

**TOWN OF HARVARD
PLANNING BOARD AGENDA
MONDAY, MARCH 20, 2023 @ 7:00PM**

Pursuant to Chapter 107 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 16, 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.

THVolGovt Pro is inviting you to a scheduled Zoom meeting.

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Meeting ID: 884 4705 0866

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Find your local number: <https://us02web.zoom.us/j/keni5C92hY>

Public Comment

- Old Business:**
- a) Prospective MBTA Multi-family zoned district
 - b) District Local Technical Assistance Augmentation funds: Climate Initiative Committee
 - c) Ayer Road: pursue Phases II & III (vision plan & zoning to facilitate vision) RFP with funds from Rural & Small-Town Grant award
 - d) Open Space Residential Development Bylaw Amendment (§125-35)

New Business:

Public Hearings:

7:05pm Continuation of Special Permit - Ayer Road Village-Special Permit and Site Plan Review Hearing - Yvonne Chern & Wheeler Realty Trust, 203 Ayer Road, for the updates on proposed development of three commercial use buildings, including a Commercial Entertainment and Recreation use.

7:30pm Special Permit Hearing – DISH Network, 60 Old Shirley Road for installation of collocator equipment.

8:00pm Proposed Bylaw Amendment Hearing – Wheeler Realty Trust and 12 Lancaster County Road LLC, 185-189 Ayer Road, for proposed Overlay District

- Standard Business:**
- a) Board Member Reports
 - Representatives & Liaisons Update
 - Community Matters
 - b) Approve Minutes

**NEXT SCHEDULED MEETING:
MONDAY, APRIL 3, 2023**

AS

OFFICE OF THE
PLANNING BOARD

13 AYER ROAD HARVARD, MA 01451 PHONE: 978-456-4100 www.harvard.ma.us



Ms. Karen Chapman, Director
Planning & Development
Montachusett Regional Planning Commission (MRPC)
464 Abbott Avenue,
Leominster, MA 01453

March 6, 2023

Ms. Chapman,
The Harvard Climate Initiative Committee would like to request usage for District Local Technical Assistance Augmentation Funds for the following activities:

- 1 - Research, identification and assessment of federal, state and other funding opportunities as it relates to our climate action plan which includes six areas: buildings, energy, transportation, natural resources, agriculture and preparedness. We would like to be notified of available grant opportunities which would match our climate action priorities and for which our town would meet the qualifications to apply. As part of the identification, we would want to know the type of projects that would qualify, the amount of funding available, whether there is required matching funds (and whether volunteer time counts toward the match), the time frame for applying, the competitiveness of the grant, if known, and any special considerations.
- 2 - Review and comment on our grant applications and assistance in identification of specialty skills where needed for the application. We expect that we will write the grant applications in most cases but anticipate the need at times for certain expertise. We would hope that MRPC would be able to assist in either helping us write these sections or in identifying individuals who could assist in the preparation of the grant and who would be financially paid for through MRPC funds. We would also like to have MRPC review our draft grant applications and provide feedback/recommendations prior to submittal.
- 3 - Grant collaborations. We would like assistance in the identification of other communities in the MRPC region which might be seeking the same grants to determine if it could be a combined/regional effort rather than individual applications. We believe there is greater opportunity for success when there are joint applications. We would like MRPC to identify and coordinate these possible collaborations.
- 4 - Grant reporting assistance. We expect in most cases that we will be able to complete the grant report requirements but understand that there may be components to which we are not familiar and may require additional assistance. As a new town committee that has not received any grants as of this date, we would like to have this option available to us in the future should we need this assistance. If the grant award were to be regional, as noted in #3 above, we would request assistance from MRPC to coordinate the reporting response.

This request was reviewed and approved at the February 28, 2023 Select Board Meeting.

Sincerely,


Timothy P. Bragan
Town Administrator

§ 125-35. Open Space and Conservation - Planned Residential Development (OSC-PRD).

[Added 3-29-2003 ATM by Art. 32¹]

This section establishes and regulates Open Space and Conservation Planned Residential Development (OSC-PRD). Development under this section is pursuant to a special permit granted by the Planning Board.

- A. Purpose and intent.** The purpose and intent of the OSC-PRD provision is to permit high-quality residential development that preserves open space, water resources, wetlands, habitat, prime agricultural land, scenic landscapes and natural features, reduces infrastructure and site development cost, and promotes 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.
- (1) A further purpose of the OSC-PRD provision is to reduce the anticipated negative fiscal impact on the Town associated with conventional residential development.
 - (2) The OSC-PRD provision is designed to 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.
- B. Applicability.** The Planning Board may grant a special permit for an OSC-PRD on an Agricultural-Residential (AR) zoned tract of land with definite boundaries ascertainable from a recorded or registered deed(s) or recorded or registered plan(s). Existing public and private ways need not constitute boundaries of the tract, but the area within such ways shall not be counted in determining tract size.
- (1) **Permitted uses in Open Space and Conservation Planned Residential Development.** Permitted uses include the following:
 - (a) Single-family detached dwellings.
 - (b) Multi-family dwellings.
 - (c) Agriculture and horticultural uses including but not limited to orchards, vineyards, forestry, farming for fruits and vegetables.

¹ Editor's Note: This article also repealed former § 125-35. Cluster development for open space conservation, added 3-31-1990 ATM by Art. 18, as amended.

- (d) Open space.
- (e) Trails.
- (f) Passive outdoor recreation, cf. 301 Mass. Reg. 5.02.
- (g) Educational and religious uses and other uses not mentioned above which are exempt from regulation by zoning under Massachusetts General Laws Chapter 40A, Section 3.
- (h) Accessory residential recreational uses (e.g., tennis court, pool, playground).
- (i) Active outdoor recreation, cf. 301 Mass. Reg. 5.02.

C. Requirements and process for approval. An applicant who is the owner (or with the permission of the owner) of land in the AR District as described above, may submit to the Planning Board a plan and application for a special permit for an OSC-PRD in accordance with the provisions of this section, excepting the building lots or lot shown on such plans from the lot area and other dimensional requirements specified in other sections of this Bylaw. While a subdivision plan is not required to be submitted in conjunction with the provisions of this section, in the event that a subdivision plan is being proposed by the applicant, such plan shall be submitted to the Planning Board in accordance with the Subdivision Rules and Regulations of the Planning Board.

- (1) **Submittal requirements.** Prior to the granting of a special permit pursuant to this section, a duly submitted application for said special permit shall be submitted together with a site plan to the Planning Board, in accordance with § 125-38, Site plans, of the Bylaw, and any Site Plan Rules and Regulations adopted by the Planning Board. For purposes of this Bylaw, a landscape architect, architect, land surveyor, and professional engineer must participate in the preparation of such site plan, which shall include the following:
 - (a) The location of the proposed development.
 - (b) The size of the site in acres.
 - (c) The total number of the proposed buildings and/or lots, and the size of each in square feet.
 - (d) The acreage and proposed use of permanent open space.
 - (e) A statement on the disposition or manner of ownership of the proposed open space.

- (f) The lots or areas which are to be used as building areas or lots, and the lots or areas which are to remain as permanent open space.
 - (g) Lines showing yard and setbacks as required by this Bylaw, within which dwellings or structures must lie.
 - (h) Sufficient detail of proposed built and natural features as described in § 125-35D and § 125-35E to enable the Planning Board to make the required determinations of § 125-35C(3).
 - (i) A landscape preservation plan sheet(s) to be included with the site plan, reflecting the existing, natural features to be preserved and proposed landscape features and details.²
- (2) **Submittal of preliminary plan.** An applicant must submit a plan of the required form and content standards as a "Preliminary Plan" in accordance with the Massachusetts General Laws Chapter 41, Section 81S and Harvard Planning Board governing laws for Subdivision Plans. Such plan, although not a formal subdivision plan filing, and submitted for conceptual purposes only, shall include a perimeter survey prepared by a registered land surveyor, location of wetlands, and topography based upon the most recent United States Geological Survey map. The applicant shall demonstrate to the satisfaction of the Board that a subdivision plan, if formally filed, would be buildable without reliance on significant waivers of the subdivision regulations.
- (3) **Approval criteria.** After notice and a public hearing in accordance with Massachusetts General Laws Chapter 40A, Section 9, 11, and 15 and after following the procedure outlined in this Bylaw, the Planning Board may grant such a special permit with any conditions, safeguards, and limitations, if it determines:
- (a) That the application form and content referred to in § 125-35C(1), herein is properly completed.
 - (b) That the site plan referred to in § 125-35C(1) is properly completed.
 - (c) That all the other requirements of this Section and Bylaw are fully met.
 - (d) That the design and layout of the proposed OSC-PRD preserves open space for conservation and recreation; that it preserves natural features of the land; allows more efficient provision of streets, utilities and other

² Editor's Note: See Ch. 130, Subdivision Control.

public services; and, that it provides a high degree of design quality, based on the criteria and considerations enumerated herein in § 125-35E.

- (e) That if development of single family homes is being proposed on separate lots, as opposed to a clustered village concept that is a major objective of this Bylaw, exemplary site planning is demonstrated, and other determinations in § 125-35D, are met.

D. Design criteria. In its consideration of an OSC-PRD, the Planning Board shall give particular attention to, and shall use as a basis for its decision, all of the following:

- (1) Lots, streets, off-street parking, sidewalks, pathways and buildings which achieve the harmonious integration of the proposed development with surrounding properties.
- (2) Overall layout and design that achieves the relationship between the proposed development and the land under consideration.
- (3) Appropriately sized and configured open spaces for active or passive recreation, and where possible, links to adjoining common open space areas.
- (4) Protection of natural features such as streams, mature trees or clusters of trees, rock outcrops, bluffs, slopes, high points, views, vistas, and historic or archeological features.
- (5) Provision of buffer areas, composed of existing vegetation, to surround building groupings and building envelope areas, to discourage site clearing and encourage preservation of existing land cover and mature vegetation.
- (6) Provision of accessibility to open spaces for all, consistent with Massachusetts Architectural Access Board 521 CMR Accessibility Guidelines.
- (7) Use of open spaces for preserving, enhancing, or providing scenic vistas; preservation and protection of historic resources.
- (8) Adequacy of provisions for public safety, protection from fire and flood, and maintenance of public facilities, streets, utilities, and open space.

E. Design quality. Project design for an OSC-PRD shall be reviewed by the Planning Board with input from Town officials, any review consultant(s), and others as appropriate. This section is to be interpreted as guidelines to be applied flexibly by the Planning Board as appropriate to the situation under review, including factors such as foundation and soil characteristics and other extraordinary site constraints. While these guidelines apply to all site improvements and buildings

and structures, it is not the intent of this section to prescribe or proscribe use of materials or methods of construction regulated by the state building code, but rather to enhance the appearance of the built environment within an OSC-PRD.

- (1) **Building and structure placement.** The placement of buildings and structures in an OSC-PRD should:
 - (a) Provide for maximum buffering of buildings and structures to adjoining properties either within the proposed OSC-PRD or to adjacent land uses. Such buffering includes, but is not limited to: landscaping, screening materials, natural barriers, fencing, and related measures.
 - (b) Preserve attractive views from major vantage points, especially from major thoroughfares and residential neighborhoods.
 - (c) Avoid regular spacings and building placements that will be viewed as continuous walls from important vantage points, which may be identified in an OSC-PRD pre-application conference.
 - (d) Avoid the placement of structures, common area facilities, and private space related to individual units in a manner that eclipses views or access to open space areas described in § 125-35K.
 - (e) Ensure that an appropriate number of units are designed to be fully accessible consistent with Massachusetts Architectural Access Board 521 CMR Accessibility Guidelines. If greater than 4 but fewer than 10 units, one unit must be accessible. If greater than 10 and fewer than 19, two units must be made accessible. For more than 20 units, 10% must be made accessible. .
- (2) **Building massing/articulation.** The massing/articulation of buildings should:
 - (a) Avoid unbroken building facades longer than 50 feet.
 - (b) Provide human-scale features, especially for pedestrians and at lower levels.
 - (c) Avoid unarticulated and monotonous building facades and window placement.
- (3) **Building appearance and treatment.** To the extent not inconsistent with or pre-empted by the state building code, the following should be considered as applicable:

- (a) Materials and building treatments that reduce the visibility of the buildings from distant vantage points, and that are compatible with backgrounds and surroundings.
- (b) Materials and colors compatible with other quality buildings of similar scale in the vicinity.
- (c) Green building technologies and materials, wherever possible, to minimize adverse environmental impacts.
- (4) **Roofline articulation.** The design of buildings should:
 - (a) Provide a variety of building heights and varied roofline articulation that stresses New England vernacular architecture.
 - (b) Locate taller buildings away from major streets, abutting and off-site single-family residential areas and homes.
- (5) **Landscaping.** Landscaping criteria are as follows:
 - (a) All open areas, exclusive of areas to remain in an existing natural state within an OSC-PRD, should be landscaped in an appropriate manner, utilizing both natural and man-made materials such as indigenous grasses, trees, shrubs, and other appropriate elements.
 - (b) Deciduous trees should be placed along new and existing streets and ways. Outdoor lighting should be considered in the landscaping plan, and should be designed to complement both man-made and natural elements of the OSC-PRD and adjacent areas.
 - (c) Intensive, high-quality landscaping or preservation of existing vegetation should be provided within the OSC-PRD where it abuts major streets, existing residential areas, and along internal drives.
 - (d) Preservation of existing vegetation or tree-lined areas should be maintained.
 - (e) Parking areas and lots should use landscaping and terracing to break up large areas of pavement and to enhance residential flavor and appearance; trees and shrubs should be used to the maximum extent feasible.
 - (f) Features such as shade trees, forest trees, and expansive planting areas should be preserved and/or introduced along external property boundaries and on the perimeter of the OSC-PRD itself, to buffer the site from adjoining parcels.

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- (g) Any lighting in the proposed development shall comply with Lighting Bylaw §125-40.

F. Utilities. To the maximum extent feasible, all utilities should be located underground.

G. Signage. All signs shall comply with Protective Bylaw § 125-41. However, within the development, signs, not to exceed two square-feet each, of a number and location to be approved as part of the OSC-PRD, may be permitted for the sole purposes of orientation and direction, and of identifying common building spaces.

H. Base development density. The maximum number of dwelling units per acre permitted in an OSC-PRD shall not exceed two units per acre of land area, and in no event exceed the maximum number of lots or dwelling units obtainable under a conventional subdivision plan for the land area under consideration, except as provided in § 125-35I.

I. Development incentive.

- (1) The Planning Board may authorize an increase in lots or dwelling units up to a maximum of ~~350% increase over that allowed under § 125-35H of this Bylaw (a maximum density of seven~~nine units per acre). ~~Percentage of increased permissible density will be~~ is allocated ~~based on~~as each of the following individual conditions ~~being~~are met:

- (a) The applicant proposes a significant increase in open space above 50%, and preserves significant natural resources, ~~in the opinion of Planning Board.~~
- (b) There is permanent preservation of land devoted or set aside for agricultural use or other unique preservation strategy, including preservation of historic structures or barns, or other special features of the built environment.

1 (If (a) ~~and~~ (b) above are found to be satisfied, in the opinion of Planning Board, it may authorize a ~~100%~~2 unit per acre increase ~~in applicable~~over base density.)

- (c) The applicant proposes public improvements or amenities that result in substantial benefit to the Town and the general public, provided:

- [1] There are significant improvements to the environmental quality or condition of the site and its surrounding areas, including a decrease in stormwater runoff from what would otherwise result from a conventional subdivision plan.

- [2] There are provisions contributing to off-site public facilities or environmental improvements beyond those necessary to mitigate the impacts of the proposed development.

(If (c) above is found to be satisfied, in the opinion of Planning Board, it may authorize a ~~+00%~~**2 unit per acre** increase ~~in-applicable~~**over** base density.)

- (d) Housing units for senior citizens and persons aged 55 years and over housing is provided. Such units should conform to §125-57E, Age Appropriate Design.

(If (d) above is found to be satisfied, in the opinion of Planning Board, it may authorize a ~~75%~~**1.5 unit per acre** increase ~~in-applicable~~**over** base density.)

- (e) The applicant sets aside 15% or more of lots or dwelling units on the site for Affordable Housing for purchase or rental by those with households of low or moderate incomes. Such units must count toward the Town's Subsidized Housing Inventory, and be in accordance with the provisions of 760 CMR 45.00, as may be amended. The Planning Board shall review and approve the actual percentage distribution of qualifying low versus moderate income units.

(If (e) above is found to be satisfied, in the opinion of Planning Board, it may authorize up to a ~~75%~~**1.5 unit per acre** increase ~~inover applicable~~**base** density.)

Condition	Units per acre
Base Density	2
(a+b) Additional Open Space Preservation	2
(c) Public Improvement/Benefit to Town	2
(d) Senior Housing	1.5
(e) Affordable Housing	1.5
Maximum Density if conditions met	9

J. Dimensional requirements. The following provisions shall apply:

- (1) The Planning Board may waive the minimum requirements for frontage and/or yard requirements that would normally be applicable to land within the AR District in order to achieve maximum open space area, and may permit more

2. JOHN MCCORMACK

November 15, 2022 at 6:19:18 PM
50% contiguous seems high.
perhaps lower?km

3. JOHN MCCORMACK

November 16, 2022 at 11:55:26 AM
How much open space should be usable? Does that mean such space will not be included in the computation of the open space percentage? How does "finished grade" align with "undisturbed natural condition"? Is this paragraph an attempt to designate Common Open Space as Open Space considered usable? Terminology is inconsistent throughout, and we should clean that up to make it consistent. eg, globally use the term "Usable Common Open Space"

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than one single or two-family dwelling be located on a lot in an OSC-PRD, as provided below.

- (2) The parcel proposed for development must have a minimum of 50 feet of frontage on a public way or private way which is open to the public.
- (3) The minimum distance between clusters of multiple unit dwellings, shall be 50 feet.
- (4) A minimum width of 150 feet of green area shall be established and maintained between any property adjacent to the OSC-PRD and the nearest dwelling unit or units in the OSC. [Amended 4-2-2005 ATM by Art. 34]
- (5) The minimum setback from internal roads shall be 25 feet.
- (6) The maximum height of proposed buildings shall be 35 feet, and shall not exceed 3 stories.
- (7) Except as provided in this Bylaw, any lot in an OSC-PRD shall comply with any other dimensional requirements of the zoning district in which it is located.

2 K. Common open space. A minimum of 50% of the OSC-PRD parcel shall be devoted to contiguous open space, completely devoid of any structure, parking, loading and unloading space, access ways thereto, or as private yards, patios, or gardens for the exclusive or principal use by residents of individual dwelling units. To the greatest extent possible, such open space shall be left in its undisturbed natural condition or 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. 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.

- 3 (1) Open space criteria.** The following criteria define open space, and open space that is considered **usable** for passive outdoor recreation within an OSC-PRD parcel:
- (a) No more than 25% of common open space in an OSC-PRD shall be wetlands.
 - (b) Unless approved by the Planning Board, common open space shall not be considered usable if the slope of the finished grade exceeds 33%.
 - (c) Unless approved by the Planning Board, the nearest part of the common **usable** open space shall not be more than 300 feet in distance

from the nearest point of any building that it is proposed to serve, in order to make the space accessible to those who use it.

- (d) No common open space shall be considered usable unless it is compact and contiguous and has no dimension of less than 50 feet.
- (e) All usable open space shall be open to the sky and pervious.

L. Open space conveyance.

- (1) The common open space shall be conveyed in the following ways as approved by the Planning Board:
 - (a) To a corporation or trust comprising a homeowners association whose membership includes the owners of all lots or units contained in the development. The developer shall include in the deed to owners beneficial rights in said open land, and shall grant a perpetual open space restriction to the Town of Harvard or a non-profit corporation or organization over such land to insure that it be kept in an open state and not be built upon for residential use, or developed for accessory uses such as parking or roadways. Such restriction shall be in such form and substance as the Planning Board shall prescribe, and may contain such additional restrictions on development and use of the open space as the Planning Board may deem appropriate.
 - (b) To a non-profit organization, the principal purpose of which is the conservation of open space. The developer or non-profit organization shall grant an open space restriction as set forth above.
 - (c) To the Town for a park or open space use, subject to the approval of the Select Board, for management by the Park and Recreation Commission if a park, otherwise by the Conservation Commission, with a clause insuring that it be maintained as open space. [Amended 10-22-2018 STM by Art. 2]
- (2) **Multiple conveyance.** To provide flexibility, and when deemed in the public interest, the Planning Board may approve more than one organization to accept the open space conveyance, particularly when it is appropriate that a major portion of such land be conveyed to the Town or a non-profit conservation organization, and another portion of such land is more appropriately conveyed to an owners association.

M. Passageways. Private roadways and common driveways shall be allowed in OSCPRD parcels. While roadway surface widths may be narrower than widths associated with a traditional subdivision, the durability of passageway surfaces

4. JOHN MCCORMACK

March 6, 2023 at 3:33:17 PM

Can this be on common open space?

5. JOHN MCCORMACK

February 6, 2023 at 1:28:57 PM

doesn't work for an odd number of units.

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and subsurfaces must be comparable to those in a conventional subdivision.
[Amended 4-2-2005 ATM by Art. 34]

- (1) **Criteria for passageways.** The following criteria shall guide the development of these passageways:
- (a) Cleared widths for traveled ways (excluding on-street parking spaces and passing turnouts) shall not be more than 20 feet or less than 12 feet. A cleared height of not less than 16 feet above the entire passageway shall be established and maintained.
 - (b) Drainage and surface runoff from all passageways must be suitably accommodated by an approved drainage system, using best management practices.
 - (c) All OSC-PRD plans shall specify that such passageways will not be dedicated to the Town, but are to remain private ways; all deeds or other instruments conveying any portion of land or structure in an OSC-PRD containing such a passageway(s), shall specify that such passageway(s) are and shall remain private way(s) in perpetuity; **and**

N. Site improvements. Site improvements specific to an OSC-PRD are listed below. To assist the Planning Board's evaluation of site changes and improvements from any OSC-PRD plan, the applicant shall submit said plan to the Town's Conservation Commission and Board of Health for review and recommendations to the Planning Board.

- (1) **Water supply.** Each lot and the development in its entirety shall be served by water supply systems.

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- (2) **Sewage disposal.** Privately owned and maintained on-site sewage disposal or treatment systems may be approved to serve buildings and lots in an OSCPRD, if owned, maintained, operated, and monitored by a residents association, notwithstanding the provisions of § 125-32D of this Bylaw, if such treatment facility or system is approved by the Board of Health and in compliance with the requirements of Title 5, 310 CMR 15.00, or approved in accordance with the requirements of 314 CMR 5.00 (the Ground Water Discharge Permit Program). An approved system may be located on land owned in common by the owners of the building lots or residential units within the development.

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- (3) **Parking.** Unless otherwise approved by the Planning Board, a **minimum of 1.5 and maximum of 1.52** off-street parking spaces shall be provided for each unit, exclusive of spaces within garages. The Planning Board may also approve, based upon the nature of the development proposed and exclusive of the 1.5 parking space ratio provided, areas for visitor parking.

- (4) **Storm runoff control.** The applicant shall demonstrate that, as compared with the situation that would exist on the site without the development, no phase of the proposed OSC-PRD will result in an increase in the peak rate of storm runoff at the parcel boundary for the OSC-PRD as a whole for the 25-, 50- and 100-year design storms, and that there will be no net loss in flood storage capacity for the 100-year design storm. In making such determinations, any state or local orders or requirements of the Wetlands Protection Act or the Town's Wetlands Protection Bylaw³ shall be assumed in the calculations of runoff and flood storage without the OSC-PRD, but alternative forms of development shall not be assumed.
- (5) **On-site runoff and erosion control.** The applicant shall demonstrate that any adverse existing off-site runoff and erosion conditions or off-site runoff and erosion conditions which would result from the development of the OSC-PRD, are fully identified and that workable and acceptable mitigation measures are proposed as part of the submission of a final plan, **consistent with .§ 125-58 herein;**

O. Residents association. In order to ensure that common open space and common facilities within the development will be properly maintained, each OSC-PRD shall have a residents association, which **shall may** be in the form of a corporation, non-profit organization, or trust, established in accordance with appropriate State law by a suitable legal instrument or instruments properly recorded with the Worcester County Registry of Deeds or registered in the Worcester County Registry District of the Land Court. As part of the final OSC-PRD site plan submission, the applicant shall supply to the Planning Board copies of such proposed instruments, which shall at a minimum provide the information required by said OSC-PRD submission requirements, § 125-35L of this Bylaw, and Site Plan Rules and Regulations in effect at the time of final submission.

- (1) **Responsibilities of the residents association.** Said legal instruments pertaining to the residents association shall specify that the residents association shall be solely responsible for all related improvements, and all costs associated with the operation of the development, including:
 - (a) Roadway maintenance.
 - (b) Snow-plowing.
 - (c) Maintenance of street lighting and on-site improvements and utilities.

P. Amendments without public hearing. Following the granting of a special permit pursuant to this Section, the Planning Board may, upon application and for good

³ Editor's Note: See Ch. 119, Wetlands Protection.

cause shown, without public hearing, amend the OSC-PRD plan solely to make changes in lot lines shown on the plan, which lot lines are not part of the perimeter of the site, or other minor engineering changes, provided, however, that no such amendment shall:

- (1) Grant any reduction in the size or change in location of the open space as provided in the permit;
- (2) Grant any change in the layout of the ways as provided in the permit;
- (3) Increase the number of lots or units as provided in the permit; or
- (4) Decrease other dimensional requirements of any lot below the minima permitted by the approval of the initial site plan and special permit.

Q. Amendments requiring public hearing. Any proposed change to an existing OSC-PRD special permit considered substantial by the Planning Board, shall require notice and a formal public hearing in accordance with Massachusetts General Laws Chapter 40A, Section 9, 11, and 15 and an amendment to the special permit decision made pursuant to this section.



March 2, 2023

Town of Harvard
Planning Board
13 Ayer Road
Harvard, MA 01451

**Subject: Special Permit and Site Plan Application
203 Ayer Road, Harvard, MA
Project Review Response Letter Revision-2**

Dear Board Members:

On behalf of the applicants, Yvonne Chern & Wheeler Realty Trust, we submit the following responses to the supplemental peer review from Beals + Thomas:

- **“Special Permit and Site Plan Application Supplemental Peer Review – Ayer Road Village – 203 Ayer Road, Harvard Massachusetts – B+T Project No. 3241.02” by Beals + Thomas. Dated August 18, 2022.**

The responses below are intended to address these comments, while summarizing revisions made to address them.

- GPR submitted responses **on 7/25/22** in the **Project Review Response Letter Revision-1**, shown below in **green**, in response to the *“Special Permit and Site Plan Application Peer Review” by Beals + Thomas (dated 6/3/22)*.
- GPR is submitting responses **on 3/2/23** in the **Project Review Response Letter Revision-2**, shown below in **purple**, in response to the *“Special Permit and Site Plan Application Supplemental Peer Review” by Beals + Thomas (dated 8/18/22)*.

Since the last Beals + Thomas peer review the applicant has had multiple meetings with the Harvard Planning Board and Design Review Board. The applicant has provided much more detail on Buildings B & C, including architectural elevations, renderings and the inclusion of three residential apartments in the upper level of Building B. The addition of the residential units as multi-family modify the filing from an Ayer Road Village Special Permit (ARV-SP) to include Mixed-use village development (MUVD) as defined in §125-13Z.(1). The applicant further requests the use of the incentives under 125-52 G.(2)(a) allowing up to 20% floor area of the total parcel. The project is now proposing 10.28% FAR.

There are two different architectural firms on the project and they have worked together to unified exterior features, materials and colors. As part of this response submittal the latest architectural plans have been included. The site plans and landscape architectural plans have been updated as well including additional lighting structures, refuge locations, extended

Goldsmith, Prest & Ringwall, Inc.

walkways, HVAC pads and associated screening, and additional plantings and changes to the plantings. While there is no requirement for photometric plans we have added them to the package of material along with fixture cut sheets.

At this point the Design Review Board has submitted their comments to the Planning Board and the Board has accepted them.

Comments:

1. §125-20.D of the Bylaw requires the development to provide water supply and sewage disposal approved by the Board of Health (BOH). We acknowledge the proposed connections to the previously installed on-site systems. We note this for the benefit of the Board and defer review and approval of the adequacy of these connections to the Board of Health Review process.

GPR's Response: No comment.

Current B+T Response: We reiterate the intent of our previous comment.

Current GPR Response: Noted

2. §125-29.I of the Bylaw requires a building factor calculation to confirm the lot shape. The referenced calculation does not appear to have been provided by the Applicant. We request that the Applicant provide the referenced calculation in accordance with the referenced section of the Bylaw.

GPR's Response: Lot shape calculation provided under the Zoning Summary Table as requested.

Current B+T Response: This comment has been adequately addressed by the Applicant. No further action is required.

Current GPR Response: No comment.

3. §125-30.B of the Bylaw requires a total building floor area calculation for all levels of all buildings. Understanding that buildings B & C are not fully designed, as proposed, the Project does not appear to comply with the 10% maximum coverage area. We request that the Applicant clarify the design intent and document compliance with the referenced section of the Bylaw.

GPR's Response: The project proposes 45,998 SF of total building floor area, this is approximately 9.57% total lot area.

Current B+T Response: We acknowledge the calculation provided by the Applicant. We note for the benefit of the Board, as a potential condition of the approval, that the proposed floor areas for the undesigned Buildings B & C be limited to a total of 16,000 SF to maintain compliance with the referenced section of the Bylaw.

Current GPR Response: As mentioned in the beginning of the letter the scope of the

project has changed making the project now a ARV-SP & MUV D allowing the Planning Board to approve up to 20% maximum FAR coverage. As of this latest revision, the project proposes 49,398 SF of total building floor area, approximately 10.28% of the total lot area.

4. §125-30.D of the Bylaw requires that the area within 20-ft of the street line be clear of signage, fences, plantings, etc., to provide adequate visibility for oncoming traffic. As proposed, the landscape plan does not appear to comply with this requirement. We request that the Applicant clarify the design intent and document compliance with the referenced section of the Bylaw.

GPR's Response: As designed the sight triangle will not be impacted.

Current B+T Response: The landscape design continues to provide for plantings directly adjacent to Ayer Road in the area of the access driveway that impacts the sight triangle depicted on the plans. Accordingly, we reiterate the intent of our previous comment.

Current GPR Response: The sign and associated plantings are setback from the road at 20 feet plus. The plantings adjacent to the sign are low growing plants so that even if forward of the 20 foot setback they will meet the height requirement. There are a couple of trees proposed within the 20 foot setback that are beyond the sight distance triangle and will also meet the requirement of not blocking sight distance. Sheet C3.2 indicates the directory sign at Ayer Rd and an identification sign at each of the three drive entrances.

5. §125-31.B(2) of the Bylaw requires each branch of a shared driveway shall include a turnaround for vehicles, especially emergency vehicles. We acknowledge the swept path analysis provided for a SU-30, or a typical delivery truck. Based on this analysis, the required turnarounds do not appear to be provided. We request that the Applicant clarify the design intent and document compliance with the noted section of the Bylaw for vehicles larger than a SU-30 and more typical of a fire engine. We defer ultimate review and approval of the driveway geometry and adequacy of the emergency access provided to Harvard Fire Department personnel.

GPR's Response: Turning analysis has been revised to show fire truck turning template.

Current B+T Response: The required turnarounds continue to not be provided for each branch of the parking area as prescribed by the referenced Bylaw. Accordingly, we reiterate the intent of our previous comment.

Current GPR Response: The plans have been updated for turning movements from the main access into each section of the parking (see C5.1).

6. §125-38.D(2) of the Bylaw requires that site plans include provisions for lighting. A lighting design does not appear to be included in the current submission. We request that the Applicant clarify the design intent for lighting and provide a photometric plan as may be applicable.

GPR's Response: The proposed project has accounted for on site lighting and

light fixtures as proposed are in accordance with §125-40. See Sheet C3.1. Additionally, Site photometric plan shall be submitted shortly.

Current B+T Response: We reiterate the intent of our previous comment pending the submission of the referenced photometric plan.

Current GPR Response: Site photometric plans are not a requirement nor is there a foot candle/lumen requirement, however as part of this submission there is a separate package of photometric plans and lighting cut sheets. The applicant proposes manual controls for the rear lighting at the Badminton Center controlling the rear lot in two different portions of the lot. For evenings of low attendance lighting will be limited to the front lot, for weekends and events the rear lot will be illuminated as necessary. The bollards along the walkway will be illuminated for security throughout the night.

7. §125-38.D(3) of the Bylaw requires site plans include provisions for water supply to be provided. A layout of the proposed water distribution network is provided; however, the specific length, size and material of water main is designated as "to be determined." Additionally, a fire suppression system is also proposed, but again, designated to be "designed by others". We request that the Applicant clarify the design intent for the water system to the satisfaction of the Board and the overarching BOH review process.

GPR's Response: Although §125-38.D(3) of the Bylaw requires site plans to include provisions for water supply, it does not require final specifications for a fire suppression system that will be submitted as required for the building permit application.

Current B+T Response: We acknowledge the response provided by the Applicant. We defer to the Board on the adequacy of the response provided. Details for the water distribution system (sizing, materials, etc.) remain pending.

Current GPR Response: No comment

8. §125-38.D(3) of the Bylaw requires site plans include provisions for waste water collection to be provided. We acknowledge the Subsurface Sewage Disposal System Upgrade plan provided. We note the plan includes the use of 4" collection pipe, which appears to be smaller than industry standard for buildings of this size. We request that the Applicant clarify the design intent for the sewage collection system to the satisfaction of the Board and the overarching BOH review process.

GPR's Response: Final design and specifications pertaining to the subsurface sewage disposal system shall be reviewed and discussed with the Board of Health.

Current B+T Response: We continue to defer to the BOH review process. We note for the benefit of the Board that unique leaching fields are now proposed for Buildings B & C as opposed to use of the existing on-site system originally proposed.

Current GPR Response: No Comment. GPR will continue to coordinate the review

process with the Board of Health.

9. §125-38.F(1) of the Bylaw requires that renderings for the front, rear and side elevations of the proposed development be provided including external HVAC equipment, generators, etc. A comprehensive package of the required renderings does not appear to have been provided by the Applicant. The renderings provided appear to be inconsistent with the site plans relative to the layout and orientation of Building "C". We request that the Applicant document compliance with the noted section of the Bylaw.

GPR's Response: Revised architectural renderings have been provided as requested.

Current B+T Response: The revised renderings do not appear to have been provided as indicated. Accordingly, we reiterate the intent of our previous comment.

Current GPR Response: As mentioned in the beginning revised architectural plans are part of this submittal. These plans have been revised reflecting comments from the Design Review Board process. As well GPR has added the HVAC locations and screening to our site plans.

10. §125-38.G of the Bylaw requires a landscape plan, prepared by a Registered Landscape Architect (RLA). We acknowledge the landscape plan provided; however, there appears to be an inconsistency with the plan scale. We request that the Applicant clarify the noted inconsistency and revise the plan as applicable.

GPR's Response: Landscaping plan scaling has been revised as requested.

Current B+T Response: This comment has been adequately addressed by the Applicant. No further action is required.

Current GPR Response: Again, changes to the Landscape Architectural plan have been submitted incorporating comments from the Design Review Board.

11. §125-39.B(5)(a)(2) of the Bylaw requires trip generation analysis for average daily traffic. The Applicant does not appear to reference what trip generation is being assumed for Building A, and without known uses for Buildings B and C, it is unclear how this analysis can be conducted accurately. We request that the Applicant clarify what assumptions are being made of trip generation and document compliance with the noted section of the Bylaw.

GPR's Response: The Traffic Study Report has been provided.

Current B+T Response: B+T has not been authorized to review the traffic report; however, acknowledge that it has been submitted as requested.

Current GPR Response: No comment

12. §125-39.B(5)(e)[1] of the Bylaw requires specific turning radii for the proposed driveway. The radii for the driveway as proposed do not appear to meet the minimum requirements. We request that the Applicant document compliance with

the noted section of the Bylaw and revise the design accordingly.

GPR's Response: Revised turning analysis has been provided.

Current B+T Response: The curb radii at the intersection of the proposed access drive and Ayer Road remain unchanged from the original submission. We reiterate the intent of our previous comment.

Current GPR Response: No comment

13. §125-39.B(5)(a) of the Bylaw requires shared entrance and exit access driveways be separated by a traffic island. We acknowledge the concrete rubble island proposed by the Applicant; however, its location would appear to intercept the referenced location of the future Town installed shared use walkway. It is unclear if the concrete rubble strip will be an acceptable or compatible material in this location or if further design coordination will be required. We note this for the benefit of the Board.

GPR's Response: Noted.

Current B+T Response: We reiterate the intent of previous comment.

Current GPR Response: Noted

14. §125-39.E of the Bylaw requires provision be made for fire protection. As noted herein, the fire suppression system is designated to be "designed by others". We request, to the satisfaction of Harvard Fire Department personnel, that the Applicant document compliance with the noted section of the Bylaw.

GPR's Response: Final design and specifications of fire suppression system shall be reviewed and discussed during the filing of a building permit application.

Current B+T Response: We continue to defer to Fire Department personnel relative to the adequacy of the fire suppression system and emergency access proposed for the Project.

Current GPR Response: Noted

15. §125-39.G(1) of the Bylaw requires projects subject to the site standards within the Commercial District provide curbs and sidewalks. As proposed, the Project does not propose either. Understanding that sidewalks and curbs do not exist on this portion of the Ayer Road, it is unclear if the referenced Bylaw is applicable to this specific Site. The Applicant also makes reference to a future Town installed shared use walkway parallel to Ayer Road. We defer to the Board to determine the applicability of the noted Bylaw relative to the Project location.

GPR's Response: Noted.

Current B+T Response: We reiterate the intent of previous comment.

Current GPR Response: Noted

16. §125-41.B(3) of the Bylaw stipulates setback requirements for signage. The sign location proposed does not appear to comply. We request that the Applicant clarify the design intent of the sign (dimensions and size) and document compliance with the noted section of the Bylaw relative to its proposed location.

GPR's Response: Final sign dimensions shall be in compliance with the zoning bylaw.

Current B+T Response: The intent of our comment was related to the signs location and not its size. Accordingly, we reiterate the intent of our previous comment.

Current GPR Response: §125-41.B(3) states that signs are subject to the criteria of §125-30 and §125-39, which are being used as a guideline to ensure compliance with the bylaw where applicable. Although the sign design has not been finalized at this time, the height will be less than 20'. With the height to be less than 20', along with the proposed sign currently setback 20.2'± away from the lot boundary, this sign complies with the setback requirements of §125-30.E(2), which states "Structures other than fences shall be set back from lot boundaries by at least the height of the structure".

17. §125-52.D.(4)(a) of the Bylaw stipulates that no more than 25% of the parking should be located in the building "front yard." Building A proposes front yard parking and when considering the potential contribution for "front yard" parking spaces from Building C, it does not appear that the Project complies with the noted Bylaw. Furthermore, without known uses for Buildings B and C, it is unclear how the proposed total number of parking spaces was derived. We request that the Applicant clarify their interpretation of noted Bylaw to the satisfaction of the Board and document the assumptions made relative to the number of parking spaces provided.

GPR's Response: Less than 25% of the Building A parking is in the front yard. No other parking is proposed in front yard of the other buildings.

Current B+T Response: The proposed parking lot for Building C abuts Ayer Road similar to Building A. It is unclear if this is considered as "front yard" as it will be readily visible from Ayer Road. We also reiterate our request for the Applicant to clarify the assumptions made for calculating the number of parking spaces for Building's B & C without confirmed uses for these buildings.

Current GPR Response: The number of parking spaces is per the applicant as Harvard Zoning does not address parking maximums and minimums. The parking has been laid out in accordance with §125 -54D(4)(a) and Harvard Commercial Design Guidelines Part A. The parking complies with the bylaw and the intent of the Guidelines.

18. The Applicant has proposed accessible parking spaces at the entries to each of the

proposed buildings; however, the van accessible spaces at the front of Building A are shown as 9' wide with a 6' wide access aisle. The aisle should be revised to 8' wide with 8' wide spaces in accordance with Section 23.4.7.e of the Massachusetts Architectural Access Board (MAAB) regulations (521 CMR).

GPR's Response: The proposed handicap parking layout has been revised as required.

Current B+T Response: This comment has been adequately addressed by the Applicant. No further action is required.

Current GPR Response: No comment

19. We request that the Applicant confirm that the proposed site lights are full cutoff fixtures, and they submit a lighting plan that demonstrates that the proposed site lighting complies with §125-40 Lighting.

GPR's Response: Site plan note has been added to state site lights are full cutoff fixtures and shall meet all the requirements in accordance with §125-40. See Sheet C3.1. Additionally, Site photometric plan shall be submitted shortly.

Current B+T Response: We acknowledge the inclusion of the referenced note. We reiterate the intent of our previous comment pending the submission of the photometric plan.

Current GPR Response: The photometric plans have been submitted as well as cutsheets.

20. §125-52.D.(4)(c) of the Bylaw requires facilities to provide a means for solid waste collection. Building A is proposed with a trash enclosure; however, Buildings B and C are not. We request that the Applicant document compliance with the referenced section of the Bylaw.

GPR's Response: Trash bins shall be utilized for Buildings B and C.

Current B+T Response: We acknowledge the response provided by the Applicant. We defer to the Board on the adequacy of the proposed approach and not providing formal trash enclosures for each building.

Current GPR Response: A shared enclosure has been added for Buildings B & C along with additional access paths.

21. §125-52.E of the Bylaw requires approvals for the privately owned and maintained sewage disposal systems be provided by the BOH. We note this for the benefit of the Board and defer to overarching BOH review and approval process.

GPR's Response: No comment.

Current B+T Response: No action required.

Current GPR Response: No comment

22. The Project proposes a gravel driveway to future parcel "A" beyond Building B. It is unclear what the future intent is for parcel "A" and if this access will be gated or monitored in any way. We request that the Applicant clarify the need for future access to parcel "A".

GPR's Response: Parcel "A" has been removed and the entire subject site shall remain the same as existing conditions. The proposed gravel driveway is intended to provide access to the existing control structure for the well and water supply on site.

Current B+T Response: This comment has been adequately addressed by the Applicant. No further action is required.

Current GPR Response: No comment

23. The architectural plans provided appear to include a residence on the second floor of proposed Building A. It is unclear if this seemingly residential use within the Commercial Zoning District would require additional permitting. We request that the Applicant clarify the residential component of the Project as proposed.

GPR's Response: The proposed dwelling unit within Building A is dedicated for the on-site manager as required to maintain extended operating hours exclusive to the premium members of the badminton facility that is Building A.

Current B+T Response: We acknowledge the response provided by the Applicant. We defer to the Board relative to the applicability and potential permitting ramifications of the proposed residential component within the commercial zoning district.

Current GPR Response: Noted

24. Though a numbered route, it does not appear that Ayer Road is under the jurisdiction of MassDOT at the Project location. A large gore and street markings exist that create two lanes of southbound traffic approaching the interchange of Rt 2. The proposed Project driveway will impact the existing markings and would appear to require a reconfiguration of the existing traffic pattern. We request that the Applicant clarify the future design intent for the intersection of the Project driveway at Ayer Road.

GPR's Response: Noted. The Applicant will coordinate with Town of Harvard relative to the proposed Ayer Road TIP project.

Current B+T Response: No action required.

Current GPR Response: No comment

25. Although plantings are proposed along the rear property line that abuts a residential zoning district and residential units, the proposed screening does not appear to comply with §125- 39.D.(4) and (5). We request the Applicant revise the Planting Plan to provide additional plantings to provide the required screening.

GPR's Response: Noted. The applicant believes the intent of the Bylaw has been met.

Current B+T Response: The proposed quantity and frequency of plantings in the area remains unchanged in the revised plans. We defer to the Board on adequacy of the screening provided.

Current GPR Response: Noted

Stormwater Management Comments:

§125-39.F of the Bylaws requires that provision for drainage be provided. In accordance with this section of the Bylaw, we note the following.

26. Standard 2 of the MassDEP Regulations requires that the Applicant demonstrate peak discharge rate attenuation. The Bylaws further require peak rate and runoff volume attenuation with a reduction of 5% from pre- to post-development analysis for the 2-yr and 10-yr storm events. As modeled, the Project meets all of these criteria. However, the modeling utilizes times of concentration (Tc) less than 6 minutes (0.1 hrs) within the analysis. We request that the Applicant revise the modeling to utilize a minimum 6 minute Tc in accordance with TR-55 methodology and confirm the Project continues to comply with Standard 2 of the MassDEP Regulations.

GPR's Response: Drainage calculations has been revised as requested.

Current B+T Response: This comment has been adequately addressed by the Applicant. No further action is required.

Current GPR Response: No comment

27. Standard 3 of the MassDEP Regulations requires that Applicants prepare recharge calculations. We acknowledge the recharge calculation provided; however, we request that the Applicant clarify the values used. The storage volumes provided of each infiltrative best managements practices (BMPs) are not represented in the modeling outputs provided. We further note that these values also impact the infiltrative BMP drawdown calculations and water quality calculations provided under Standard 4 of the MassDEP Regulations. We request that the Applicant clarify the calculations and document compliance with the referenced regulation.

GPR's Response: Storage volumes has been provided as requested.

Current B+T Response: This comment has been adequately addressed by the Applicant. No further action is required.

Current GPR Response: No comment

28. Standard 3 of the MassDEP Regulations requires a determination of the estimated seasonal high groundwater elevation and required 2-ft minimum separation to this elevation from the bottom of infiltrative BMPs. The Applicant does not appear to demonstrate a 2-ft vertical separation to groundwater from the bottom of infiltrative BMPs Pond IB-1, Pond IC- 1 and IC-2. If the BMP bottom is within 4-ft of the

estimated season high groundwater elevation then a mounding analysis will be required.

We acknowledge the mounding analysis provided by the Applicant; however, considering the required separation to groundwater is not provided, we request that the Applicant clarify the calculations provided. We request the Applicant clarify the design intent of the noted BMPs and demonstrate compliance with the noted regulation.

GPR's Response: Groundwater separation summary has been provided in the revised Stormwater Management Report as requested.

Current B+T Response: The separation summary provided does not appear to correlate to the test pit logs provided. The test pits do not all fall within the footprints of the stormwater infrastructure they are being applied to. Accordingly, we reiterate the intent of our previous comment.

Current GPR Response: Although the test pits are not located directly within the proposed stormwater infrastructure footprints, the pits were dug within close proximity. The groundwater table corresponds with the sloped topography of the site, so the groundwater depth determined from the test pits can be applied to the nearby stormwater infrastructure and verify 2' of groundwater separation. The groundwater depth determined from test pits 122-4, 122-5, and 122-8 were applied to the highest existing grades within the stormwater infrastructure footprints of IB-1, IC-1 and IC-2 respectively, and confirmed a minimum 2' separation depth to groundwater from the bottom elevations of the stormwater infrastructure.

29. Standard 8 of the MassDEP Regulations requires documentation relative to Construction Period Pollution Prevention and Erosion and Sedimentation Control. Disturbing over 1-acre of land, the Project will be subject to the NPDES Construction General Permit and a Stormwater Pollution Prevention Plan (SWPPP) will be required. This is acknowledged by the Applicant; however, the Applicant commits to submitting a SWPPP under separate cover prior to construction. We note this for the benefit of the Board when considering possible conditions of approval.

GPR's Response: No comment.

Current B+T Response: We reiterate the intent of our previous comment.

Current GPR Response: Noted

30. Standard 10 of the MassDEP Regulations requires a prohibition of illicit discharges. We request that the Applicant provide an executed Illicit Discharge Statement to document compliance with the referenced regulation.

GPR's Response: Illicit Discharge Statement has been provided as requested.

Current B+T Response: This comment has been adequately addressed by the Applicant. No further action is required.

Current GPR Response: No comment

31. Section 147-14C of the Bylaw stipulates that no resource areas shall be filled for the impoundment, detention, or retention of stormwater. Pond IC-2 is proposed within the limits of the isolated vegetated wetland to be filled. We note that this area is not being filled for the express purpose of stormwater management and that Building A and the associated parking are also proposed within the area to be filled.

We request the Applicant provide a narrative response to whether a waiver should be requested for the noted section of the Bylaw and defer to the Board on the applicability of this section of the Bylaw to this Project.

GPR's Response: The filling of the isolated Harvard Freshwater Wetland area was previously approved for the express purpose of locating Building A and all its associated features under the previously approved Order of Conditions as issued by the Harvard Conservation Commission (MassDEP File #177-0707).

Current B+T Response: We continue to defer to the Board on the applicability of the noted Bylaw. For the benefit of the Board, we understand that the Conservation Commission review process is ongoing on a parallel track for the proposed Project. We do note, however, that the OOC referenced in the Applicant's comments notes as a Special Condition (No. 1, Page 7): *This Order of Conditions cannot be executed unless and until an additional Order of Conditions is issued by the Harvard Conservation Commission for the Development of the Property.* We understand that the OOC issued under MassDEP File No. 177-0707 was strictly to evaluate the possibility of isolated wetland impacts and to confirm the wetland delineations, though please refer to our June 3, 2022 letter to the Conservation Commission for more specific discussion on this matter.

Current GPR Response: Noted

32. Section 147-14C(1) of the Bylaw prescribes rainfall event data for the 2-yr, 10-yr, 50-yr and 100-yr storm events. The Applicant does not utilize the prescribed events; however, used values more conservative than prescribed. B+T takes no exception to the rainfall values used; however, notes the inconsistency relative to the referenced section of the Bylaw.

GPR's Response: No comment.

Current B+T Response: No action required.

Current GPR Response: No comment

33. B+T is in receipt of the DEP Central Regional Office (CERO) comments dated May 16, 2022. The CERO comments note that the location of Stormwater Basin #2 does not provide the required 50-ft buffer to the proposed wetland replication area. Accordingly, we request that the Applicant clarify the design intent for the noted stormwater infrastructure and revise the location as required.

GPR's Response: Wetland replication area has been revised to be located 50 feet

away from the proposed Stormwater Basin #2.

Current B+T Response: This comment has been adequately addressed by the Applicant. No further action is required.

Current GPR Response: No comment

34. The modeling provided by the Applicant is unclear. We note the following inconsistencies relative to the modeling and site plans provided:

- a. The length and slope of the discharge pipes for Ponds CB-10, CB-9 and DMH-9
- b. The invert of the 8" pipe discharge from Pond IC-2 is inconsistent
- c. The rim and invert table appears to incorrectly label the outlet for IC-2 as DMH-7 and not DMH-8.

We request that the Applicant clarify the modeling provided and address the inconsistencies as noted herein.

GPR's Response: Site plan and HydroCAD shall be revised to address the inconsistencies above.

Current B+T Response: Comments 34a and 34c have been addressed. The invert referenced in Comment 34b remains inconsistent between the plans and the modeling. Accordingly, we reiterate the intent of Comment 34b and request that the Applicant address the noted inconsistency.

Current GPR Response: Sheet C4.2 has been revised so that the invert of the 8" pipe discharge from Pond IC-2 is consistent with sheet C6.2 and the stormwater computations.

35. The Handbook requires that stormwater basins be designed to maintain 1-ft of freeboard during the 100-yr storm event. Both IB-1 and IB-2 appear to provide less vertical freeboard than the 1-ft recommended by the Handbook. We request that the Applicant clarify the design intent and revise the design as applicable.

GPR's Response: Stormwater basins have been revised to provide 1-ft of freeboard during the 100-yr storm event as requested.

Current B+T Response: This comment has been adequately addressed by the Applicant. No further action is required.

Current GPR Response: No comment

36. The limits of the proposed sedimentation control barrier (SCB) are unclear. We recommend that the SCB be extended south along Ayer Road to the northern property and the limit of clearing. We further recommend that a limit of clearing be added to the erosion control plan.

GPR's Response: Erosion control barrier has been revised and limit of clearing shall be provided as recommended.

Current B+T Response: This comment has been adequately addressed by the Applicant. No further action is required.

Current GPR Response: No comment

We trust the provided responses along with the revised plans address all outstanding review comments and look forward to discussing the approval of the application with the Planning Board. Should the Board or Commission need any additional information or materials, please feel free to contact my office.

Sincerely,
Goldsmith, Prest & Ringwall, Inc.



Nicholas M. Pauling, P. E.



Bruce D Ringwall, Pres.

Copy to: Yvonne Chern
Wheeler Realty Trust
File #211009



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March 8, 2023

Harvard Planning Board
13 Ayer Road
Harvard, MA 01451

Re: Yvonne Chern & Wheeler Realty Trust
ARV-SP, MUVD, Large-scale Commercial Use, Major Building Special Permit
and Site Plan review for 203 Ayer Road, Harvard

Dear Frank O'Connor and Planning Board Members:

On behalf of Yvonne Chern & Wheeler Realty Trust, we hereby request the agenda item to discuss the above referenced application for March 20, 2023 at 7:05 be opened and continued without discussion to the Board's regularly scheduled meeting of April 24, 2023.

This will provide time for the peer review consultant to review the recently submitted changes, GPR to respond to any comments and hopefully address all of their concerns. Please contact our office if you have any questions or need further documentation.

Sincerely,
Goldsmith, Prest & Ringwall, Inc.

A handwritten signature in blue ink, appearing to read "B. Ringwall", is written over the name "Bruce Ringwall".

Bruce Ringwall, Pres.

Copy: Yvonne Chern
Wheeler Realty Trust
GPR File 211009

Goldsmith, Prest & Ringwall, Inc.

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PROPOSED ZONING AMENDMENT, HARVARD, MA

§ 125-60. Smart Growth Overlay District.

A. Purposes.

1. The purposes of the Smart Growth Overlay District (“SGOD”) include but are not limited to
 - a. Promoting a mixture of residential, commercial and recreational land uses;
 - b. Providing a diversified housing stock for Town of Harvard and the greater community with (i) for sale and rental units, (ii) market rate and affordable units, (iii) in townhomes and higher-density multifamily buildings with studio, 1-, 2- and 3-bedroom units;
 - c. Assisting the Town of Harvard with its efforts to provide affordable housing eligible for inclusion in the Department of Housing and Community Development’s (DHCD) Subsidized Housing Inventory (SHI) and multifamily housing as an MBTA community under Mass. General Laws Chapter 40A, § 3A;
 - c. Generating tax revenue for the Town of Harvard to help meet its long-term public finance and infrastructure needs;
 - d. Ensuring high-quality site planning, architecture and landscape design that enhances the visual character and identity of the Town of Harvard generally and the Ayer Road neighborhood in particular;
 - e. Allowing compact, flexible design through appropriate lot and building dimensional requirements;
 - f. Reducing curb openings and uncoordinated access, circulation and signage;
 - g. Encouraging shared parking and utilities including water and sewer;
 - h. Promoting reduced impervious surfaces and greater open space; and
 - i. Creating a strong sense of place or community through common facilities and a pedestrian-friendly living environment.

B. Definitions.

1. “Affordable Housing” means housing that is eligible for inclusion in DHCD’s SHI.

PROPOSED ZONING AMENDMENT, HARVARD, MA

2. “Affordable Housing Unit” means a housing unit either leased or sold to an Income Eligible Household and that is eligible for inclusion in the DHCD’s SHI.
3. “Income Eligible Household” means a household of one or more persons whose maximum income does not exceed 80% of the area median income, adjusted for household size, or as otherwise established by the DHCD in guidelines. For homeownership programs, the Subsidizing Agency (as defined in 760 CMR 56.02) may establish asset limitations for Income Eligible Households by statute, regulations, or guideline. In the absence of such provisions, Income Eligible Households shall be subject to asset and/or other financial limitations as defined by the DHCD in guidelines.
4. “SGOD” means the Smart Growth Overlay District which is the subject of this § 125-60.
5. “SGOD Project” means a project permitted, constructed and maintained in accordance with the requirements of this § 125-60 and consisting of one or more of the following uses as defined herein: Affordable Housing, Senior Housing, Market Rate Multi-Family Residential, Small-scale Commercial, Medium-scale Commercial, Large-scale Commercial, Recreational and/or Restaurant uses.
6. “Senior Housing” means multi-family or duplex housing for persons older than age 55 or 62 in compliance with applicable requirements of the U.S. Department of Housing and Urban Development (HUD) and Massachusetts General Law chapter 151B.
7. “Market Rate Multi-Family Residential” means residential housing containing more than one unit which is rented at rates or sold at prices determined by the market rather than by the government.
8. “Small-scale commercial” means the uses defined in this Bylaw, § 125-12(A)-(I).
9. “Medium-scale commercial” means the uses defined in this Bylaw, § 125-13(A)-(AC).
10. “Large-scale commercial” means the uses defined in this Bylaw, § 125-14(A)-(I).
11. “Recreational” means the uses defined in this Bylaw, § 125-14(D).
12. “Restaurant” means the uses defined in this Bylaw, § 125-13(P).
13. “Open Space” means land completely devoid of any structure but shall include (i) land supported by pervious pavers or a similar structure solely to permit access/egress for emergency vehicles, and (ii) drainage basins and other Low

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Impact Development (LID) and Best Management Practices (BMP) stormwater infrastructure, provided, however, that it shall exclude impervious parking areas and access/egress thereto

14. “Gross Floor Area” means, gross floor area as defined in the Massachusetts Building Code, which is the floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts. For purposes of this § 125-60, the following areas shall be excluded from the calculation of gross floor area: (i) The floor area of crawl spaces having less than four feet of headroom; and (ii) In a dwelling, the floor area of unfinished attic space under a roof with a pitch no greater than 12/12 (vertical over horizontal) and (iii) underground, enclosed or semi-enclosed parking under a building.

C. Establishment of Overlay District and Applicability.

1. The SGOD consists of parcels 59, 60, and 62.2 on the Town of Harvard Assessors' Map 8 and contains approximately 16 acres in the aggregate as shown on the SGOD Map on file in the Town Clerk's Office. [To be prepared.]
2. The SGOD is an overlay district. Applicants seeking to develop a SGOD Project within all or part of the SGOD, must comply only with the provisions of § 125-60 and such other provisions of this Bylaw as are expressly incorporated by reference into § 125-60.
3. Parcels 59, 60, and 62.2 on the Town of Harvard Assessors' Map 8 and containing approximately 16 acres in the aggregate make up both the SGOD and another overlay district, the “Ayer Road Village Special Permit” (“ARV-SP”), § 125-52. All or part of the land within these two overlay districts may be the subject of only one overlay district at a time; provided, however, that an Applicant who has secured an approval under either overlay district may seek an approval under the other overlay district so long as the initial approval is relinquished, annulled or is otherwise of no further force and effect.
4. In cases where a SGOD Project is proposed to be located on a site subject to an existing Ayer Road Village Special Permit under Bylaw, § 125-52 (“ARV-SP”) and/or an SGOD authorized use is proposed to be located within an existing building that has been approved as part of an ARV-SP, and no changes are proposed to the ARV-SP site plan, the Planning Board may waive the requirement for a new, additional site plan submission in conjunction with such SGOD application, and instead require the Applicant to add an appropriate notation to the

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previously approved site plan upon approval of the new SGOD Site Plan Approval.

5. No building permit shall be issued for, and no person shall undertake, any use or improvement in the SGOD pursuant to this section unless an application for Site Plan Review under the SGOD has been filed for the proposed development in accordance with the requirements of this § 125-60 and the SGOD a Site Plan Approval has been granted by the Planning Board.

D. Procedures.

1. An application for Site Plan Review for a SGOD Project (“SGOD-SPR”) shall be filed with the Town Clerk and submitted to the Planning Board. The Applicant shall submit two hard copies and one electronic copy of the application on a USB device to the Planning Board which shall forthwith transmit one electronic copy from the USB device to the Department of Public Works, Building Department, Police Department, Fire Department, Board of Health, Conservation Commission, Historical Commission, and the Select Board. Such departments and boards shall, within 30 days of receiving said copy, submit a report containing any comments, recommendations and recommended conditions, all with supporting reasons, to the Planning Board. The Planning Board shall not render a decision until said reports have been received and considered or until the 30-day period has expired, whichever is earlier. Failure of such departments and/or boards to submit a report shall be treated as concurrence with the application.
2. The Planning Board shall commence a public hearing on the SGOD-SPR application within 65 days after the filing of an application, provide notice of such hearing, and render its decision within 90 days of the close of said hearing. Except as provided herein, the applicable provisions of G.L. c. 40A, §§ 9 and 11 shall govern all procedural aspects of the SGOD-SPR application including the notice, hearing and decision. All costs of the notice requirements shall be at the expense of the Applicant. Approval of the SGOD-SPR application shall require a simple majority vote (the “SGOD Site Plan Approval” or “SGOD-SPA”).
3. The Planning Board may waive strict compliance with one or more of the standards, criteria or requirements set forth in this § 125-60 by making a finding, in writing, that the Applicant has demonstrated that the requested waiver is consistent with the purposes of the SGOD or allows the SGOD Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this § 125-60. The Planning Board may also waive compliance with one or more submittal requirements set forth in this § 125-60 by making a finding, in writing that the Applicant has demonstrated that such information is not appropriate or relevant to the SGOD Project. Approval of waiver by the Planning Board shall require a simple majority vote.

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4. If, in the discretion of the Planning Board, a peer review of the application is required to evaluate the impacts of an SGOD-SPR application, the Planning Board may require the Applicant to pay for a Peer Review Consultant. The Planning Board shall select the Peer Review Consultant. The Planning Board, Applicant, and Peer Review Consultant shall confer in a good faith effort to agree on a written scope of work for and the cost of said work by the Peer Review Consultant.

E. Submittal Requirements.

1. The following plans and materials shall be included in the submittal:
 - a. Site plans as defined in § 125-38.D (1-5);
 - b. Renderings as defined in § 125-38.F (1)(a);
 - c. Landscape plans as defined in § 125-38.G;
 - d. Project Overview. Narrative and accompanying plans describing ownership of the property and SGOD Project, the number, size and type of buildings and dwelling units; gross floor area where applicable; estimated time required to complete the proposed project, expected start of construction; and all proposed phases and zoning compliance;
 - e. Stormwater. Drainage calculations with an accompanying narrative demonstrating compliance with the MassDEP Stormwater Management Standards and rules and regulations of the Town of Harvard Department of Public Works and showing use, to the extent practicable, of municipal, state and federal Best Management Practices. These materials shall be prepared by a registered professional engineer;
 - f. Site planning/Architecture/Landscaping. Narrative and accompanying plans describing rationale behind and goals for the proposed design and placement of buildings, roads, driveway, open space, landscaping locations, and building design. These materials shall be prepared by a civil engineer working in collaboration with a registered architect and landscape architect;
 - g. Site Infrastructure. Narrative with accompanying plans of the design and location of proposed mechanical equipment, including HVAC equipment; related noise levels; location and operation of trash storage and removal systems; location and operation of loading facilities; mitigation measures to reduce visual and/or noise impacts on abutters. These materials shall be prepared by a professional engineer;

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- h. Sewer and Water. Plans, calculations and narrative of the existing and/or proposed sewer and water service infrastructure either on-site and/or off-site including existing and proposed capacity, impacts on municipal infrastructure, condition of any existing infrastructure, proposed infrastructure improvements, and any legal arrangements necessary to secure adequate capacity. These materials shall be prepared by a professional engineer;
- i. Parking. Narrative describing the number of spaces needed for the SGOD Project and how the Project will accommodate those spaces with adequate and safe off-street parking at the SGOD Project. These materials shall be prepared by a professional traffic engineer;
- j. Traffic. A Traffic Impact Study addressing existing and proposed site circulation, vehicular traffic volumes, peak hour levels, average daily traffic, trip distribution and levels of service (LOS) for the nearest and/or most impacted intersections. This report shall also address proposed methods to mitigate the estimated traffic impact if necessary including traffic calming measures. These materials shall be prepared by a professional traffic engineer; and
- k. Environmental. Narrative addressing any environmental impacts to wetlands, floodplains, or other sensitive resources including proposed methods to mitigate the estimated environmental impacts. These materials shall be prepared by a professional civil engineer and/or environmental scientist.

F. Use Regulations.

1. Within the SGOD, the following uses are permitted as-of-right subject to approval of the SGOD-SPR application:

- a. Affordable Housing.
- b. Senior Housing which may include accessory amenities for its residents including, but not limited to, common facilities such dining rooms, common rooms, activity rooms, exercise rooms, theater, chapel, library, pharmacy/gift shop/convenience store, beauty salon, barbershop, personal banking services, concierge, valet services, third-party vendor services, as well as real estate and management offices.
- c. Multi-Family Market Rate housing which may include accessory amenities for its residents including, but not limited to, common facilities such dining rooms, common rooms, activity rooms, exercise rooms, theater, chapel, library, pharmacy/gift shop/convenience store, beauty

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salon, barbershop, personal banking services, concierge, valet services, third-party vendor services, as well as real estate and management offices.

2. Within the SGOD, the following uses are permitted by an SGOD Special Permit subject to (i) approval of the SGOD-SPR application and (ii) compliance with the purposes of § 125-60 of the SGOD unless these uses are accessory to uses 1.a through 1.c above, in which case said uses are permitted as-of-right:

- a. Small-scale Commercial.
- b. Medium-scale Commercial.
- c. Large-scale Commercial.
- d. Recreational.
- e. Restaurant.

3. To ensure that uses of land permitted pursuant to a Special Permit granted prior to the enactment of § 125-60 remain in compliance with this Protective Bylaw, said Special Permit uses, if permitted in the SGOD, may be included in an SGOD-SPR/SGOD Special Permit application which, if approved, shall supersede the originally issued Special Permit as the legal authority for said use. In such event, the Special Permit granted prior to the enactment of § 125-60 shall be of no further force and effect.

G. Dimensional Regulations and Other Development Standards.

1. Lot Dimensions.

- a. Minimum lot size is 1 acre.
- b. Minimum lot frontage is 100 feet.

2. Density.

- a. Residential
 - i. The maximum density for Affordable Housing, Senior Housing and Market Rate Multifamily is, collectively, 25 units per acre.
- b. Commercial
 - i. The maximum density for Small-scale, Medium-scale and Large-scale Commercial is, collectively, one building per acre and 48,000 square feet of gross floor area.

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- c. Restaurant
 - i. The maximum square feet of gross floor area per restaurant is 15,000 square feet of gross floor area.
- 3. Setbacks.
 - a. Front yard setback shall be 20 feet from the SGOD boundary.
 - b. Side Yard setback shall be 20 feet from the SGOD boundary.
 - c. The rear yard setback along the SGOD's common boundary with 35 Lancaster County Road shall be 60 feet; provided, however, that there shall be a 10-foot landscape buffer.
 - d. Between buildings the minimum setback shall be 0 feet.
 - e. From driveways, the minimum setback shall be 10 feet.
 - f. Any sign, wall, fence or landscape plantings within 20 feet of Ayer Road shall be located so as not to substantially impair visibility between any driveway and vehicular traffic entering or exiting Ayer Road.
 - g. Sewage disposal. Privately owned and maintained on-site sewage disposal or treatment systems may be approved to serve buildings and lots in an SGOD Project, if maintained and operated by an owner if such disposal or treatment facility or system is approved by the Town's Board of Health and in compliance with the requirements of Title 5, 310 CMR 15.00, or is approved in accordance with the requirements of 314 CMR 5.00 (the Ground Water Discharge Permit Program). Such an approved system may be located on land owned in common by the owners of the building(s) or lots within the development. The minimum setbacks of such system and any absorption area must comply with Title 5, 310 CMR 15.00, the Town Board of Health's regulations, or with 314 CMR 5.00 (the Ground Water Discharge Permit Program).
- 4. Height.
 - a. The maximum building height, above average grade, shall be no more than four residential stories above average grade and sixty feet. For purposes of this provision, silos, and chimneys, parapets, ventilators, antennas (except for wireless communications towers and antennas), spires, and similar unoccupied projections, including rooftop solar arrays, above the roof are not included in building height. Height shall be

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calculated by the average proposed finish grades around the building perimeter to the highest peak of the roof.

5. Multiple Buildings on Single Lot.
 - a. Multiple buildings on a single lot shall be permitted for any SGOD Project.
6. Open Space.
 - a. A SGOD Project must provide at least 25 percent open space.
 - b. Open Space may be either landscaped or left in its undisturbed natural condition. It shall be appropriate in size, shape, dimension, location, and character so as to serve as a visual and natural amenity for the SGOD Project, the Town of Harvard and the Ayer Road neighborhood.
7. Landscaping.
 - a. Open areas should be landscaped in an appropriate manner, utilizing both natural and man-made materials such as indigenous grasses, trees, shrubs, and attractive paving materials and outdoor furniture.
 - b. Native trees should be placed along new and existing driveways and streets. Outdoor lighting should be considered in the landscaping plan, and should be designed to complement both man-made and natural elements of the SGOD and adjacent areas. Appropriate methods (such as cutoff shields) should be used to avoid glare, and light spillover onto abutting property.
 - c. Professional landscaping or preservation of existing vegetation should be provided within the SGOD where it abuts Ayer Road, existing residential areas, and along internal drives.
 - d. To the extent practicable, preservation of existing vegetation or tree-lined areas should be maintained.
 - e. Parking areas and lots should use landscaping and terracing to break up large areas of pavement and to enhance residential flavor and appearance; trees and shrubs should be used to the maximum extent feasible.
 - f. Features such as shade trees, forest trees, and expansive planting areas should be preserved and/or introduced along external property boundaries on the perimeter of the SGOD to buffer it from adjoining parcels.

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8. Parking.
 - a. In general, in the SGOD, the Planning Board shall seek to make the most efficient use of the parking facilities to be provided and minimizing the area of land to be paved for this purpose. In implementing this goal the Planning Board shall consider complementary or shared use of parking areas by activities having different peak demand times, and the Applicant shall seek to locate adjacent uses in a manner that facilitates the complementary use of such parking areas.
 - b. The following minimum parking ratios, which include parking for visitors, apply to an SGOD Project:
 - i. 1 space per studio unit for Affordable, Senior Housing and Market Rate Multifamily uses;
 - ii. 1.5 spaces per 1-bedroom unit for Affordable, Senior Housing and Market Rate Multifamily uses;
 - iii. 1.75 spaces per 2-bedroom unit or 3-bedroom unit for Affordable, Senior Housing and Market Rate Multifamily uses;
 - iv. 3 spaces per 1000 square feet of gross floor area for Small-scale Commercial, Medium-scale Commercial and Large-Scale Commercial
 - v. 5 spaces per 1000 square feet of gross floor area for Restaurant
 - c. All parking spaces required for the SGOD Project shall be off-street parking located in the SGOD. On-street parking for a SGOD Project is prohibited. Parking may be provided at ground level, underground or in a basement or parking garage. Parking garages can be freestanding or attached to building(s) used for other purposes.
9. Driveways.
 - a. To reduce the impact of impervious surfaces and the number of curb cuts, within the SGOD it is intended that the number of driveways within the SGOD onto Ayer Road shall be no more than two.
10. Utilities.
 - a. Structures and uses within the SGOD may share septic, sewer and/or water supply infrastructure and facilities constructed and maintained in the SGOD or they may be connected to other septic, sewer and/or water

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supply infrastructure facilities subject to any necessary licensing or approvals by the applicable approval authority. Any pipes necessary for this connection installed on land owned by the Town of Harvard shall be subject to any necessary licensing or approvals by the applicable Town of Harvard and/or Devens approval authority. An approved system may be located on land owned in common by the owners of the lots within the SGOD. The existing buildings at 188, 196, 198 and 200 Ayer Road may be connected into any sewer system or water system that is in the SGOD Project or to which the SGOD Project is connected subject to any applicable licensing or approvals by the necessary Town of Harvard and/or Devens approval authority.

- c. To the maximum extent feasible, all utilities should be underground.

11. Signs

- a. Signage in the SGOD shall be governed by § 125-41(A-C) and (E-F); provided, however, that signs are subject to applicable height and setback requirements of this § 125-60. In addition to the foregoing, two monument or standing signs shall be permitted for the purpose of identifying all of the uses in the SGOD Project.

H. Review Criteria.

- 1. The Planning Board may approve a SGOD-SPR application if it finds that the proposed development meets the following criteria:
 - a. The SGOD Project complies with the dimensional and other requirements of this § 125-60;
 - b. Adequate and appropriate facilities, infrastructure and utilities are provided for the proposed uses and structures;
 - c. Safe and viable access to and from the site is provided;
 - d. The uses and structures as developed will not create a hazard to abutters, pedestrians, vehicles, and/or the environment; and
 - e. Traffic and pedestrians can access and circulate to/from and with SGOD Project safely.

I. Expiration and Extension.

- 1. A SGOD-SPA shall lapse after three (3) years from the date of issuance which shall not include such time required to pursue or await the determination of an

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appeal referred to in G.L. c. 40A, § 17, from the grant of the SGOD-SPA, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

2. Prior to the expiration of the SGOD-SPA, the Applicant may request an extension of time of not more than three (3) years for which the Applicant must show good cause.

J. Amendments.

1. Following the granting of a SGOD-SPA, an Applicant may file with the Building Commissioner who, in his sole discretion, shall determine if the change is major or minor provided, however, that (a) minor amendments include, but are not limited to, changes in lot lines shown on the plan, except for changes to perimeter lot lines and (b) major amendments include, but are not limited to, an increase the number of buildings or units, increase the height of buildings, or decrease of the number of rental Affordable Housing Units below ten (10) percent or reduction of the size or change the location of Open Space. Where the Building Commissioner determines the change is minor, he may issue a Building Permit for the change.
2. In those instances where the Building Commissioner determines that the change is major, the Applicant shall file an application to amend the SGOD-SPA and follow all procedural requirements in § 125-60 above, including holding a public hearing, and rendering its decision in accordance with the criteria of this section.

K. Phased Development.

1. An Applicant may propose that a SGOD Project be developed in phases, provided that the application shows the full buildout of the project and all associated impacts as of the completion of the final phase. Such a phased development shall be considered a single development project.

L. Subdivision Control Law.

1. In the event the Applicant seeks a subdivision approval pursuant to the Subdivision Control Law, G.L. c. 41, §§ 81K through 81GG, in connection with an application for a SGOD-SPR, the Applicant shall file the appropriate application thereunder. In order to facilitate processing, the Planning Board shall consider said application simultaneously with the application for the SGOD-SPR.

M. Severability.

1. If any provision of this § 125-60 is found to be invalid by a court of competent jurisdiction, the remainder of § 125-60 shall remain in full force and effect.



Proposed 125.60 - SGOD

Town of Harvard, MA

1 inch = 300 Feet



www.cai-tech.com

March 7, 2023



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