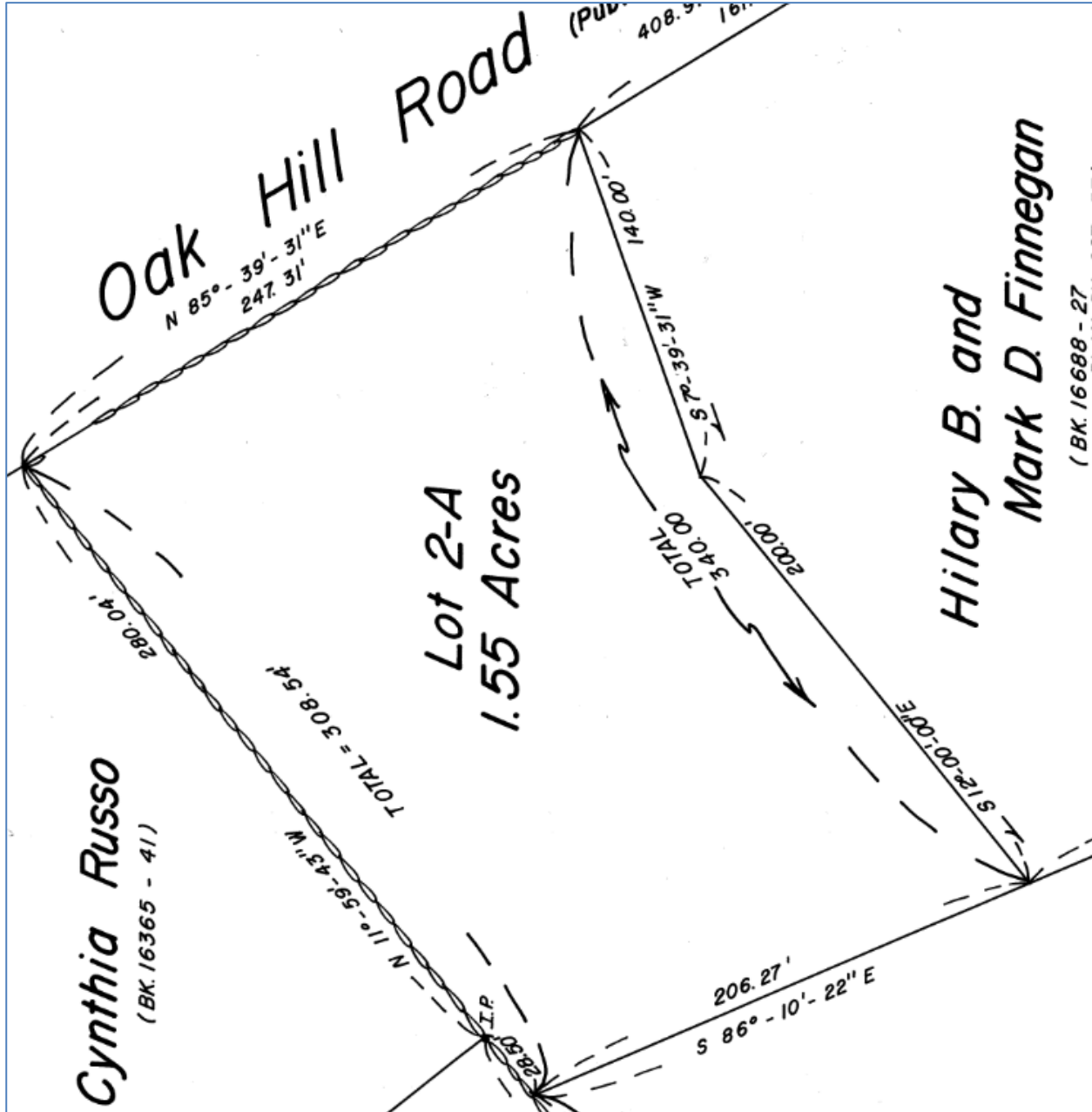
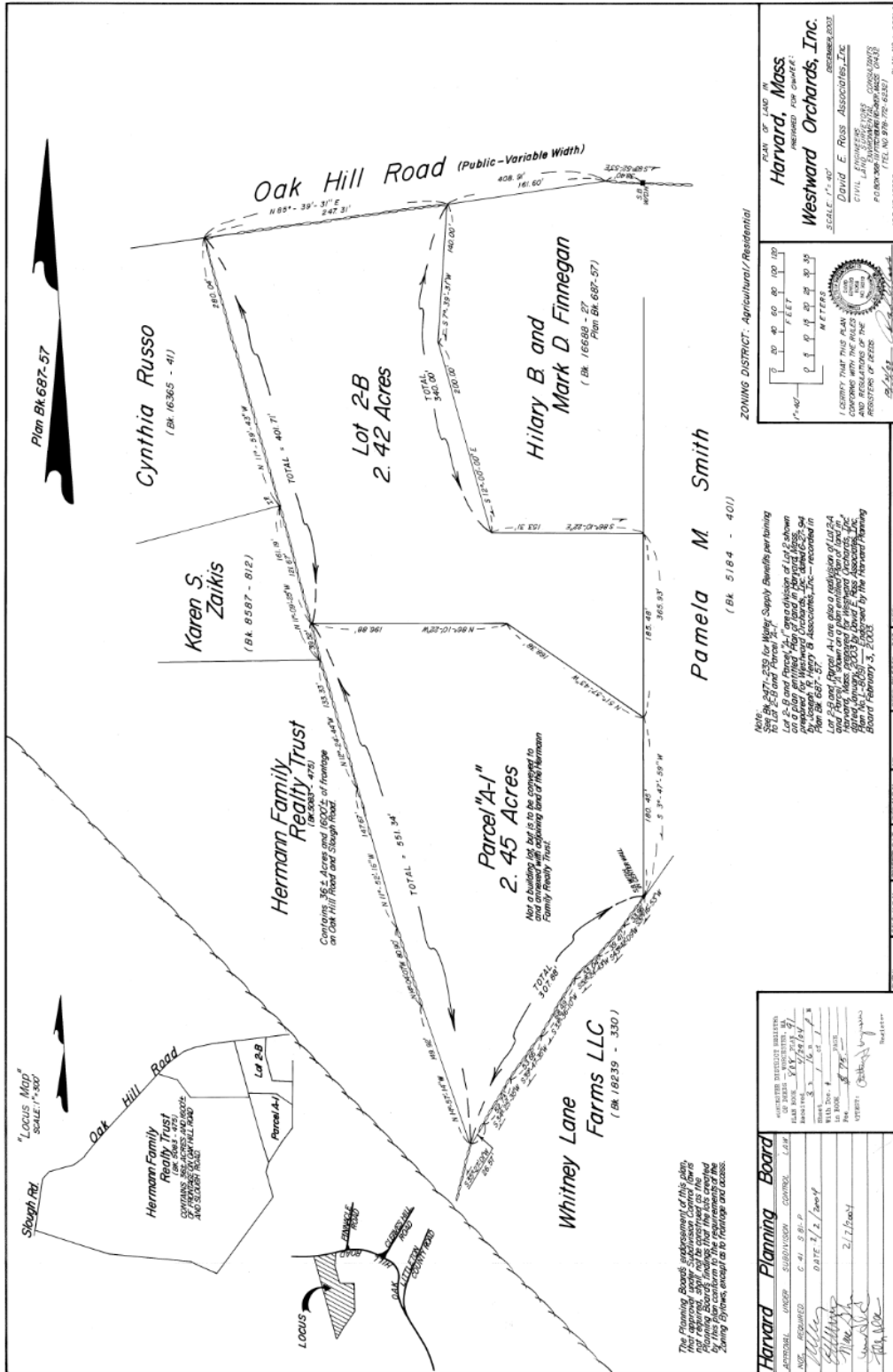


EXHIBIT B2 Reduced Copy Plan

For official full size plan see Worcester Registry of Deeds Plan Book 808, Plan 91.



The Planning Board's endorsement of this plan is an advisory only. Subdivision Control laws are not retroactive. Any lot or lots shown on this plan that do not conform to the requirements of the zoning bylaws, except as to lot area and setback.

Harvard Planning Board
 AUTHORIZED DIRECTOR/DEPUTY DIRECTOR
 NAME: [Signature]
 TITLE: [Signature]
 DATE: 1/2/2024

Harvard, Mass
 REGISTERED PROFESSIONAL LAND SURVEYOR
Westward Orchards, Inc.
 SCALE: 1" = 40'
 CIVIL ENGINEER
 REG. NO. 12885
 EXPIRES: 01/31/2025
 (TEL: 978-779-6327)

SCALE: 1" = 500'
 0 10 20 30 40 50 60 70 80 90 100 FEET

ZONING DISTRICT: Agricultural/Residential

Notice
 Pursuant to 805 CMR 2.00 for Water Supply Benefits pertaining to the 2-B and Parcel A-I, an application of Lot 2-B shown on this plan and Parcel A-I, an application of Lot 2-B and Parcel A-I, were approved by the Planning Board on February 3, 2024.

Parcel 'A-I'
 2.45 Acres
 Also a building lot, but is to be conveyed to the existing landowner, Hermann Family Realty Trust.

Parcel 2-B
 2.42 Acres

Parcel A-I
 2.45 Acres

Parcel A-I
 2.45 Acres

Parcel A-I
 2.45 Acres

Whitney Lane Farms LLC
 (BK 19239 - 330)

Pamela M. Smith
 (BK 5184 - 401)

Hilary B. and Mark D. Finnegan
 (BK 16688 - 57)
 Plan Bk 687-57

Lot 2-B
 2.42 Acres

Cynthia Russo
 (BK 16365 - 41)

Karen S. Zaikis
 (BK 8587 - 812)

Hermann Family Realty Trust
 (BK 8587 - 812)

Hermann Family Realty Trust
 (BK 8587 - 812)



Hermann Family Realty Trust
 (BK 8587 - 812)



Conservation Restriction frontage on Oak Hill Road



LEGEND

-  Proposed Conservation Restriction
-  Existing Conservation Lands

0 100 200 400 600 Feet




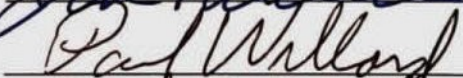
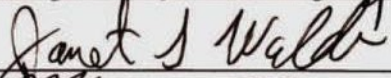

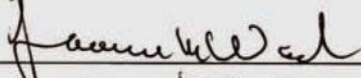
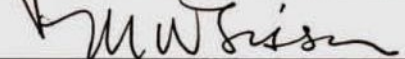
MUNICIPAL CERTIFICATION

(We) the undersigned Conservation Commission of the Town of Harvard hereby certifies that the proposed conservation restriction is in the public interest in that it (describe public benefit):

- **Open Space Protection.** The Premises contributes to the protection of Harvard's scenic and natural character and protecting the Premises will enhance the open-space value of these and nearby lands. The Premises abuts or is in close proximity to lands already conserved, including properties subject to the Westward Orchards Agricultural Preservation Restriction (Carlson Orchards).
- **Soils.** The entire Premises contains Paxton Fine Sandy Loam of which the United States Natural Resources Conservation Service ("NRCS") classified 0.87 acres as Farmland of Statewide Importance and 0.46 acres as Prime Farmland.
- **Working Farmland.** This Conservation Restriction will ensure that the orchard and open fields within the Premises remain permanently available for agriculture consistent with the Conservation Values.
- **495/MetroWest Development Compact Plan.** The Premises abuts Priority Preservation Area 125-5. The 495/MetroWest Development Compact Plan, sponsored by the Commonwealth of Massachusetts' Executive office of Housing and Economic Development (March 2012), identifies this area as "Preservation Area 3" in the Town of Harvard. "Priority Preservation Areas (PPAs) are areas within a city or town that deserve special protection due to the presence of significant environmental factors and natural features, such as endangered species habitats or areas critical to drinking water supply, scenic vistas, areas important to a cultural landscape, or areas of historical significance."
- **Protecting Scenic Views.** The Premises is plainly visible from Oak Hill Road, a public way that Harvard designated as a Scenic Road under the Massachusetts Scenic Road Act (G.L. c. 40 §15).
- **Massachusetts Scenic Landscape Inventory.** The Premises is identified as "Distinctive" (areas of highest visual quality) in the Massachusetts Department of Conservation and Recreation's Scenic Landscape Inventory. This Inventory identifies landscapes that should be protected to conserve and protect natural, cultural; and recreational resources across the Commonwealth.

Date: Nov 7, 2019

Signed:

**Town of Harvard
Parks & Recreation Commission
Athletic Field Planning Subcommittee
Interim Report
September 17, 2019**



Ann Lees ballfield - September, 2019

Interim Report

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I. Preface

The Athletic Field Planning Subcommittee (AFPS) is charged by the Parks & Recreation Commission (P&R) with exploring a series of issues relevant to the Town’s interest in improving the management of its athletic fields¹. Established by vote of P&R, the subcommittee is an ad hoc, not standing, body which will be dissolved upon submission of a Final Report.

Given the quantity and nature of the AFPS’s findings in its first few months of operation, and in consideration of the annual timetable of municipal budgeting, the subcommittee voted to issue this *Interim Report* as a means to inform discussion, consideration and action by the relevant boards and committees of the initial recommendations contained herein.

¹ Appendix A: Harvard Parks & Recreation Commission, Athletic Field Planning Subcommittee, Approved Charges – May 20, 2019

II. Summary of Key Findings, Recommendations & Actions

The subcommittee’s initial findings, recommendations, and actions are as follows.

KEY FINDINGS	RECOMMENDATIONS	ACTIONS
1.) No maintenance plans --- whether overall or by field --- exist for the athletic fields	Develop annual maintenance plan for each athletic field and overall Town athletic assets	AFPS/P&R to coordinate w/ DPW; compile options for consultant to develop realistic plans
2.) DPW lacks staff & equipment to fulfill maintenance expectations	Delineate what can be executed by DPW and what requires outside contractor for each field via P&R	AFPS/P&R to coordinate w/ DPW
3.) Operating budget does not provide sufficient funding for maintenance	Propose operating budget increases in next fiscal year	P&R/TA to define additional costs
4.) P&R lacks revenue stream to fund supplementary contract maintenance	Implement OSRP objective (“Allocate funds for additional vendors to be used for field maintenance.” ²)	P&R implement field usage charges for all uses; socialize w/ HAA, HPS, etc.
5.) Fields are over-used (defined by frequency, hours, # users v capacity)	Reduce weekly/monthly/seasonal usage; define maximum usage; mandate 1-day per week field rest closure on over-used fields	AFPS/P&R identify to AD/TBS/Supt. & HAA which activities are over-using; identify at-risk fields
6.) Insufficient athletic field capacity exists to rest/rotate fields and to prevent damage	Schools, HAA and other users must plan, budget & schedule use of non-ToH athletic fields if acceptable playing conditions are to be sustained	AD, HAA to negotiate regularly-scheduled usage of Devens or other non-ToH options; this revises MP recommendation ³
7.) No viable enforcement of P&R field closures or policies	Establish permitting process; set enforcement policies	P&R, SB, TA, and HPD coordinate implementation
8.) “Chain of command” for maintenance requests to DPW lacking	Proactively communicate P&R single-contact policy for DPW field maintenance requests	P&R to establish lines of communication from TBS coaches/AD & HAA; DPW to direct requests to P&R
9.) Ann Lees ballfield renovation project remains incomplete despite Title IX “legal mandate” ⁴	CPIC/STM warrant article Requestors to update & inform HPS of actions taken to address Title IX inequity	HPS act in coordination with TA & DPW to ensure any inequity is successfully addressed
10.) Records mgt. challenges preclude effective data-/information-gathering & analysis across boards, TBS	TA to work with AFPS and all boards to improve effectiveness per Charter ⁵ ; TBS move AD to full-time position	P&R issue outstanding minutes, provide public release of referenced docs; AFPS to meet TC, AD (for data)
11.) Workload causes persistent P&R backlogs & shortcomings on various functions & initiatives	Hire a 2-year part-time P&R Director, towards implementing a prospective full-time position	P&R, SB coordinate position req for FY2021 or sooner if possible
12.) No consistent or prioritized capital improvement or facility planning for athletic field projects	P&R create ongoing, updated long-term prioritization asset management process for needed improvements to fields under its management	AFPS / P&R seek PB, CPC, DCED input on prioritization process; work with SB to define needs via OSC

AFPS = Athletic Field Planning Subcommittee
 AD = Athletic Director
 CPIC = Capital Planning & Investment Committee
 CPC = Community Preservation Committee
 DCED = Dir. of Community & Econ Dev
 DPW = Department of Public Works

HAA = Harvard Athletic Association
 HPD = Harvard Police Department
 HPS = Harvard Public Schools
 OSC = Open Space Committee
 OSRP = Open Space & Recreation Plan, 2016
 P&R = Parks & Recreation Commission

SB = Select Board
 STM = Special Town Meeting
 TA = Town Administrator
 TC = Town Clerk
 TBS = The Bromfield School

² Open Space & Recreation Report, 2016; Section 9: 7 Year Action Plan; Goal 7; p. 128

³ Town of Harvard Master Plan 2016; Community Services and Facilities Recommendations; p. 168

⁴ CPIC application for Ann Lees ballfield renovation project, October 2018

⁵ Town of Harvard, Charter, Article 4

III. Ongoing Areas for Research, Analysis & Next Steps in the Final Report

A spate of other issues affects the condition, availability, and management of athletic fields. The AFPS continues to refine its approach and framework for presenting the issues, its findings and recommendations. The following reflects the subcommittee's current structure on categorizing the issues and some of the matters under review.

A. Inventory

A comprehensive inventory of athletic field assets including features, attributes, and activities that can be accommodated is underway. For inventories and descriptions of athletic fields, see:

- Town of Harvard, *Open Space & Recreation Plan 2016*; Section 5: Inventory of Land; A. Protected Land pp. 92-93. This inventory does not include the Pond Road Field and Hildreth Elementary School Fields. (<https://www.harvard.ma.us/conservation-commission/files/2016-open-space-recreation-plan>)
- *Town of Harvard Master Plan 2016*; Chapter 7: Community Services & Facilities, Section 4. Parks and Playing Fields; pp. 104-106. (<https://www.harvard.ma.us/master-plan>)
- Parks & Recreation Commission website; Parks, Fields and Playgrounds (<https://www.harvard.ma.us/parks-recreation-commission/pages/parks-fields-and-playgrounds>)

B. Assessments

Athletic field conditions are being documented by AFPS and will be issued in its final report. Among the attributes being assessed are⁶:

- Qualitative / quantitative assessments
 - o Drainage
 - o Irrigation
 - o Grading/crown height
 - o Soil structure
 - o Grass/organic growth
 - o Pests
 - o Bare spots/holes
- Review of maintenance conducted & impacts on above

C. Users/Participants

Specific demographics segments show a decline in the numbers of Harvard residents under 18, and school enrollment for some middle school grades are as much as 25% below the size of the graduating class of 2019. Early analysis indicates that the percentage of children and students participating in youth sports and athletic activities is at or above 63%. A more thorough and complete analysis cannot be conducted until statistics are made available to the subcommittee by the Harvard Public Schools.

D. Usage

Despite a single-digit decrease in school enrollment over several years, overall usage of athletic fields remains consistent over a three-year period, and for some sports or activities usage has grown, according to an early, incomplete analysis. Usage consists of the total number of hours an athletic field is deployed for practices, scrimmages, games, and/or similar activities.

⁶ University of Massachusetts; UMass Extension School Turf Management (<https://ag.umass.edu/turf/publications-resources/best-management-practices>)

E. Management

A plethora of field management matters effects the condition of athletic fields. Initial findings and recommendations summarized in this report will be comprehensively set forth in the following and other areas for the final report.

- Maintenance
 - o Field-specific maintenance planning
 - o Overall turf management planning
 - o Implementation of best practices
- Long range planning
 - o Scheduling renovations
 - o Capital improvements
 - o Asset lifecycle discipline
 - o New fields
- Access policies
 - o Permitting / fees
 - o Enforcement
 - o Safety / risk

F. Governance & Jurisdiction

The following governance areas will be further developed and solutions offered in the final report.

- Roles & responsibilities
- Town of Harvard
 - o Select Board
 - o Town Administrator
 - o Department of Public Works
 - o Parks & Recreation Commission
 - o Planning Board
- Harvard Public Schools
 - o The Bromfield School
 - o HES / Spectrum
- Other
 - o Harvard Athletic Association
 - o Booster clubs

G. Finances

Financial priorities underpin many of the challenges facing the management of athletic fields; the final report will revisit these and other key areas of finance that impact the process:

- Benchmarking expenditures vis-à-vis comparable municipalities
- Asset management & lifecycle costs
- Municipal funding status / alternatives
 - o Operating / maintenance budget
 - o Capital improvements
- Private funding status / alternatives
 - o Boosters clubs
 - o Corporate / private donations
 - o Other fundraising

IV. Appendix

Harvard Parks & Recreation Commission Athletic Field Planning Subcommittee Approved Charges – May 20, 2019

In October, 2018 the Parks & Recreation Commission voted unanimously to create a subcommittee to explore the usage patterns, capacity, scheduling and maintenance of the Town’s athletic fields in order to identify potential improvements in management, availability and planning.

The 2016 Open Space & Recreation Plan (OSRP) identified and set forth the need to maintain, expand and improve playing fields, and further specified objectives to a.) Improve field maintenance; and to b) Develop more fields to allow rotation and prevent overuse. Nevertheless the 2016 OSRP identified no existing public lands for their “recreational potential” as future playing fields.

Given the Parks and Recreation Commission’s responsibility to manage and regulate the use of the Town’s playing fields, the Athletic Field Planning Subcommittee is charged to:

- Document the current condition of all athletic fields under its jurisdiction
- Establish a comprehensive capacity analysis and plan
- Assess the usage frequency, duration, # of episodes and amount of traffic on fields (i.e. scheduling vis-à-vis all leagues, sports, users, and schools)
- Inventory status quo features of athletic fields, including accessibility, parking, drainage, lighting, etc.
- Set out roles and responsibilities with regard to the jurisdiction, governance, maintenance, and use/scheduling of athletic fields
- Identify potential source funding for the maintenance of fields
- Identify parcels of land suitable for an additional playing field as well as sources of funding for same
- Investigate the prospective use of Devens playing fields
- Conduct open meetings and pursue public input on its activities and findings
- Document other findings as may be deemed relevant and important
- Keep the Select Board, Parks & Recreation Commission, School Committee, Athletic Director and Harvard Athletic Association informed as work progresses.
- Issue a final, public report to the Select Board and Parks & Recreation Commission with options and recommendations with regard to the above, ideally in calendar year 2019

The Athletic Field Planning Subcommittee will be appointed by the Parks & Recreation Commission and shall consist of the various interested parties who use the Athletic Fields and represented by 7 voting members from the following groups:

- One member of the Parks & Recreation Commission
- One member of the Select Board
- One member of the School Committee, Harvard Public Schools’ Administration, or Representative from the Superintendent’s Athletic Advisory Committee
- Two Harvard Athletic Association Board Members
- Two Members-At-Large who are residents of the Town of Harvard

It is recommended that the Subcommittee be provided funds to cover costs associated with community outreach and preparing documents such as the final report.

RECEIVED
HARVARD TOWN CLERK

ANNE BUTTERFIELD CO.

2019 NOV -8 AM 8:51

PO Box 526 • Harvard, MA 01451-0526
TEL 978 456 3933 • FAX 978 456 8104
Anne@AnneButterfieldCompany.com

November 8, 2019

Select Board
Town of Harvard
Ayer Road
Harvard, Massachusetts 01451

Dear Select Board Members:

It is with sorrow that I resign as a member of Harvard's Cultural Council. My resignation is effective immediately.

In the future I hope I may be of other service to the town.

Sincerely,



Anne Butterfield

cc: Richard Marcello
Lisa Simmons

Complete Streets Project Chronology

Updated to November 6, 2019

2005 – Town Center Action Plan notes residents’ concerns regarding pedestrian safety. Recommendation 7.4.1 (pp. 63-64) notes, “...a new pathway along the southern edge of Still River Rd. in front of the Congregational Church and General Store.”

May 2014 – Harvard BOS requests assistance from MRPC to develop a Town Center Traffic Study.

May 2015 – Town Center Traffic Committee is established and holds its first meeting.

July 2016 – Final Town Center Transportation Study, developed by the Town Center Traffic Committee (TCTC) and MRPC, is completed. TCTC preferred improvement alternatives for pedestrian accommodation include, “*The consensus was to improve the paths noted on Figure 17 (and Figure 14) as needed to try to achieve ADA standards, if possible. This includes constructing a sidewalk in front of the General Store parking lot along Still River Road...*”

2016 – Master plan notes, “*The intersection of Ayer Road and Still River Road, the heart of the Town Center, has poorly defined curb edges, unclear stop lines, and poorly defined crosswalks. The existing flashing red light may not be adequate traffic control for vehicles and pedestrians.*” The Plan also contains the following recommendations:

1. Continue to implement the Town Center Action Plan and the 2016 update prepared by MRPC.
2. Apply for Complete Streets funding where appropriate.
3. Improve sidewalk connectivity in the Town Center.

March 2017 – Harvard Complete Streets Policy is executed by the Board of Selectmen.

June 2017 – Harvard submits request for Tier 2 funding for Complete Streets Prioritization Plan

June 2017 – Tier 2 Funding Agreement approved by MassDOT to conduct a Prioritization Plan. TEC is retained as the consultant to develop the plan.

July 18, 2017 – TCTC members brought back in a meeting to discuss the TEC design process.

August 2017 – The Town of Harvard and TEC enter into an agreement for consulting services to develop a Prioritization Plan.

November 2017 – Complete Streets Prioritization Plan Approved.

April 2018 – Prioritization Plan Revised and the following projects are proposed:

Project Name	Project Description	Project Limits	Complete Streets Project Origin
Mass Ave / Ayer Road Improvements (Town Center)	Reconstruct / construct approximately 1,250' of both existing and new 5' sidewalk with ADA accommodations. Restripe crosswalks and shift back stop bars to reduce pedestrian crossing distance. Install pedestrian warning signs and stripe bicycle sharrows. Implement driveway access management for the Harvard General Store.	Mass Avenue (Route 111) / Still River Road (Route 110) / Old Littleton Road / Ayer Road (Route 110 / 111)	Master Plan

Project Name	Project Description	Project Limits	Complete Streets Project Origin
Fairbank Street Improvements (Town Center)	Reconstruct / construct approximately 650' of both existing and new 5' sidewalk with ADA accommodations. Restripe crosswalks and stripe bicycle sharrows.	Fairbank Street from Old Littleton Road to Ayer Road (Route 111 / 110)	Master Plan
Ayer Road Pedestrian and Bicycle Improvements (Town Center)	Reconstruct / construct approximately 910' of both existing and new 5' sidewalk with ADA accommodations. Stripe crosswalk and bicycle sharrows.	Old Littleton Road / Still River Road (Route 110) to Town Hall back parking lot	Master Plan
Elm Street Improvements (Town Center)	Reconstruct / construct approximately 550' of both existing and new 5' sidewalk with ADA accommodations. Restripe crosswalk and stripe bicycle sharrows.	Still River Road (Route 110) to Town Hall parking lot and Elm Street / Still River Road	Master Plan

May 2018 – Complete Streets grant application submitted for one (1) of four (4) Complete Streets projects which is the project around the Common and General Store corner (Mass Ave/Ayer Road). Grant amount was \$370,000.

August 2018 – MassWorks grant application submitted for the four (4) Complete Streets projects.

2018 – Application for second MassWorks grant is denied. Reasons provided include lack of safety criteria and ADA non-compliant.

2018 – Application for Complete Streets grant is approved for the requested \$370,000.

February 5, 2019 – Complete Streets award ceremony; Quincy, MA.

March 2019 – draft plan is shared electronically with Scott Hayward of the General Store, requesting his feedback and input. Several messages were exchanged and a meeting to discuss was scheduled.

March 21, 2019 – Met with Scott Hayward, Tim Kilhart, and Jonathan Rockwell of TEC to discuss Mr. Hayward’s questions and concerns regarding the sidewalk design around the General Store.

May 1, 2019 – Complete Streets project discussion.

June 3, 2019 – Follow up meeting with Scott Hayward to show revised plans by TEC regarding the sidewalk, parking lot, and circulation.

June 10, 2019 – Meeting with TEC to discuss status of Complete Streets design.

July 2019 – Met with Patricia Jennings of the Congregational Church to address their questions and concerns regarding the sidewalk plan in the proximity of the church.

August 29, 2019 – Complete Streets meeting with Patricia Jennings of Congregational church.

October 21, 2019 – DPW receives letter of project support from Police Chief Edward Denmark.

November 4, 2019 – DPW Director meets with the Planning Board to discuss the Site Plan application for 1 Still River Road.

MARK J. LANZA

Attorney At Law

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Concord, MA 01742

(978) 369-9100

Fax (978) 369-9916

mjlanza@comcast.net

Sudbury Office:

11 Meadow Drive

Sudbury, MA 01776

(978) 440-8007

Fax (978) 261-5034

November 13, 2019

VIA FIRST CLASS MAIL
AND ELECTRONIC MAIL

Board of Selectmen
c/o
Timothy Bragan
Town Administrator
Harvard Town Hall
13 Ayer Road
Harvard, MA 01451

RE: Easement A - 1 Still River Road, Harvard, MA 01451

Dear Tim:

Through you, the Select Board has sought my opinion as to which Town board has custody of the above reference easement area. For the reasons discussed below, the short answer to your question is the Select Board.

At the October 10, 2007 Special Town Meeting, the Town transferred the custody of the area of land comprising Easement "A" as shown on the plan entitled "Plan of Land in Harvard, Mass. prepared for MERA07", dated November, 2007 and recorded with the Worcester District Registry of Deeds (the "Registry") in Plan Book 865, Plan 26 to the Board of Selectmen (now, the Select Board) and authorized the Board to grant a septic system easement to MERA07, LLC for the purpose of constructing a septic system to service the Harvard General Store building at 1 Still River Road. On January 29, 2008, the Board of Selectmen granted a septic system easement to MERA07, LLC. The easement was recorded with the Registry on February 5, 2008 in Book 42381, Page 254.

The grant of easement provides that, among other things,

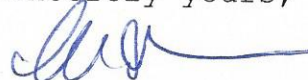
within 30 days after the Harvard General Store building is connected to a common sewer system, the septic system within the easement area shall be abandoned in accordance with Title V of the State Environmental Code and the easement shall terminate. After the construction of the common sewer system in the Town Center area, the Harvard General Store building was connected to the system and on the on-site septic system was abandoned and its tank reused as a grease trap. 30 days later, the easement terminated and Town ownership, custody and control of the easement area reverted to the Board of Selectmen.

The grant of easement further provides that within 14 days after it terminates, MERA07, LLC shall prepare and record with the Registry a document certifying the abandonment and release of the easement. I could find no record of such a certification at the Registry. I recommend that the Town request that MERA07, LLC prepare and record the certification.

Please let me know if additional clarification is needed.

Thanks you very much.

Sincerely yours,

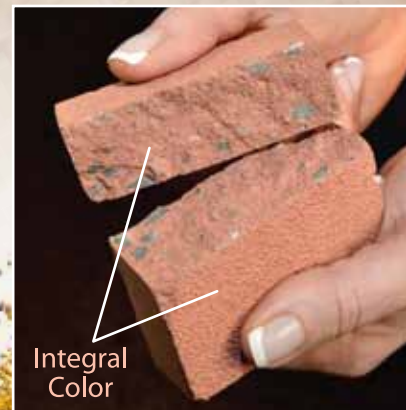


Mark J. Lanza
Town Counsel,
Town of Harvard

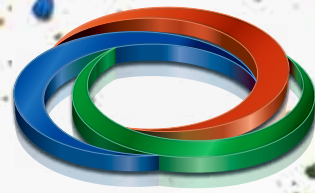
MJL/ms

Integral Color for Ready Mix Concrete

We are the pigment
of your imagination!



- Vibrant
- Permanent & Non-Fading
- Cost-Effective
- Maintenance-Free
- Eco-Friendly & Non-Toxic



Ready Mix Color Chart



Integral Color for Ready Mix Concrete

Highly concentrated, requiring less pigment to create vibrant colors.

Permanent, sunfast and weather-resistant.

Packaged in pre-measured bags that disintegrate in the mix for easy, clean use.

Pigments can be added to any concrete mix.

FINISHING:

Step 1. Place the concrete and strike it off using recognized methods.

Step 2. Use a vibrating screed or magnesium float. Always work in one direction. Stop the floating if any bleed water appears, as this can cause scaling and discoloration. Wait until the bleed water has evaporated to resume floating.

Note: A power trowel or a magnesium hand float can be used to create a smooth finish, but use caution; overworking the surface will cause discoloration.

Step 3. Stamping and other finishing techniques (such as broom, rotary, textured patterns, or exposed aggregate) can be performed after floating. Do not let the concrete get too hard before finishing, but allow sufficient time for it to set; rushing steps can alter the final appearance of the concrete.

PACKAGING:

One bag corresponds to one pre-measured unit of color for one cubic yard (US) or one cubic metre of concrete.

Interstar pigment is packaged in special disintegrating bags that are added directly to the ready mix truck for a clean, easy job. Decreased handling means increased workplace safety and greater efficiency.

Note: Occasionally, bags may not completely disintegrate due to worn fins, improper mixing, etc. Please instruct finishing crews to watch for paper when the concrete is in the discharge chute. If paper is found, additional mixing may be required. If desired, the pigment bag may be cut open, and the pigment added directly into the concrete mix.

LIMITATIONS:

The optimal recommended dose of pigment ranges from 2% (1 bag) to 7% (3 bags) based on the weight of the cementitious materials. The color saturation point is 10% (4 bags). Higher doses will not enhance the color and may significantly degrade the durability of the finished product. Doses below 1% (½ bag) will result in uneven color and a washed-out appearance.

Please see Interstar's warranty for complete details.

IMPORTANT:

This color chart is approximate and does not depict the exact colors that can be attained. These samples were developed in a controlled environment using materials that vary from one location to another. Many factors will affect the color of the finished product, including but not limited to: the materials used, workmanship, finishing techniques, curing / sealing and the weather. This color chart must be used only as a guideline. A test pour is highly recommended to make sure the results meet your expectations.

DO

- A test pour is highly recommended to be sure the results will meet your expectations.
- Use a qualified decorative concrete contractor who has experience working with integrally colored concrete.
- Use a mix design suitable for your specific application.
- Admixtures will cause variations in the color. If used, they must be used consistently throughout the job to ensure uniform coloring from batch to batch.
- Make sure that every truck contains the same number of yards/metres of concrete.
- Place the concrete at an even thickness throughout.
- Finish all surfaces in the same time frame after placing, and in the same direction when troweling.
- Always use clean tools. Use new brooms if a broom finish is desired.
- Be sure the concrete cures evenly and consistently, and all areas dry at the same rate to avoid color variations.
- Allow the concrete to cure for 30 days before inspecting the color or appearance. Colored concrete continues to lighten until it is fully cured.
- Allow the concrete to cure for approximately 30 days and be sure it is uniformly dry before applying sealer.

DON'T

- **NEVER ADD WATER** to the tools, the surface of the concrete or the ready mix truck on site. NEVER.
- Don't use fly ash or slag in the mix design; they will affect the color.
- Don't pour concrete when the weather is unfavorable, or when the temperature is below 50 °F (10 °C).
- Avoid projects that require several small pours.
- Avoid pouring on different days.
- Avoid casting shadows over the area. Concrete poured in shaded areas is a different temperature than that poured in unshaded areas. This may result in color variations.
- Never use calcium chloride or any accelerators.
- Don't finish with long-handled Fresno trowels.
- Don't use dirty or wet tools.
- Don't over-finish, as this may darken the surface.
- Don't fog the surface with water.
- Don't use wet coverings, plastic sheeting, waterproof paper, or liquid membrane curing compounds.





JN-2400R (1 bag) Champagne
JN-2400R (2 bags) Champagne
JN-4010R (1 bag) Gold
JN-4010R (2 bags) Gold
JN-4411R (1 bag) Bamboo
JN-4416R (1 bag) Buff
JN-4416R (2 bags) Buff



JO-4131R (1 bag) Sahara
BN-1703R (1 bag) Copper
BN-1703R (2 bags) Copper
JO-4134R (1 bag) Orange Blossom
JO-4134R (2 bags) Orange Blossom
JO-6435R (1 bag) Sedona
JO-6435R (2 bags) Sedona



BN-1701R (1 bag) Taupe
BN-2520R (1 bag) Chaps
BN-2520R (2 bags) Chaps
BN-1705R (1 bag) Rustic
BN-1705R (2 bags) Rustic
BN-1711R (1 bag) Hazelnut
BN-1711R (2 bags) Hazelnut



BL-3212R (1 bag) Silver Diamond
JO-7950R (1 bag) Camel
JO-7961R (1 bag) Desert Sand
BN-2739R (1 bag) Stone Castle
BN-2739R (2 bags) Stone Castle
BN-2681R (1 bag) Willow
BN-2680R (1 bag) Willow



NR-5011R (1 bag) Shadow Gray
NR-5010R (1 bag) Gray Cloud
NR-5010R (2 bags) Gray Cloud
NR-5171R (1 bag) Midnight Bay
NR-5157R (1 bag) Monsoon
NR-5157R (2 bags) Monsoon
NR-5105R (1 bag) Smoke



BN-2730R (1 bag) Biscuit
BN-2978R (1 bag) Chocolate Fudge
BN-2978R (2 bags) Chocolate Fudge
BN-2550R (1 bag) Khaki
BN-2550R (2 bags) Khaki
VT-3450R (1 bag) Olive
VT-3450R (2 bags) Olive



Ready Mix Color Chart



JO-7960R (1 bag) Goldenrod
JO-7960R (2 bags) Goldenrod
BN-2530R (1 bag) Nutmeg
BN-2530R (2 bags) Nutmeg
BN-2531R (1 bag) Potter's Clay
BN-2531R (2 bags) Potter's Clay
JO-4159R (1 bag) Mystic Shadow



RG-2827R (1 bag) Baja Red
RG-2827R (2 bags) Baja Red
RG-2832R (1 bag) Salmon
RG-2832R (2 bags) Salmon
RG-2835R (1 bag) Egyptian Red
RG-2835R (2 bags) Egyptian Red
RG-2846R (2 bags) Raspberry



BN-1711R (3 bags) Santa Fe Tan
BN-1714R (1 bag) Santa Fe Tan
BN-1714R (2 bags) Santa Fe Tan
RG-3077R (1 bag) Redwood
RG-3077R (2 bags) Redwood
RG-3072R (1 bag) Maroon
RG-3072R (2 bags) Maroon



BN-2680R (2 bags) Balsam Wood
BN-2680R (3 bags) Balsam Wood
BN-1616R (1 bag) Plum
BN-1616R (2 bags) Plum
BN-2510R (1 bag) Maple
BN-2510R (2 bags) Maple
BN-2510R (3 bags) Maple



NR-5105R (2 bags) Steel Blue
NR-5105R (3 bags) Steel Blue
NR-5177R (1 bag) Steel Blue
NR-5177R (2 bags) Steel Blue
NR-5790R (1 bag) Black Onyx
NR-5790R (2 bags) Black Onyx
NR-5790R (3 bags) Black Onyx



VT-2244R (1 bag) Moss
VT-2244R (2 bags) Moss
VT-2244R (3 bags) Moss
RG-2870IR (2 bags) Desert Red
CB-2580IR (2 bags) Cabernet
CB-2590IR (1 bag) Blue Sea
CB-2590IR (2 bags) Blue Sea

Not for Outdoor Use



CONSULTANT AGREEMENT

THIS AGREEMENT (the “**Agreement**”) is entered into as of the ____ day of _____, 2019, between the Town of Harvard with offices at 13 Ayer Road, Harvard MA 01451 (“**CLIENT**”) and DiGiorgio Associates Inc., a Massachusetts corporation with offices at 529 Main Street, Suite 3303, Boston, Massachusetts (“**CONSULTANT**”). Each of CLIENT and CONSULTANT may be individually referred to as a “party” and collectively as the “parties”, as the context so requires.

WHEREAS, CLIENT desires to engage CONSULTANT for the purpose of performing certain architecture and engineering services in connection with the addition/renovation to Hildreth House (the “**Project**”); and

WHEREAS, CONSULTANT represents that it possesses sufficient skills and experience to perform the Services in a timely and professional manner, and

NOW, THEREFORE, in consideration of the foregoing and the covenants and conditions herein contained, the parties agree as follows:

ARTICLE 1 - SCOPE OF SERVICES

- 1.1 CONSULTANT shall perform the Services as set forth in Appendix A.
- 1.2 Additional services are those services that are not part of the Services contemplated in Appendix A. CLIENT shall request additional services of the CONSULTANT, the CLIENT and CONSULTANT shall determine the cost and payment method to be utilized as an addendum to this Agreement.

ARTICLE 2 - TERM OF CONTRACT

- 2.1 The term of this Agreement shall commence on the date first written above and shall remain in full force and effect until the Services are completed, unless sooner terminated. If any CONSULTANT Services are required past this planned completion date, CLIENT, may extend this Agreement for a term agreed to by the parties.

ARTICLE 3 - PAYMENT FOR SERVICES

- 3.1 For performance of the Services, CONSULTANT will be compensated as contemplated in Appendix A.
- 3.2 CLIENT shall make payment to the CONSULTANT for work performed in accordance with Appendix A.
- 3.3 Payments will be made to CONSULTANT pursuant to the submission of a payment request by CONSULTANT. Such payment request shall be submitted to CLIENT. Payments to CONSULTANT from CLIENT will be made within thirty (30) days from the date of the submission of a payment request by CONSULTANT.

ARTICLE 4 – INDEMNIFICATION/LIMITATION OF LIABILITY

- 4.1 To the fullest extent of the law, CONSULTANT shall indemnify, defend, and hold harmless CLIENT from and against all claims, damages, losses and expenses to the extent caused by or resulting in whole or in part from the willful misconduct or negligent acts, errors or omissions of CONSULTANT.
- 4.2 CONSULTANT assumes exclusive liability for and shall defend, indemnify, and hold the CLIENT harmless from and against the payment of: (i) all contributions, taxes or premiums (including interest and penalties thereon) which may be payable under any and all federal, state and local tax withholding laws measured upon the payroll of, or required to be withheld from, CONSULTANT or its subconsultants’ employees engaged in the Services; (ii) all sales, use, personal property and other taxes (including interest and penalties thereon) required to be paid or collected by CONSULTANT or its subconsultants in connection with the performance of the Services; and (iii) all pension, welfare, vacation, annuity and

other union benefit contributions payable under or in connection with labor agreements with respect to all persons engaged in the Services.

4.3 CLIENT agrees that CONSULTANT's liability to CLIENT for negligent performance of the Services, negligent performance of professional acts, errors or omissions, or breach of contract shall be limited to the total fee paid to CONSULTANT under this Agreement.

4.4 In no event shall either party be liable to the other party for any special, indirect, incidental, punitive, exemplary or other consequential damages arising out of this Agreement, including, but not limited to, loss of profits or revenues.

ARTICLE 5 - INDEPENDENT CONTRACTOR RELATIONSHIP

5.1 It is hereby agreed that CONSULTANT is an independent contractor. CONSULTANT represents and warrants that all taxes and insurance premiums required by this Agreement or by law will be the sole responsibility of CONSULTANT.

5.2 CONSULTANT is not, for any purpose, an employee or agent of CLIENT and CONSULTANT shall not make any representation to the contrary, either express or implied. CONSULTANT understands and agrees that as an independent contractor, it does not have any authority to: sign contracts, notes, or obligations, make purchases, or acquire or dispose of any property for or on behalf of CLIENT.

5.3 Employees. All employees assigned by CONSULTANT to the Project shall remain employees of CONSULTANT at all times and shall not be deemed to be or designated as employees of CLIENT. CONSULTANT shall pay, or cause to be paid, and CLIENT shall have no liability to pay, the following costs for such employees in connection with the Services provided by CONSULTANT pursuant to this Agreement: social security, income taxes, employee benefits, vacations, holidays, or other employee benefits or taxes incurred by or on behalf of or for the benefit of CONSULTANT or its employees. CLIENT's sole obligation with respect to reimbursement of costs associated with CONSULTANT'S Services is to pay the fees and any approved expenses for such CONSULTANT employee(s) performing Services under this Agreement.

ARTICLE 6 – TERMINATION

6.1 Either Party may terminate this Agreement, upon seven (7) days' notice for any reason, including for convenience. In the event of such termination, CONSULTANT shall be compensated for all expenses rightfully incurred and compensable pursuant to this Agreement.

ARTICLE 7 – NOTICES

7.1 All notices, demands, requests, consents, approvals and other communications which may or are required to be given by either party under this Agreement must be in writing and sent by United States registered or certified mail, postage prepaid, return receipt requested or a national overnight carrier, and addressed to the party for whom it is intended at its address set forth in the preamble paragraph of this Agreement.

ARTICLE 8 - GOVERNING LAW

8.1 This Agreement shall be governed by the laws of the State of Massachusetts. Any action arising out of this Agreement or the Services shall be brought exclusively in the Superior Court of the State of Massachusetts, in Massachusetts or Suffolk County, or in the United States District Court for the District of Massachusetts. Each party hereto and future signatory hereby consents to the personal jurisdiction of these courts and waive any objections that such venue is objectionable or improper.

ARTICLE 9 – SEVERABILITY

9.1 Should any provision of this Agreement be deemed invalid or unenforceable, such provision shall be severed from this Agreement, such that the remaining valid and enforceable provisions remain intact. The parties will endeavor to promptly negotiate a revised term or condition to replace that which was deemed illegal or unenforceable.

ARTICLE 10 – ENTIRE AGREEMENT

- 10.1 This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof and completely and fully supersedes all other prior understandings or agreements, both written and oral, between the parties. All previous communications and representations, whether oral or written, including, but not limited to any proposal(s), purchase order(s), and/or invoice(s) are hereby annulled and superseded, except to the extent that any such communications and representations are specifically incorporated in or referred to in this Agreement. This Agreement may be amended, changed, modified or altered only by a written instrument executed by both parties.

ARTICLE 11 – MISCELLANEOUS PROVISIONS

- 11.1 The article titles used herein are inserted solely for purposes of convenience, do not form a part of this Agreement, and will not be construed to qualify, explain, or affect any provision of this Agreement.
- 11.2 This Agreement is binding upon the parties and their heirs, executors, administrators, successors, and assigns.
- 11.3 This Agreement inures to the benefit of and is binding upon the parties hereto and their respective permitted successors and assigns; provided however, that this Agreement will not bind either party until executed by a duly authorized representative of each party.
- 11.4 No delay or omission in the exercise of any right under this Agreement will impair any such right or will be taken, construed or considered as a waiver or relinquishment thereof, but any such right may be exercised from time to time and as often as may be deemed expedient. If any of the terms and conditions are breached and thereafter waived, such waiver will be limited to the particular breach so waived and will not be deemed to be a waiver of any other breach under this Agreement.
- 11.5 This Agreement may be executed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed and acknowledged this Agreement in duplicate, one to be held by each of the signatories below:

CLIENT:
Town of Harvard

CONSULTANT:
DiGiorgio Associates Inc.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____



November 12, 2019 REVISED DRAFT

Ms. Marie Crowley Sobalvarro
Assistant Town Administrator/HR Director
Town of Harvard
13 Ayer Road
Harvard, MA 01451

RE: Harvard Hildreth House – Phase 2 Additional Order of Magnitude Construction Budget

Prepare an order of magnitude construction budget of the following:

- Task #1: Cost to upgrade existing Hildreth House per current seismic code and associated renovations. The basis of this budget will be a structural narrative and an architectural narrative describing the renovations to accommodate the installation of the new structural elements. The connection via a covered, heated walkway of the new addition to the Hildreth House (with construction budget for both the new addition (the most recent design by DAI @ \$4.3MM), and construction budget for modifications which would be required in the existing Hildreth House (seismic, fire, MEP, etc.) triggered by the additional square footage.
- Task #2: Cost to install new automated sprinkler system and association renovations. The basis an architectural narrative describing the renovations to accommodate the installation of the new sprinkler system.
- Task #3: At least 1 meeting with the Select Board to present/discuss the results of Tasks #1 to 2 above.

Fee:

We proposed to invoice the Town of Harvard on a Time and Materials basis. We estimate the fee ranges to be:

- Task #1:
 - Cost estimating: \$1,560 to \$1,900
 - Architectural: \$1,000 to \$1,200
 - Structural: \$500 to \$750
- Task #2:
 - Cost estimating: \$1,560 to \$1,900
 - Architectural: \$1,000 to \$1,200
 - Fire-Protection engineer: \$500 to \$750
- Task #3:
 - Architectural: \$2,000/meeting (2 persons attend)

These tasks are expected to be completed by end of January 2020.

Respectfully,
DIGIORGIO ASSOCIATES INC.

Thomas M. Lam, AIA, LEED AP, NCARB
Vice President