

**TOWN OF HARVARD
PLANNING BOARD AGENDA
MONDAY OCTOBER 17, 2022 @ 7:00PM**

Pursuant to Chapter 22 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on July 15, 2022, this meeting will be conducted via remote participation. Interested individuals can listen in and participate by phone and/or online by following the link and phone number below.

UpperTH ProWebinar is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/85783169131?pwd=UVVoTkpwYUY1czI1VXVLK1RGRk1mZz09>

Meeting ID: 857 8316 9131

Passcode: 992206

One tap mobile

+19294362866,,85783169131# US (New York)

+13017158592,,85783169131# US (Washington DC)

Dial by your location

+1 929 436 2866 US (New York)

+1 301 715 8592 US (Washington DC)

+1 309 205 3325 US

Meeting ID: 857 8316 9131

Find your local number: <https://us02web.zoom.us/u/kksoC7UzX>

Public Comment

New Business: a) Approve Not Require Endorsement – Littleton County Road (Map 19 Parcel 67.1)
b) Review comments on the Market Analysis and Fiscal Impact Analysis for the Ayer Road Commercial District from the Board and others to provide those to Weitzman.

Old Business: a) Proposed Protective Bylaw Amendment §125-7 Agricultural Uses

- Draft of comments / concerns to the Select Board
- Review Procedural Process for Public Hearing

b) Open Space Residential Development Bylaw Amendment

c) Multi-Family update on MBTA adjacent small town housing mandate action plan.

Standard Business: a) Board Member Reports

- Representatives & Liaisons Update
- Community Matter – Devens' Jurisdiction meeting Weds., Oct. 19, 2022, 7:00pm ([meeting link](#) and Meeting ID: 830 4992 09)

b) Approve Minutes

c) Approve Invoices

- Weitzman Associates LLC \$30,000 (Ayer Road Commercial District analysis)
- Beals + Thomas \$330.00 (Peer Review 203 Ayer Road)
- Beals + Thomas \$508.75 (Driveway Inspections 175 Littleton County Rd.)
- John McCormack \$25 (reimbursement for training)
- Kennedy Landscaping \$2,677.39 (reimbursement of escrow fund)

Public Hearings:

7:30pm **Continuation of a Special Permit, Ayer Road Village-Special Permit and Site Plan Review - Yvonne Chern & Wheeler Realty Trust, 203 Ayer Road**, for the development of three commercial use buildings, including a Commercial Entertainment and Recreation use

**NEXT SCHEDULED MEETING:
NOVEMBER 7, 2022**

TOWN OF HARVARD
The Commonwealth of Massachusetts

FORM A

APPLICATION FOR ENDORSEMENT OF PLAN
BELIEVED NOT TO REQUIRE APPROVAL UNDER
THE SUBDIVISION CONTROL LAW (Ch. 41)
(A.N.R.)

File five completed form with the Planning Board and a copy with the Town Clerk in accordance with the requirements of Section 81P

No. _____

September 29, 2022

To the Planning Board:

The undersigned wishes to record the accompanying plan and requests a determination and endorsement by said Board that approval by it under the Subdivision Control Law is not required. The undersigned believes that such approval is not required for the following reasons (circle as appropriate):

1. The accompanying plan is not a subdivision because the plan does not show a division of land.
2. The division of the tract of land shown on the accompanying plan is not a subdivision because every lot shown on the plan has frontage of at least such distance as is presently required by the Protective (Zoning) Bylaw under Section _____ which requires _____ feet for erection of a building on such lot; and every lot shown on the plan has such frontage on:
 - a. a public way or way which the Town Clerk certifies is maintained and used as a public way, namely **Old Littleton & Old Schoolhouse roads**; or
 - b. a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, namely _____ on _____, and subject to the following conditions _____; or
 - c. a private way in existence on February 6, 1954, the date when the Subdivision Control Law became effective in the Town of Harvard having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon, namely _____.

3. The division of the tract of land shown on the accompanying plan is not a "subdivision" because it shows a proposed conveyance/other instrument, namely **Redivision of an existing PARCEL (with no frontage)** which adds to/takes away from/changes the size and shape of, lots in such a manner so that no lot affected is left without frontage as required by the Protective (Zoning) Bylaw under Section 125-29F, which requires 180' feet.


4. The division of the tract of land shown on the accompanying plan is not a subdivision because two or more buildings, specifically _____ buildings were standing on the plan prior to February 6, 1954, the date when the subdivision control law went into effect in the Town of Harvard, and one of such buildings remains standing on each of the lots/said buildings as shown and located on the accompanying plan. Evidence of the existence of such buildings prior to the effective date of the subdivision control law is submitted as follows:

5. Other reasons or comments (See MGL Chapter 41, Section 81L) _____

The owner's title to the land is derived under deed from Book **Federick Realty Trust**, dated **Dec. 21, 2020**, and record in Worcester County Registry of Deeds, Book **64037**, Page **153** or Land Court Certificate of Title No. _____, registered in Worcester District Book _____, Page _____, and Harvard Assessors' Book _____, Page _____ & _____, dated _____, _____, and record in Worcester County Registry of Deeds, Book _____, Page _____ or Land Court Certificate of Title No. _____, registered in Worcester District Book _____, Page _____, and Harvard Assessors' Map **13**, Parcel **67.1**.

6. Fee paid (\$150 per lot) _____.

APPLICANT'S NAME (Please print) Luciano Manganello

Applicant's signature  Phone No. 978-772-1590
Applicant's address _____
FOR OWNER

Applicant's signature _____ Phone No. _____
Applicant's address _____

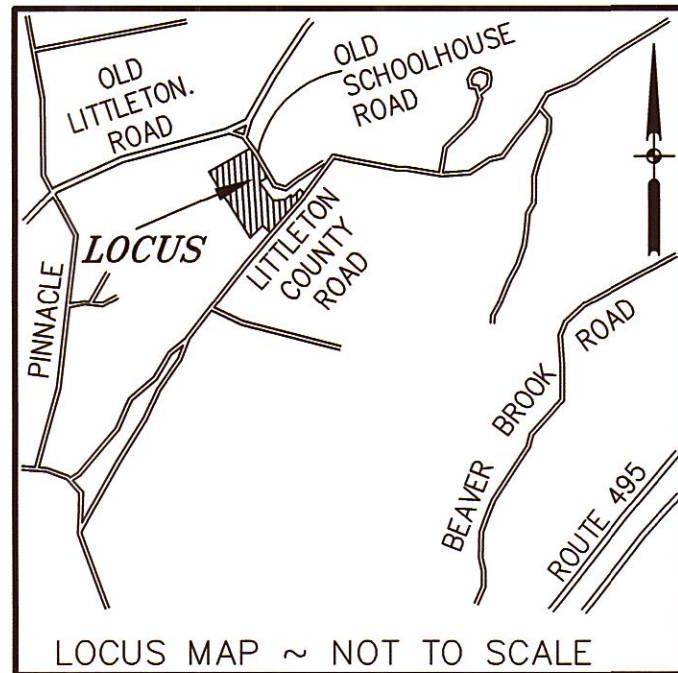
OWNER'S SIGNATURE and address if not the applicant, or applicant's authorization if not the owner

THE PLANNING BOARD'S ENDORSEMENT ON THIS PLAN, THAT THE APPROVAL UNDER THE SUBDIVISION CONTROL LAW IS NOT REQUIRED, SHALL NOT BE CONSTRUED AS THE PLANNING BOARD FINDING THAT THE LOTS CREATED BY THIS PLAN CONFORM TO THE REQUIREMENTS OF THE HARVARD PROTECTIVE (ZONING) BYLAWS EXCEPT AS TO AREA AND FRONTAGE.

Received by Town Clerk:

Date/Time: _____

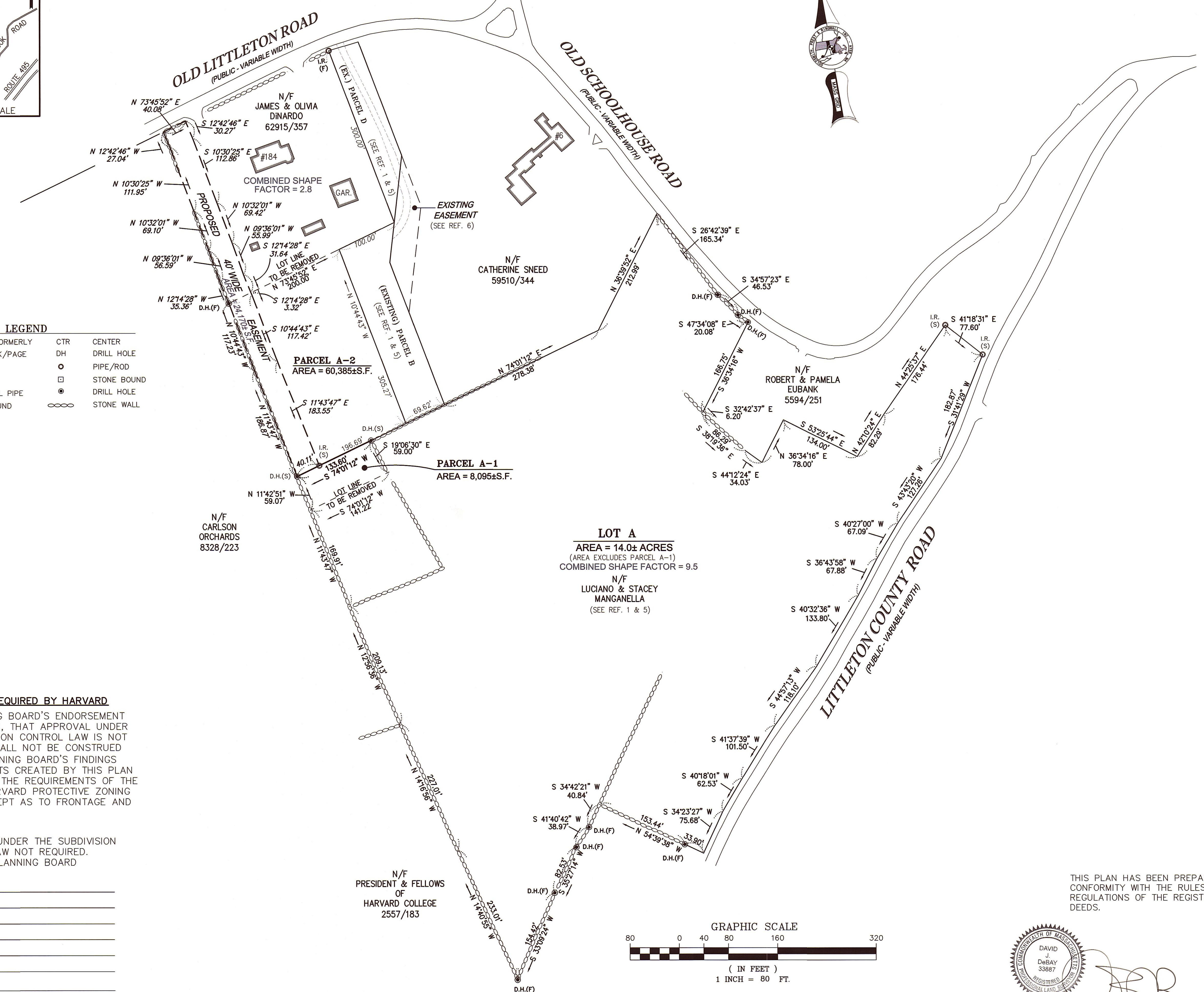
11/17/94



FOR REGISTRY USE ONLY

LEGEND

N/F	NOW OR FORMERLY	CTR	CENTER
1111/111	DEED BOOK/PAGE	DH	DRILL HOLE
(F)	FOUND	○	PIPE/ROD
(S)	SET	□	STONE BOUND
IP	IRON/STEEL PIPE	●	DRILL HOLE
SB	STONE BOUND	∞	STONE WALL



- REFERENCES:**
- ON FILE AT THE WORCESTER DISTRICT REGISTRY OF DEEDS
 - 1) PLAN BOOK 938, PLAN 23
 - 2) PLAN BOOK 841, PLAN 100
 - 3) PLAN BOOK 520, PLAN 26
 - 4) PLAN BOOK 134, PLAN 70
 - 5) DEED BOOK 64037 PAGE 153
 - 6) DEED BOOK 59509 PAGE 173

- NOTES:**
- 1) THE PURPOSE OF THIS PLAN IS TO DIVIDE PARCEL "A" INTO 2 TRACTS OF LAND BEING SHOWN AS PARCEL A-1 & A-2. SAID PARCELS ARE NOT CLASSIFIED AS BUILDING LOTS AND ARE TO BE ANNEXED WITH ADJOINING LAND. PARCEL A-2 IS TO BE CONVEYED AND COMBINED WITH LAND OF DINARDO AND PARCEL A-1 IS TO REMAIN WITH LAND OF LUCIANO & STACEY MANGANELLA (SEE REF. #5) TO FORM ONE CONTIGUOUS PROPERTY.
 - 2) AN INSTRUMENT SURVEY WAS PERFORMED BY THIS OFFICE DURING JULY 2022.
 - 3) PARCELS B & D ARE TO BE CONVEYED & COMBINED WITH ADJACENT LAND OF DINARDO TO FORM ONE CONTIGUOUS TRACT.
 - 2) LOT SHAPE FACTOR HAS BEEN CALCULATED PER TOWN OF HARVARD ZONING CODE (SECTION 125-129B)

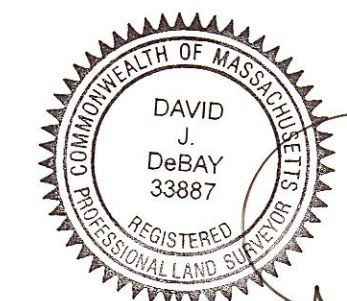
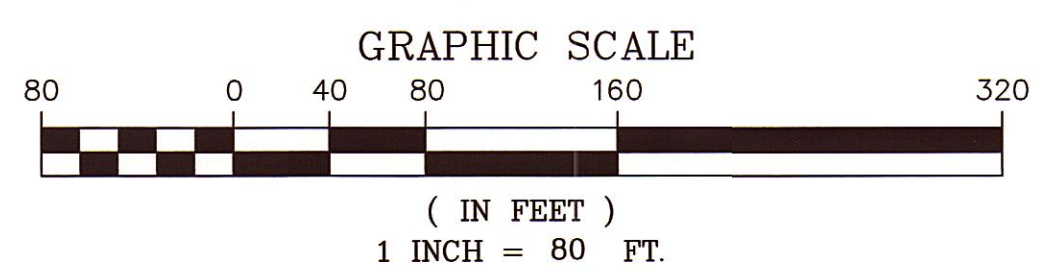
STATEMENT REQUIRED BY HARVARD

THE PLANNING BOARD'S ENDORSEMENT OF THIS PLAN, THAT APPROVAL UNDER THE SUBDIVISION CONTROL LAW IS NOT REQUIRED, SHALL NOT BE CONSTRUED AS THE PLANNING BOARD'S FINDINGS THAT THE LOTS CREATED BY THIS PLAN CONFORM TO THE REQUIREMENTS OF THE TOWN OF HARVARD PROTECTIVE ZONING BYLAWS, EXCEPT AS TO FRONTAGE AND ACCESS.

APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED.
HARVARD PLANNING BOARD

DATE: _____

N/F PRESIDENT & FELLOWS OF HARVARD COLLEGE 2557/183



THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

DAVID J. DeBAY, P.L.S. #33887
DATE 9/29/2022

OWNER'S DEED: 64037/153
ASSESSOR'S REF: MAP 13, PARCELS 67.1
ZONING CLASSIFICATION: AG/RES

GPR Engineering Solutions for Land & Structures

GOLDSMITH, PREST & RINGWALL, INC.
39 MAIN STREET, SUITE 301, AYER, MA 01432
CIVIL ENGINEERING • LAND SURVEYING • LAND PLANNING
VOICE: 978.772.1590 FAX: 978.772.1591
www.gpr-inc.com

PLAN OF LAND IN HARVARD, MASS.

PREPARED FOR:
LUCIANO MANGANELLA
135 COMMONWEALTH AVE, UNIT B
BOSTON, MA 02116

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Very impressive analysis and compilation of information

Thoughtfully organized and compiled with a clear executive summary up front

Wonderful compilation of technical material in tables that we as a community can use as a resource to inform our next steps

Details extend beyond what our local board and staff has been able to compile on its own; there is extensive "new" material here that is helpful

The conclusions are as we expected, but they are supported much more completely than before I would be interested in a clear recommendation of next steps from Weitzman if that conversation is available. I would also be interested in Weitzman's recommendation on how to communicate information in this lengthy technical document to members of the public.

General comments on the market study. Overall, you have done an in-depth analysis into this district and appear to be cognizant of what the town is looking. I'm happy to see mention of Harvard's agriculture and how to tie in commercial development with our local character throughout the analysis.

P 22 Table 3 Missing 206 Ayer Road & 249 Ayer Road in Survey

P 29 – TIP project – I believe it is scheduled on the TIP
What is the road connection w/Devens they are referring to?

P 33 open space map – please provide a key – toh = town of Harvard and the like

P 38 “stronger connection to Boston” paragraph – seems to state the average commute to Harvard from Boston is 30 minutes?

Re the maps on pages 42-43 are indicating – please remind the reader what an MSA is or just spell it out above the maps

p. 43-44 demographic analysis – discusses growth of housing in Devens but does not mention the housing cap which limits development in Devens

p 65 – re: attractions in town – I have had many people from out of town ask about Fruitlands, the Shaker cemetery sometimes referred to as the lollipop cemetery (and other Shaker sites), the apple orchards, Christmas tree farms, the sites Little Woman was filmed at but never had anyone ask about visiting the Abbey; the Agriculture Commission in town developed a nice brochure for local farms and are installing signs directing visitors to the local farms

p73

assuming the housing data for Harvard does not include Devens

p75 building permit data – why was there no analysis or table for Harvard’s building permits?

Commercial office section

p. 158 – and 159 – 206 and 249 Ayer road is missing

206 Ayer road has 5 units – 2 on the first floor, and 3 on the second floor all general office, the tenants include 2 attorneys, 1 financial advisor; 1 insurance agent office, 1 housing/development office and an acupuncturist

249 Ayer road has 2 units on the bottom floor; I believe it still has 4-5 offices on the 1st floor and 4-5 offices on the top floor. I believe it’s still occupied by general offices including psychologists, attorneys, an architect, an insurance agent, and others.

Note, there are many professionals who work out of their home in town. Some see clients in their home, many work from home for companies and/or as consultants.

Hotel analysis p. 189 – I’m not certain that a hotel is an allowed use under our bylaws

SWOT analysis

Not sure if this is beyond the scope, but do you have an idea of the revenues which could be generated for the different scenarios? It appears you will be addressing this in the fiscal impact analysis in the final report.

Do you have any ideas/recommendations for including food incubators or accelerators which could support our agriculture in town?

Thanks for sharing the draft report on the Ayer Road Vision plan. It is certainly a lot to take in - I read a lot of it in detail, but needed to skim most of it, just because of the sheer volume. It will be good to have this level of detail when discussing alternatives and options.

There seemed to be a fair amount of repetition, which could possibly be reduced, but overall, this is probably an acceptable amount of detail.

I am not sure what is meant by the caveat "Confidential" in the footer of the document. The wording on the cover page mentions copyright and limitations on extracting portions of the document, but is that the extent of the limitation? Please have the contractor elaborate what they mean by "Confidential"

The photographs at the end need to be labeled and probably referenced to areas of the text where these properties are discussed - otherwise, it could make an interesting parlor game. On page 39, reference is made to pandemic relief payments in New Jersey. Leads me to presume that portions of this document were cut and paste from a similar analysis done for a New Jersey customer.

A lot of the analysis centers on the town of Harvard and the region, and it is only by extension that we see the impact on the C-section.

I didn't see any specific re-zoning options or recommendations. Was zoning a constraint that could not be addressed in the report? I know that we must consider a multi-family residential zone, and perhaps there could be some consideration to changing the mixed-use definition regarding small, medium and large scales (cf protective bylaw 125-13).

The Report points out the glaring deficiencies in water and sewer and how that need to be addressed, cautions against too much growth and targets agro-tourism and other things that make Harvard unique. All good, no complaints. However, the one overarching question I have had in this undertaking is that I do not want it just to be an academic exercise. Most of the C District is already developed. So if we bring in form based-code and water and sewer that would be great. However, would that in and of itself be sufficient to entice property owners to redevelop their already pre-existing non-conforming structures (e.g. the plaza with Sorrentos, the new liquor store). Would there be enough bite to have them redevelop, enough economic incentive in growth, density etc.. . otherwise this may all just be academic and you have a few undeveloped parcels with form-based code and you have everyone else grandfathered in, with sprawled aesthetically unpleasing lots, and not appreciable growth to offset a drastically imbalanced tax levy.

WARRANT ARTICLE

Article __. Amend the Protective Bylaw to Allow
Accessory Entertainment on Farms

To see if the Town will vote to amend Section 125-7, Paragraph A of the Code of the Town of Harvard relative to general agricultural uses and uses accessory thereto by making the following revision thereto, or take any vote or votes in relation thereto.

[Key to revision: underlining denotes added text]

§125-7 Agricultural uses.

Amended 3-5-1966 ATM by Art. 44; 3-6-1971 ATM by Arts. 33 and 34; 3-4-1972 ATM by Art. 44; 3-25-1978 ATM by Art. 23; 3-31-1990 ATM by Art. 18; 4-5-1997 ATM by Art. 46]

A. General agriculture. Agriculture (see § 125-2, Definitions) conducted on a parcel of five or more acres in area shall not be subject to the provisions of § 125-20 of this Zoning Bylaw, provided that the otherwise prohibited activity constitutes or is accessory to a principal agricultural use, as set forth in G.L. c. 40A, § 3. Accessory uses may include:

(1) An accessory camp for seasonal farm labor, approved by the Board of Health. A mobile home unit may be used for such a camp provided a permit issued by the Building Commissioner^u is in effect. A permit shall be for a sixty-day period. A permit may be renewed for additional periods up to a total additional time of 50 days. Setbacks for structures shall apply to the extent permitted by law.

(2) An accessory farm stand for sales of natural produce principally from the premises or from other premises that are part of the same principal agricultural use including premises constituting a "farming use" pursuant to § 125-35D(2)(a)[4].

(3) Accessory entertainment activities and events, provided that a license for such entertainment is obtained from the Select Board.

OFFICE OF THE
PLANNING BOARD

13 AYER ROAD HARVARD, MA 01451

978-456-4100



Richard Maiore, Chair
Select Board
Town Hall
13 Ayer Road
Harvard, MA 01451

11 OCT. 2022

Chairman Maiore:

At the regular Planning Board meeting on October 3, 2022 the Board discussed the proposal by the Select Board to recommend the creation of an amendment to the Protective By-Law §125-7(3) *Accessory entertainment activities and events, provided that a license for such entertainment is obtained from the Select Board*. Upon deliberation of the proposed amendment, this Board wishes to express its suggestions and questions about unintended consequences.

The Planning Board requests additional information from the Select Board regarding how the proposed amendment will address the following items:

1. Would the Select Board limit the duration of licenses issued under this proposed amendment to thirty (30) days? Without the limitation, could the accessory use supersede the agricultural use?
2. Define “entertainment activities and events” under the proposal. Would this license allow sales and consumption of alcohol or marijuana?
3. Noise and traffic concerns under §125-20, which exempts Agricultural uses from the bylaw. Would the accessory use be subject to it?
4. Will the Select Board provide a proposal for an additional bylaw defining the types of allowed accessory entertainment events and activities? While other municipalities and existing case law have addressed these items, they have not been codified in Harvard’s protective bylaws.
5. Has the Select Board reviewed and determined which other existing bylaws will be affected by the adoption of this proposed amendment?

The Planning Board requests the Select Board provide detailed guidance to address these items. It would be very helpful if a member of the Select Board were to participate in the Public Hearing on Monday, Nov. 7, 2022. We look forward to collaborating with you.

All the best,

Richard Cabelus, Chair

cc: Select Board members
Planning Board members

**HARVARD DRAFT OPEN SPACE RESIDENTIAL DESIGN (OSRD) DEVELOPMENT
DECEMBER 23~~28~~, 2021 – 3rd DRAFT**

- A. [Purpose and Intent](#)
 - B. [Applicability](#)
 - C. [Open Space](#)
 - D. [Development Density](#)
 - E. [Permitted Uses](#)
 - F. [Dimensional and Design Requirements](#)
 - G. [Project Site Design Process](#)
 - H. [Formal Process and Application](#)
-

A. Purpose and Intent

The purpose and intent of the Open Space Residential Development (OSRD) development option is to permit high-quality residential development in harmony with the natural features of the land that is consistent with historic land use patterns of village-like areas where residences are grouped, surrounded by areas of open space used for agriculture, forestry, recreation and similar purposes. It is also the purpose of the OSRD option to:

- (1) Preserve open space, scenic landscapes, water resources, wetlands, natural (particularly native) vegetation, habitat, prime agricultural land, key natural features, and cultural and historic resources with emphasis on goals and actions included in Harvard's 2016 Master Plan and 2016 Open Space and Recreation Plan.
- (2) Reduce site development and public and private maintenance costs.
- (3) Promote a diversity of housing opportunities within the Town, while respecting and enhancing neighborhoods, and promoting attractive standards of appearance and aesthetics consistent with town character.
- (4) Reduce the anticipated negative fiscal impact on the Town associated with conventional residential development by reducing street length and width, public utility extent, providing efficient stormwater runoff technology, and other public infrastructure.
- (5) Encourage the siting of homes in a manner that clusters units together in well-designed village settings, on buildable portions of the site, as a distinct alternative to the more arbitrary siting associated with lot-by-lot development typically reflected in plans submitted pursuant to Massachusetts General Laws Chapter 41, Sections 81K through 81GG, the Subdivision Control Law. At least 80 percent of dwellings shall be contiguous with some type of Open Space, and all OSRDs shall generally contain at least one neighborhood green or common, bounded by a street or streets in the traditional New England manner.
- (6) Prohibit a lot that has been approved for OSRD to apply for further subdivision of the lot for ten (10) years after the first approval.

B. Applicability

OSRD is Special Permit ~~development~~ option for residential development. The Planning Board may grant approval of an OSRD on an Agricultural-Residential (AR) zoned tract of land.

- ~~(1) If the proposed OSRD involves one or more common driveways, density bonuses, and/or any other use that requires a Special Permit, the proceedings for all such Special Permits and the Site Plan review shall occur in one Consolidated Special Permit proceeding before the Planning Board.~~

Commented [CR1]: Moved to Section 133-60

C. Open Space

Open Space is the organizing principle for OSRD projects and as such, requires the bulk of the up-front project tasks. The following sections describe (1) how open space is calculated, (2) how open space may be classified, and (3) the logistics regarding ownership and maintenance.

- (1) ~~Generally~~ Calculation of Open Space – A minimum of fifty (50%) percent of an OSRD must be open space made up of conservation areas and other open spaces such as commons or greens, parks, historic or cultural sites and features, and passive and active recreation areas. The specific allocation of this open space shall be as follows:
- (a) Determine the acreage of Primary Resource Protection Areas (PRPAs), as defined in Section 125-2.
 - (b) Determine the acreage of Secondary Resource Protection Areas (SRPAs), as defined in Section 125-2.
 - (c) The combination of PRPA and SRPA area must equal at least 50% of the total site area.
 - (d) At least 50% of the SRPA must remain in its natural state, completely devoid of any structure, parking, loading and unloading space, or as private yards, patios, or gardens for the exclusive or principal use by residents of individual dwelling units, unless the conservation or preservation value is as an improved asset such as a farm field, stone wall, well, historic building or structure, or other modified landscape, protecting and maintaining those assets that were agreed upon by the Planning Board and Conservation Commission.
 - (e) The remaining 50% of SRPA may be improved into commons or greens, parks, and passive and active recreation areas, which may include unpaved walking paths and trails. All OSRDs shall generally contain at least one neighborhood green or common, bounded by a street in the traditional New England manner. The common open space described herein is in substitution of and supersedes any other reference to common open space that may be described elsewhere in the Bylaw.
 - (f) All Open Space, to the extent possible, shall be appropriate in size, shape, dimension, location, and character to assure its use as a conservation area, and where appropriate, a recreational area, and be a visual and natural amenity for the development and the Town. Preserved open space shall also be contiguous to the greatest extent practicable, except for neighborhood greens. Where noncontiguous pockets of open space are preferable to protect features of high conservation value, applicants shall attempt to connect these resource areas to the greatest extent practicable through the use of trails, vegetated corridors, or to adjacent external open space. Open Space will still be considered contiguous if it is separated by common elements such as a shared driveway, roadway, or an accessory amenity (such as a barn, paved pathway or trail, or shed for the storage of recreational equipment).

(g) The remaining land area, after all open space has been established, is available for the infrastructure, dwelling units, accessory buildings, and exclusive use areas (if a part of the design scenario).

(h) Plan-Site plan shall include a notation that states: “*Designated Open Space shall not be further subdivided or used for future building lots.*”

(2) Open Space Classification – For the purpose of this Section, open space, as defined generally in Section 125-2, shall include ~~and be qualified as active recreation space, common open space, conservation open space, stormwater open space, or utility open space. The following are the three-two (32)~~ primary types of open space within an OSRD parcel (See Section 125-2 for definitions):

- (a) Open Space, Primary Resource Protection Area
- (b) ~~Open Space, Non-Common~~
- (c) Open Space, Common Use (Secondary Resource Protection Area)

(3) ~~Permanent~~ Open Space Logistics

Open space set aside in an OSRD or as a condition of any Special Permit or Site Plan approval shall be permanently preserved from development as required by this Section. The Planning Board may not require such open space land to be accessible to the public; ~~unless a density bonus is allowed under Subsection D (4).~~ Any development permitted in connection with the setting aside of open space land shall not compromise the conservation value of such open space land, based upon the conservation findings of the Planning Board, determined in consultation with the Conservation Commission as provided in Section 130. This section shall also provide for how Open Space may be owned and maintained.

[a] Permanent Preservation of Open Space Land – All land, except to be town-owned, required to be set aside as open space in connection with any OSRD shall be so noted on any approved plans and shall be protected by a 1) permanent conservation restriction, as defined in Article XIII, or 2) agricultural preservation restriction (APR), to be held by the Town of Harvard, the Commonwealth of Massachusetts, or a non-profit conservation organization qualified to hold conservation restrictions under G.L. Chapter 184, Section 31, and also qualified to hold tax-deductible conservation easements under Section 170(h) of the Internal Revenue Code. The restriction shall specify the permitted uses of the restricted land. The restriction may permit, but the Planning Board may not require public access or access by residents of the development to the protected open space land.

[b] Ownership of Open Space Land

At the Planning Board’s ~~discretion~~discretion, the Open Space may be owned by:

- (1) The Town or its Conservation Commission;
- (2) A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;
- (3) A corporation or trust owned jointly or in common by the owners of lots within the OSRD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for

mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded.

[c] Maintenance Standards for Open Space

- i. Ongoing maintenance standards shall be established in a formal Maintenance Plan as a condition of development approval to ensure that the open space land is not used for storage or dumping of refuse, junk, or other offensive or hazardous materials, and to ensure that it is maintained properly. Maintenance Plans shall therefore delineate all conservation lands within the OSRD into various land-types (such as woodlands, fields, meadows, pastures, neighborhood greens, active recreation areas, etc.) and shall describe in some detail the maintenance regime and schedule for each of those areas, to be implemented by the owners of those conservation lands. (For example, neighborhood greens and active recreation areas shall be mowed weekly during the growing season.). Standards and maintenance frequency and thresholds shall be specific enough so that violations are clear and unassailable.
- ii. Such standards shall be enforceable by the Town against any owner of open space land, including an HOA.
- iii. If the Select Board finds that the provisions of Subsection [a] above are being violated to the extent that the condition of the land constitutes a public nuisance, it may, upon 30 days written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or, in the case of an HOA, the owners of properties within the development, and shall, if unpaid, become a property tax lien on such property or properties.

D. Development Density

The method for determining the maximum number of residences is defined as the Formula Method:

- (1) The maximum number of residences is determined by dividing the total area of the tract of land by the minimum conventional lot size specified in the zoning district. This base density may be increased by density bonuses as noted in Section (2) below up to a maximum of an additional ~~25~~33% permitted additional units.

(a) Determine Parcel Size ~~--~~ The gross acreage of the parcel or parcels under consideration for the project shall be the starting point in determining density. This number shall be designated as Gross Area (GA).

(b) Minimum Open Space ~~--~~ The minimum acreage required to be set aside for open space is 50% of Gross Area.

Refer to Section C(2) above to determine the minimum requirements for open space.

(c) Base Development Density (BD) – The maximum number of dwelling units per acre permitted in an OSRD shall not exceed one (1) unit per 1.5 acres and no more than 2.0 bedrooms per acre of the net density of the land area.

(d) Permitted Yield (PY) – The Permitted Yield (PY) is the maximum number of residential units in an Open Space Residential Design and is calculated by multiplying the allowed (base) density or BD by the Gross Acreage (GA). Fractional units of less than 0.5 shall be rounded down and 0.5 or more shall be rounded up.

(e) Total Open Space Set Aside (TOS) is the total amount of open space set aside for the project. This is calculated by taking the Minimum Open Space from (2) above and adding any additional open space set aside to achieve a density bonus for Bonus Open Space or BOS to the minimum 50%.

In these calculations, density credit may be applied to certain other unconstrained parts of the site, such as land used for onsite sewage disposal, including nitrification fields and fields used for “spray irrigation” (sometimes called “land treatment”). Unless specified otherwise, these lands may also be counted toward meeting the minimum open space requirements for Open Space developments.

(f) Bonus Units – The unit count determined above (PY) may be increased by a density bonus at the discretion of the Planning Board based upon the eligible density bonuses listed in (2) below. The density bonuses allowed above may not increase the density by more than ~~25~~ 50 percent of the base number of units and said density bonuses may only be used if the resulting development complies with Title 5 of the State Environmental Code as determined by the Board of Health. Fractional units of less than 0.5 shall be rounded down and 0.5 or more shall be rounded up.

(2) Residential Density Bonuses – Eligible residential density bonuses include the following as specific public benefits:

(a) Additional Open Space – For projects that provide SRPA open space in excess of the minimum fifty percent (50%), a by-right density bonus of one (1%) percent (minimum 1 unit) for each five (5%) percent of additional open space (minimum 7,500 s.f.) provided, up to a five (5%) percent bonus.

(b) Affordable Housing Component – The Planning Board may award a density bonus to increase the number of dwelling units/lots beyond the maximum number where affordable housing or affordable Over 55 Housing is provided. All affordable units shall meet the requirements of M.G.L. Chapter 40B and the developer shall demonstrate that said units will count towards the Town of Harvard’s 10% affordable quota as determined by the Massachusetts Department of Housing and Community Development. When affordable units exceed 15% and up to 25%, all of the affordable units on site must be Over 55 Housing. Computations shall be rounded to the highest number. The density bonus units may only be granted if they are restricted perpetually as SHI eligible affordable housing. The permanent restriction shall be approved as to form by legal counsel to the Planning Board, and a right of first refusal upon the transfer of such restricted units shall be granted to the Town of Harvard or its designee for a period of not less than 120 days after notice thereof. Designating 15% affordable units may be awarded a ten (10%) density bonus whereas any percentage in excess of 15% may be awarded one (1%) additional density for each percentage increase in affordability up to fifteen (15%) percent.

Developers may pay a fee in lieu of unit designation to the Harvard Municipal Affordable Housing Trust to receive the density bonus. This fee is based on a formula established by the Harvard Housing Production Plan;

- (c) Age Restricted or Age Targeted Housing – The Planning Board may award a density bonus of up to ten (10%) percent for a development that is certified as restricted age 62 and older active adult independent living units;
- (d) Starter Home Development – The Planning Board may award a density bonus of up to ~~five ten (510%)~~ percent for a development containing at least ~~fifty-ten (5010%)~~ percent of the units as “starter” homes each with less than 1,850 s.f. of floor area but no more than fifty (50%) -percent. Each ten percent increment shall result in up to a 2% bonus. Should a MGL 40R Starter Home Zoning District be utilized, density, siting, and other requirements of the program shall be incorporated herein and density bonus will reflect such compliance.
- (e) Green Score Landscaping - If the applicant provides a minimum Green Score for the site of at least 0.35, a density bonus of 10%. See Section 133, Article XII for Green Score criteria and scoring.
- (f) Sustainable Development – There are two categories of sustainable development including:

- [1] Green Buildings
- [2] Green Roofs and Stormwater Management

Applicants may gain an additional five (5%) percent density bonus for each category met. See Section 133, Article XII for Sustainable Development criteria and scoring.

~~Table – Unit Calculation for Hypothetical 40 Acre Scenario~~
 Table 1 - Unit Calculation for Hypothetical 40 Acre Development Scenario

<u>Total Acres</u>	<u>Open Space (Acres)</u>	<u>Base Density (Units/Acre)</u>	<u>Base Units</u>	<u>Maximum Units (+5035%)</u>	<u>Final Gross Density (Units/Acre)</u>	<u>Final Net Density (Units/Acre)</u>
40	20	0.667	27	40.536	1.010.9	1.8

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E. Permitted Uses

Permitted uses include the following:

- (1) Single-family and two-family detached dwellings;
- (2) Townhouse dwellings;
- (3) Agriculture and horticultural uses including but not limited to orchards, vineyards, forestry, farming for fruits and vegetables, and grazing animals including horses, donkeys, sheep, llamas, vicunas, and similar animals;
- (4) Open space, active and passive; trails; and bikeways.
- (5) Accessory residential/recreational uses (e.g., tennis court, pool, playground);
- (6) Clubhouse or community building;

(7) Civic uses (e.g. library);

F. Dimensional and Design Requirements

(1) Development Types – There are three (3) primary OSRD development types as follows:

- (a) Condominium w/ Exclusive Use Areas
- (b) Condominium

(2) Dimensional Requirements – The following provisions shall apply:

(a) Project Scale Requirements

- [1] Project Size: Minimum (none), Maximum (none)
- [2] Setbacks:
 - [a] 50’ to external side and rear lot lines
 - [b] For projects smaller than 3 acres, the Design Review Board shall establish setbacks.
- [3] Frontage: 50’
- [4] Maximum Build Out: Base Zoning Plus Density Bonus
- [5] Applicable Zoning District: Agricultural-Residential (AR)

(b) Dimensional Requirements Table:

The table below provides a set of dimensional requirements for the three land use types permitted in an OSRD development. Since projects will not involve separate building lots, dimensional criteria shall follow these conventions:

- [1] Land Use Area Size – Area dedicated to specific land uses will not be on the basis of lot size but rather will use an equivalent called an Exclusive Use Area or site pad.
- [2] Setbacks – shall be measured from the structure to the extents of the EUA or site pad.
- [3] Frontage – refers to the horizontal ground measurement of the front of a EUA or site pad facing an internal circulation roadway.
- [4] Building Size – Limits on the amount of floor area a specific use may have.

Table 2 – OSRD Land Use Dimensional Requirements

Land Use	Exclusive Use Area (EUA) or Pad Size	Setbacks (Minimum) From EUA Boundary or Site Pad ¹	Frontage	Building Size (Maximum)
Open Space Passive and active recreation, parks, squares, natural areas, plazas and courtyards (see definition)	Minimum 50% of Net Acreage (NA)	NA	NA	N/A
Civic/Institutional Building Community space, library, house of worship, museum, theater, or similar	Minimum: 5,000 s.f.	Front: 10’ Side: 8’ Rear: 30’	Minimum: 24’ Maximum 75’	5,000 s.f.
Residential One and two-family	Minimum: 4,000 s.f. No Maximum 30,000	Front: 10’ Side: 8’	Minimum: 36’ No Maximum	None

¹ Minimum rear setbacks will be waived if a rear facing garage and alley is proposed.

detached dwellings	s.f.	Rear: 25'	75'	
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- (c) The Planning Board may waive the minimum requirements for frontage and/or exclusive use area requirements that would normally be applicable in order to achieve maximum open space area and to facilitate a creative or innovative design;

A buffer and/or screening may be required adjacent to sites outside of the OSRD if it is determined that such a buffer will provide relief from potential nuisances. Such buffers shall provide visual screening at all times of year, and preferred options include evergreen planted screening, except those that lose their lower branches as they grow (such as pines) or which are highly susceptible to deer damage (such as arborvitae).

- (d) Exclusive Use Areas (EUAs) or lots proposed for a width of 60' or less, townhomes, or duplexes shall use rear-facing garages on alleys or back lanes. EUAs wider than 60' are encouraged to have rear yard garages, side yard garages, or front facing garages offset behind the façade.

(3) Arrangement of Structures – Structures and other site features shall be located and arranged in a manner that protects:

- (a) Views from public roads and other publicly accessible points such as parks or land trust preserves;
- (b) Farmland, including fields and pastures;
- (c) Wildlife habitat;
- (d) Large intact forest areas, particularly ones older than 75 years, as seen on early aerial photographs;
- (e) Hilltops;
- (f) Ponds, creeks, and streams;
- (g) Steep slopes; and
- (h) Other sensitive environmental, historic, or cultural resources deemed important (including resources noted by the 2016 Master Plan and the 2016 Open Space and Recreation Plan).

Siting shall be designed to facilitate pedestrian circulation and connect to other development assets such as common areas and facilities. Pedestrian facility type may be a formal sidewalk in a village center type of project or a pedestrian or multi-purpose path in a rural hamlet type of project.

The Planning Board shall take into consideration the conservation analysis and findings in approving the arrangement of lots but, to the extent possible, each lot shall either front or rear on Open Space.

(4) Design Requirements –OSRD projects are also characterized by special attention to site and architectural design that directly reflects or highly complements the principles of town and architectural design that represents the character and history of the Town of Harvard. Specific design criteria are as follows:

(a) Project Site

- [1] Developments shall be designed in the manner of a rural New England village, hamlet, or neighborhood with clusters of residences within a square or fronting on a town common or green.
- [2] The development shall establish narrow, shaded streets conducive to pedestrians and cyclists.
- [3] Buildings shall be established close to the street to facilitate a pedestrian scale.
- [4] To the extent practicable and applicable, developments shall be integrated into the existing townscape by common edge treatments. This shall include frequent street connections and pathways to surrounding areas and a high degree of internal connectivity within the development.
- [5] Projects are encouraged to possess a wide range of housing types and sizes—such as large and small townhouses, duplexes, single-family homes, small apartment buildings, or special needs housing.

(b) Exclusive Use Areas and Buildings

- [1] All Exclusive Use Areas shall share a frontage line with a street, square, courtyard, neighborhood green, or park (public access).
- [2] All buildings, except accessory structures, shall have their main entrance (include in definitions) opening onto a street, square, courtyard, neighborhood green, or park.
- [3] Unenclosed porches may encroach into front setbacks as indicated in this bylaw.
- [4] All residences shall be within 600 feet of trailheads or other pedestrian facilities.
- [5] Garages entrances for Exclusive Use Areas 60' width or less shall be facing the rear of the EUA. Access to rear-facing garages should be from an alley or back lane, which may be a private common drive.
- [6] Proposed two-family residences shall either be designed as a “Shaker Double” or a corner opposed front entrance double.

(a) Miscellaneous Design Standards

- [1] Porches. Unenclosed front or side Porches are encouraged for residential uses and may be built within the setback line or required front area.
- [2] Appearance/Architectural Design: Architectural design shall be compatible with the character and scale of buildings on the site, in the neighborhood, and in the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air circulation, and separation between buildings where appropriate.

[3] Design Review: OSRD projects shall be reviewed by the Design Review Board based on the criteria in this Section G. The design review process is outlined in Chapter 133, Article XII, of the Planning Board Rules and Regulations.

G. Project Site Design Process

The site design process for OSRD is provided in Chapter 133, Planning Board Rules and Regulations, Section 133-21(A). This process, in summary, mirrors the four (4) step design process as recommended by Randall Arendt, and is as follows:

- (1) Step One: Identifying All Potential Resource Protection Areas
- (2) Step Two: Locating the Building Sites
- (3) Step Three: Designing Street Alignments and Trails
- (4) Step Four: Drawing in Exclusive Use Areas or Site Pads

Site improvements including requirements for water and wastewater, stormwater and erosion control, road design, and pedestrian and bicycle facilities are found in Section 133-21(B).

H. Formal Process and Application

The process for seeking approval of an OSRD project requires the following steps:

- (1) Pre-Application – Preliminary document development and discussion
- (2) Resource Protection Findings – Resulting in a conceptual plan for proposed development
- (3) Long-Range Development Plan (Optional) – Only for phased projects
- (4) Preliminary Project Approval
- (5) Formal Application Process – Design Review, Special Permit, and Site Plan Review processes

The full process for seeking approval of an OSRD project is provided in Chapter 133-21(C), Planning Board Rules and Regulations, which provides applicants with details of all of the required steps, plans, and documents that will be required.

Harvard and the Future of Devens' Jurisdiction

On October 19th at 7pm, the Harvard Devens Jurisdiction Committee (HDJC) will hold an open meeting to present its findings regarding the major elements which will need to be addressed in any plan for Harvard's resumption of jurisdiction over its historical lands within Devens. The public is encouraged to attend to ask questions and to give feedback to the Committee.

The Harvard-Devens Jurisdiction Committee (HDJC) was formed by the Select Board in 2018 and charged with developing a plan to be presented to Harvard residents "to resume jurisdiction over the land presently part of Devens formerly under the jurisdiction of the Town of Harvard..." The HDJC has prepared an outline plan that is intended to stimulate public inquiry and debate.

The Town of Harvard has a great deal at stake in the future of Devens and needs to fully explore the merits of resuming political jurisdiction. Presently, 75% of the commercial development and 85% of the residential development are in the historical Harvard portion of Devens.

The meeting will be held in person at the HES gym (West / Main entrance) and simultaneously via Zoom. Zoom info: **Meeting ID: 830 4992 0902 - Passcode: 345179**

The HDJC's "Initial Plan Summary" and additional detail on the Zoom particulars are available on the town website.

Weitzman Associates LLC

355 Lexington Avenue, New York, New York 10017 (212) 949-4000
737 North Michigan Avenue, Suite 2060, Chicago, Illinois 60611 (312) 337-5785

September 27, 2022

Town of Harvard
13 Ayer Road
Harvard, MA 01451
Attn: Ms. Marie Sobalvarro
Assistant Town Administrator and Chief Procurement Officer

c.c. Frank O'Connor, Director of Planning

Re: Market Analysis and Fiscal Impact Analysis- Ayer Road Commercial District
Harvard, MA
Engagement Letter Issued May 3, 2022

Acc # 66-22

SERVICES RENDERED:

Market Analysis and Fiscal Impact Analysis- Ayer Road Commercial District	
Part 1 Deliverable: Kick-Off Meeting & Initial Memorandum	\$5,000.00
Part 2A Deliverable: Interim Memorandum Market Analysis	\$10,000.00
Part 2B Deliverable: Expanded Memorandum Market Analysis	<u>\$20,000.00</u>
UP-TO-DATE TOTAL FEE FOR SERVICES	\$35,000.00
Less Payment Received	<u>(\$5,000)</u>
Total Due This Invoice	\$30,000.00

Tax ID: 37-1862083
Wiring Instructions:
WEITZMAN ASSOCIATES, LLC
Chase Manhattan Bank
Acc #: 929156276
ABA 021 000 021



BEALS AND THOMAS, INC.
 144 Turnpike Road
 Southborough, MA 01772-2104

T 508.366.0560
 F 508.366.4391
 www.bealsandthomas.com
 Regional Office: Plymouth, MA

Town of Harvard
 Conservation Commission
 13 Ayer Road
 Harvard, MA 01451
 Liz Allard

Invoice number 3241.00-5
 Date 09/30/2022


Project **3241.00**
Notice of Intent & Driveway Site Plan
Approval
175 Littleton County Road
Harvard, MA

FOR PROFESSIONAL SERVICES RENDERED: this period through September 30, 2022

Services to assist the Town of Harvard Conservation Commission and Planning Board with construction observations relating to the driveway for the single family home being constructed at 175 Littleton County Road. During this period we completed a site visit to observe construction and coordinated with the Town regarding progress.

Professional Fees	Hours	Amount
Senior Professional Staff V	2.75	453.75
 Reimbursable Expenses		Amount
Mileage		55.00
	Invoice total	508.75

By: Stacy H. Minihane
 Stacy H. Minihane
 Senior Associate

**BEALS + THOMAS**

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www.bealsandthomas.com
Regional Office: Plymouth, MA

Town of Harvard
Conservation Commission
13 Ayer Road
Harvard, MA 01451
Liz Allard

Invoice number 3241.02-4
Date 09/30/2022

Project **3241.02**
Peer Review Services
203 Ayer Road
Harvard, MA

FOR PROFESSIONAL SERVICES RENDERED: this period through September 30, 2022

Professional services to assist the Town of Harvard Planning Board (the Board) and Conservation Commission (the Commission) with the review of the two Special Permit Applications, a Site Plan Approval Application, and a Notice of Intent for the proposed commercial development at 203 Ayer Road, Harvard, Massachusetts. During this period we attended a Planning Board meeting and coordinated regarding Conservation Commission hearing/continuances.

Professional Fees

Senior Professional Staff V

Hours Amount

2.00 330.00

Invoice total **330.00**

By: Stacy H. Minihane
Stacy H. Minihane
Senior Associate

Fwd: You made an online, phone, or mail transaction with PAYPAL *CPTC

John McCormack <jbmccormack1@gmail.com>

Tue 10/11/22 6:56 PM

To: Liz Allard <lallard@harvard-ma.gov> jbmccormack01451@gmail.com <jbmccormack01451@gmail.com>

Here is the transaction notice from Chase

----- Forwarded message -----

From: Chase <no.reply.alerts@chase.com>

Date: Thu, Oct 6, 2022 at 9:51 AM

Subject: You made an online, phone, or mail transaction with PAYPAL *CPTC

To: <jbmccormack1@gmail.com>



Transaction alert

You made an online, phone, or mail transaction

Account	Chase Sapphire (...4403)
Date	Oct 6, 2022 at 9:51 AM ET
Merchant	PAYPAL *CPTC
Amount	\$25.00

CLASS

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