

**TOWN OF HARVARD
PLANNING BOARD AGENDA
MONDAY, JANUARY 23, 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.

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Public Comment

Old Business: a) Review Site Plan Approval – Chris & Emily Goswick, 184 Ayer Road
b) §125-35 Open Space Residential Development Bylaw Amendment

New Business: a) Joint Discussion with the Design Review Board - 203 Ayer Road
b) 2022 Annual Town Report

Public Hearings:

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

8:00pm **Continuation of Bylaw Hearings:**
1) Amend Section 125-7 Agricultural uses; and
2) Add new section, 125-59 Town Center Entertainment Overlay District

Standard Business: a) Board Member Reports

- Representatives & Liaisons Update
- Community Matters

b) Approve Minutes
c) Director's Report
d) Approve Invoices

- Weitzman & Associates \$10,000.00 (Ayer Road Vision & Fiscal Impact)
- Housing Consortium / Town of Hudson \$662.50 (Quarterly dues)

**NEXT SCHEDULED MEETING:
MONDAY, FEBRUARY 6, 2023**

AS

OFFICE OF THE
PLANNING BOARD

13 AYER ROAD HARVARD, MA 01451

978-456-4100

www.harvard-ma.gov



Memo

Date: 17 JAN. 2023

To: Richard Cabelus, Chair & Members of the Planning Board

From: Frank O'Connor, Jr., Director of Planning *FOCJA*

RE: Design Review Board comments on 203 Ayer Road

The Design Review Board members completed the categories on the matrix (attached) regarding the proposal to build three mixed-use commercial / residential buildings at 203 Ayer Road. They were instructed to utilize the design guideline through the lens of Bylaw §125-38(F) as the DRB's controlling document. Primary areas of concern were parking, the roof, "massing" and energy use. More than one DRB member explained that they separated Building A from the other two buildings when preparing their comments.

There were questions about size, materials and the façade, specifically to Building A, a proposed sixteen court badminton facility. They expressed these concerns due to perceived limited information provided by applicant. However, many of those items will be addressed by the Building Inspector. There was a question about how the Building Inspector would make certain the energy efficiency standards were being met or exceeded. Design Review Members requested more information about exterior lighting from applicant. One DRB member did inquire as to what lighting requirements the applicant must meet.

The parking situation drew sharp contrasts among DRB members. Some felt it was acceptable because the parking was more than seventy-five percent behind the building. Other DRB members felt there were too many parking spots in total, considering the use of the building. Some DRB members agreed there was a lot of parking but wondered if it could be broken up. However, the applicant made many efforts to explain the need for parking during tournaments on weekends and that some of the parking spaces could be used by residents and clients of the two other buildings on the site.

DRB members focused on the badminton facility roof being too flat, that the roof lacked variations and that it was not in spirit with the Design Review guidelines. While the applicant explained that the shape of the roof and building were dictated by the use of the facility, one member suggested a spire be added to the roof. More than one DRB member suggested faux doors on the building might create the appearance of a barn, and help with sight lines. Applicant explained that windows would allow natural light, which would adversely affect the badminton games.

Concerns were expressed by DRB members that the building would outlive the proposed business, and that the main building lacked longevity of design to avoid it becoming a de facto warehouse. Some DRB members wanted more trees in the parking areas and restructured parking areas. The other smaller buildings were acceptable to DRB but it was suggested a focal point was needed among all the buildings other than the parking lot. Further discussion may be needed about screening along the road.

The applicant stated previous drafts of the proposal did try situating the large building differently and that the proposal was to permit all three buildings. Applicant reminded the DRB that Harvard does not have the infrastructure to line up large anchor tenants. The proposal is based on a vehicle approach and the facility will draw people to Harvard from other towns. Applicant said the only entrance to the facility is in front of the building.

Applicant referenced the that limited parking in front of the building and that the proposal meets the parking requirements of the bylaw. Applicant mentioned the town administration requested the building be closer to the street, and added there needed to be more flexibility applying the guidelines because the commercial uses are not all the same. Applicant said the grades of the road and the site will diminish the size of the building.

DRB members added that material guidelines and energy guidelines needed to be addressed. Some DRB members liked the proposed connectivity for pedestrians and how to maximize it. DRB members discussed if and how conditions were to be put on any Special Permit to ensure use and adherence to bylaws.

§ 125-38 Site plans.

[Amended 3-7-1964 ATM by Art. 30; 3-4-1967 ATM by Art. 20; 3-7-1970 ATM by Art. 46; 3-4-1972 ATM by Art. 47; 3-30-1974 ATM by Art. 35; 3-25-1978 ATM by Art. 23; 3-28-1987 ATM by Art. 61; 3-26-1988 ATM by Art. 31; 3-25-1995 ATM by Art. 26]

Site plans are required for certain uses and administrative procedures under this Bylaw to assist in assuring compliance with the Bylaw and other provisions of law.

F. Design review; applicability, procedure, and purpose. [Added 3-27-2004 ATM by Art. 38]

(1) Site plan applications for proposed development in the Commercial "C" District shall include renderings of the proposed building(s) or addition showing the front, sides, and rear-view elevations.

(a) Renderings shall be in color, and shall include narrative descriptions of the building facade materials; roof materials; window dimensions, materials, and details; height and slope of all roof lines; location of HVAC equipment, generators, coolers, and other utility appurtenances; and balconies, exterior stairs, steeples, chimneys, porches, porticos, or other building extensions. While not required, the applicant is encouraged, where practicable, to submit samples or swatches of facade materials and colors.

(2) The purpose of the review conducted pursuant to this section is to assist the Planning Board to review the proposed design of buildings and its relationship to overall site layout. 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 buildings and structures within the C District. A further purpose of design review is to help meet the objectives of the Commercial C District, including:

(a) Use of creative building placement and site design that promotes pedestrian activity, bicycle use, and minimizes new driveway curb cuts, sharing vehicular access, wherever possible.

(b) Promotion of articulated buildings that avoid excessive massing and unbroken facade treatments.

(c) Use of a variety of building heights and roofline articulation (as opposed to flat commercial roofs).

(d) Use of building style and materials compatible with the local vernacular and built form of Harvard, and avoidance of generic designs.

(e) Subordination of parking, on-site utilities, heating, ventilation and air conditioning equipment (HVAC), utility lines, and solid waste dumpsters to building form.

(f) Use of pedestrian-scale lighting and signage.

(3) To accomplish the purposes of this section, the Planning Board may adopt design guidelines for applicants submitting applications requiring design review and/or approval.

January 10, 2023

DRB Review 203 Ayer Road

Richard Cabelus

Building Guidelines Recommendations

- A. Roof Guidelines (yes but with suggestions)
The main building has a mostly flat roof. Whereas, the applicant states this is necessary because of it's use (i.e. for badminton) where possible, and in the spirit of 125-38F.(2)(c) the applicant should avoid flat commercial looking roofs as much as possible. Could a spire type addition be placed on the roof appropriately? There does seem to be badminton clubs with varied roofline articulation (e.g. The Badminton and Tennis Club, 52 Hemenway Street Boston, MA 02115)
- B. Façade Guidelines (yes)
The main structure, Building A had unbroken façade, but like the addition of faux hayloft doors recommended by DRB.
- C. Building Compositing Guidelines (yes)
- D. Guidelines for Organization of Buildings and Uses (yes with comments for further evaluation)
The organization of buildings is appropriate, and in the spirit of the ARVSP. Uses for buildings B and C are yet undetermined to any specificity, except for some residential. One concern PB should consider, is there enough frontage so that the buildings are not imposing over Ayer Road? Most parking is in rear, as is what ARVSP desires, but PB should balance parking in rear, with adequate frontage so buildings do not appear to loom over Ayer Road.
- E. Building Materials Guidelines (yes) seems compatible with local vernacular and built form of Harvard.)
- F. Energy Guidelines (?)
Solar? Built LEED Certified?

Landscaping and Site Standards Recommendations

- A. Parking Guidelines (yes with comments)
Lot of parking spaces. Majority is in rear (75% or greater) as required by ARVSP and subordinate. However, too many spaces? Perhaps broken up by some open space? See below.
- B. Parking Lot Landscaping Guidelines (Recommendations)

As required by ARVSP shall be broken up into small increments with internal landscaping in between.

- C. Site Landscaping Guidelines (yes)
- D. Access Management Guidelines(yes)
- E. Guidelines for Connectivity (yes) maximize connectivity to Harvard Green and fields benches and bike paths.
- F. Guidelines for Delivery Areas (yes)
- G. Guidelines for Utilities and Mechanical Equipment(yes)
- H. Planning for Pedestrians & Bicyclists (yes) maximize connectivity to Harvard Green and fields benches and bike paths.

Rochelle
G.

Town of Harvard Design Review Board Scoring Matrix

Members of the Design Review Board will rate the proposed development for compliance with the the Town of Harvard Bylaw §125-38(F) using the following scale: Yes (Compliant); No (Not compliant); or Needs improvement and why.

Building Guidelines	Recommendations	Scores
A. Roof Guidelines	85%+ of Large Building is flat roof (visually will not be able to see the slope- not in the sprit of design guidelines),	NO
B. Façade Guidelines	85%+ of Large Building is not varied and straight wall predominate, Foot print does not follow guidlines, Visible entrances is only at front when most parking is at back. Balance? Back and Sides have no windows	NO
C. Building Compositing Guidelines	Building mass has been maximized - not meeting objective. Large building not broken into smaller volumes, foot print not varied.	NO
D. Guidelines for Organization of Buildings and Uses	Compact? No Central green/ site Focal Point site, no sense of spatial enclosue or sense of place, large formless parking lots. Human scale.	NO
E. Building Materials Guidelines	Hardy board and ?, metal?	?
F. Energy Guidelines	Solar? More shade trees for parking lots? green building design?	?
Landscaping and Site Standards	Recommendations	Scores
A. Parking Guidelines	More Front parking that recommended. Extremely Large parking areas. Not enough trees to break up parking.	NO
B. Parking Lot Landscaping Guidelines	Not enough trees, not enough space for trees that do exist. Parking lots predominate the site. Parking not shaded, native trees not used for parking screening.	NO
C. Site Landscaping Guidelines	Existing trees?/ REplacement plan? No screen for winter?	YES
D. Access Management Guidelines	Design details of traffic island at entrance? Shared Use Path?	YES?
E. Guidelines for Connectivity	Questions about harvard green?	YES?
F. Guidelines for Delivery Areas		YES?
G. Guidelines for Utilities and Mechanical Equipment		YES
H. Planning for Pedestrians & Bicyclis TIP project?		YES?

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Town of Harvard Design Review Board Scoring Matrix

Steve Nigzus

Members of the Design Review Board will rate the proposed development for compliance with the the Town of Harvard Bylaw \$125-38(F) using the following scale: Yes (Compliant); No (Not compliant); or Needs improvement and why.		
Completed by Steve Nigzus		
Building Guidelines	Recommendations	Scores
A.	Bldgs B & C meet or exceed guidelines; Bldg A - front section meets guidelines; rear section is not applicable by virtue of the Town's height restrictions.	YES
B.	Bldgs B & C meet or exceed guidelines; Bldg A - front section meets guidelines; rear section meets guidelines with simulated barn doors and hay doors.	YES
C.	All three buildings meet this guideline	YES
D.	The arrangement of the buildings on the land meets the guidelines and the uses satisfy the multi-use aspect of the Ayer Road village concept	YES
E.	All three buildings meet this guideline; the building inspector would have final say on the materials	YES
F.	Per the applicant, all LED lighting; heat pumps where feasible	YES
Landscaping and Site Standards	Recommendations	Scores
A.	Per the guidelines and the ratio of spots to the rear of the buildings, the three buildings meet the requirements.	Yes
B.	As drawn, the diagrams show appropriate parking lot landscaping for the entire site	Yes
C.	As drawn, the diagrams show appropriate site landscaping for the entire site	Yes
D.	Primary access feeds into all three areas as per guidelines	Yes
E.	Connectivity to existing trails to the McCurdy field are detailed	Yes
F.	Deliveries are located at the rear of the buildings	Yes
G.	Underground utilities on the site; mechanical equipment at the rear of the buildings	Yes
H.	Pedestrian friendly side walks; bike parking and lock up area.	Yes
Summary: The applicants have accommodated all of the DRB's requests and modifications to the site plans. Their proposal is an appropriate use for this site on Ayer Road.		

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Director of Planning
UPDATE
19 January 2023

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■ **Special Permit and Site Plan Review: 203 Ayer Road**

Name of Applicant: Yvonne Churn and Wheeler Realty Trust
Location of Property: 203 Ayer Road, Harvard, MA
Assessors Map/Parcel: 8/62.2
Zoning District: Commercial (C)
Property Owner: Wheeler Realty Trust
Consulting Engineer: Goldsmith, Prest, & Ringwall, Inc.
Application For: Special Permit and Site Plan Review w/ Special Permit

SYNOPSIS

- **Section 125-37 Special Permit** – Recommend that Planning Board consider waiving the requirement.
- **Section 125-38 and 125-39 Site Plan Review** – There were a number of criteria that are missing or not fully clear in the initial site plan submittal. Much of these sections will need the peer review to be conducted before final assessment.
- **Section 125-46 Special Permits** – Much of these criteria must await the review of the peer review consultant. There are a few elements that are either clearly met or not met as noted below.
- **Section 125-52 ARV-SP Criteria** – Much of these criteria are not met and as the application currently stands, I would suggest that the project currently does not meet the criteria for this Special Permit.
- **Section 125-20 Use Criteria** – Similar to above, these Use Criteria are a mix of “need more information” and subject to peer review.
- **UPDATE Design Review** – Project is in process with the 6th meeting of the DRB scheduled for 12 January 2023. Applicant will provide narrative addressing DRB recommendations. DRB has presented written comments to the Planning Board.

RECOMMENDATION: Hear applicant update and anticipate Design Review Board comments, continuing the hearing to a future date.

Request: The Applicant is seeking two Special Permits for a commercial development in the C district. Based on the provisions of Sections 125-52 and 125-23(B)(2) of the Protective Bylaw, such developments and businesses are allowed in the C district with a Special Permit and Site Plan Review.

Summary of Meeting #1 Comments

1. PEER REVIEW – Recommended peer review consultant. Planning Board voted to authorize staff to develop a consultant scope in conjunction with the Applicant’s representative. This scope has been released and we are awaiting responses.
2. SECTION 125-37 – Originally recommended that the applicant file the needed Special Permit. Conducted additional research, as follows:
 - [a] It was noted in April 4th UPDATE that the applicant would be required to also apply for a Section 125-37 Special Permit for Major buildings since the building subject of the application is 29,998 s.f. The primary purposes of this specific Special Permit are to further evaluate the proposed building related to bulk, design, and fire protection.
 - [b] The Applicant asserts that due to a filing of a 125-52 Special Permit, which includes a Section G(2) request for authorization of a building larger than that permitted by 125-37(A) supersedes the latter requirement. This notwithstanding that there is no specific limitation on size noted in this Section.
 - [c] Regardless of the lack of clarity of the 125-52 reference, it is inferred that this section 125-37 intends to allow a building larger than 10,000 s.f., a threshold that appears to only be identified in the Bylaw through provisions seeking to exceed this number.
 - [d] The applicant’s claim that a Section 125-52 Special Permit filing supersedes the need for a Section 125-37 Special Permit seems rational but is unsupported by any provision in the Bylaw and thus, in this reviewer’s opinion, should dictate a Planning Board finding of same and consideration of granting of a waiver of the necessity of filing a 125-37 Special Permit due to the inferred redundancy. Since the Planning Board is the Special Permit Granting Authority for both special permits, it would seem logical that the Planning Board has the authority to waive or render superfluous, the 125-37 Special Permit by a formal vote. However, the Board may wish to seek Town Counsel opinion on this step.
3. SITE PLAN COMMENTS – The following comments were intended to be actionable by Applicant or inquiries for further clarity or needed information:
 - [a] Noted that elevations for the rear and two sides of the building were required to be submitted.
 - [b] Recommended further lighting information including lighting intended in parking areas and attached to building.
 - [c] Noted that additional screening and/or buffering elements may be necessary but not to be addressed until further into the application process.
 - [d] Wastewater solution needs to be approved by the Board of Health for current proposed use. Board of Health should address what the remaining capacity in the system would be after this use meets the requirements.
 - [e] Design review is in process and will be available to the Planning Board prior to a decision to be considered as part of the Special Permit.

- [f] Basic submittal requirements of site plan review for landscaping have been submitted. However, additional criteria may be required based on special permit review and peer review process.

4. PARKING, LOADING, AND DRIVEWAYS

- [a] No shared parking elements are being proposed in this application. Shared parking is specifically where adjacent or proximal parcels share (typically a combined) parking area. This is one of the important criteria for the ARV-SP as well.
- [b] Expressed a concern over the proposed ingress/egress location along this stretch of Ayer Road.¹ This will be a focus of peer review and DPW should comment.
- [c] Thus, the proposed alignment of the driveway in relation to the existing curb cuts along Ayer Road and whether alignment or coordination with other driveways may be deemed appropriate. Further, such a 4-way intersection, with the associated turning movements, may require intersection signalization. A traffic study may be necessary to make these determinations.
- [d] No loading docks or facilities are provided. Applicant should provide details related to any needed loading facilities unless using parking and driveway areas, which should be verified.
- [e] Recommended that a traffic impact study be conducted based on the proposed use and an assumed set of other uses (in this case suburban office and general variety retailing). Reviewing the recommended ITE Trip Generation 10th edition data for peak hour, the 3 use categories are estimated as follows:
- Badminton (16 courts) – evaluated in line with tennis, on a per court basis, at 4.21 trips per court peak hour or $16 \times 4.21 = 68$
 - General Office (Suburban) – evaluated at 1.16 trips per 1,000 s.f. or $8 \times 1.16 = 9$
 - Variety Retail – evaluated at 6.84 trips per 1000 s.f. or $6.84 \times 8 = 55$
 - TOTAL COMBINED PEAK HOUR = 132
- [f] Granted that each use may have a different peak hour, but this trip generation suggests that the site, if developed as illustrated, would likely well exceed the threshold 400 trips needed to justify a traffic impact study.

5. OPEN AREAS, LIGHTING, BUFFERS, & SCREENING

- [a] The applicant states on the Site Plan cover page that there is an 867' lot width but that they wish to employ the alternative building siting offered as an incentive under 125-52. While the 125-52 provision is unrelated to the buffer strip, it appears that what the applicant explained in the meeting regarding the measurement of lot width, which is not the same as that provided in the zoning table, is accurate. I would seek the peer review consultant's analysis on this point.
- [b] Thus, an 86.7' buffer strip around the perimeter of the property would not be required as previously stated.
- [c] Still suggest that the applicant needs to provide a complete lighting plan as indicated in the UPDATE dated 4/4/2022.
- [d] Planning Board may wish to request that screening solution be upgraded to include more plantings, a berm, or fencing.

¹ The ideal solution would be to a) line up the driveway with the Bowers Brook development driveway to create a formal 4-way intersection and signalize it. Connect parcel to the Kurian property to the south and to the Harvard Green property to the west. Eliminate one or both curb cuts to the two Kurian properties to the south.

6. FIRE PROTECTION

- [a] Fire Dept. comments will be provided as received. Additional comments regarding fire protection may accrue from peer review consultant.

7. DRAINAGE

- [a] Peer review consultant (PRC) will provide comments on drainage. However, please see Harvard Green Order of Conditions #16 from 1997:

m. The **detention basin design has not, and cannot be approved for future development** not included within the Notice of Intent covered by these Orders, including but not limited to the development of the adjacent Commercial portion of the original parcel. **THIS IS A PERMANENT CONDITION.**

8. SIDEWALKS

- [a] Proposed gravel paths suggesting connection to external properties should 1) indicate how these will be received by these abutters and 2) that they connect directly to the internal sidewalk system proposed by the applicant.
- [b] Proposed TIP Shared Use Path has been engineered and should be shown on the site plan.
- [c] The Board should request on bond or other surety as a provisional compliance with sidewalk requirements in the event that the SUP is not constructed.

9. SIGNS

- [a] Anticipated standing and wall signs shall be provided as part of the Site Plan and Design Review Board processes and the PRC and staff planner will evaluate according to the provisions of this Section 41.
- [b] Business sign appears to possibly interfere with visibility of stop sign.

10. ZONING REQUIREMENTS

- [a] Rather than complying with the recently adopted minimum 20' setback and maximum 50' setback from the ROW, the applicant has requested the alternative minimum standard as depicted in Section 125-52(G)(1)(c) and as such has proposed a 104' setback for this PHASE 1 structure. This is not recommended and defeats the purpose of the new standards, design guidelines, and the ARV-SP objectives.
- [b] However, should the applicant propose a revised site layout which more closely aligns with the ARV-SP principles and the Design Guidelines for a village-like cluster, this may be more suitable.

11. SPECIAL PERMIT REQUIREMENTS

- [a] Advice from Planning Board or Other Town Boards – Pending
- [b] Special Permit – General Criteria

[1] Will not result in substantial increase of volume or rate of surface water runoff to neighboring properties and streets, and will not result in substantial danger of pollution or

contamination of the groundwater supply, a groundwater absorption area, a well, pond, stream, watercourse, W District, or inland wetland. Any and all surface water runoff resulting from development shall be retained within the lot in which it originates or shall be discharged into existing identifiable watercourses without material impact on abutting properties – **To be determined based on stormwater analysis and peer review.**

- [2] Will, if the use is not agricultural or residential, result in no substantial increase in traffic, compared to refusal of the permit, on any residential street where the premises have access – **Not seen as applicable.**
- [3] Will be in harmony with the general purpose and intent of the Bylaw, including each purpose stated in § [125-1](#), Purpose, which is pertinent to the particular application.

(i) **Elements Met**

- To prevent overcrowding of the land

(ii) **Elements Not Met**

- To protect the community from the detrimental effects of unsuitable development
- To conserve natural conditions and open spaces

(iii) **Elements To Be Determined**

- To conserve health
- To secure safety from fire, wind, flood, and traffic (traffic issues)
- To preserve and increase the value of land and buildings (based on final design)
- To preserve and increase the amenities of the Town (inconclusive)
- To provide for compatibility with individual water supply and sewage disposal systems and their renewal, and with public systems which may become available (Board of Health determination)
- To facilitate future reuse and redevelopment of property (inconclusive)
- To provide for safe, rapid traffic flow to, from, and along the streets (traffic issues)
- To avoid confusing and distracting signs in areas along the streets (unknown)
- To protect persons and property against the hazards of inundation and pollution
- To prevent pollution or contamination of, to conserve, and to protect watercourses, and their adjoining lands, groundwater absorption areas, and the groundwater table on which the inhabitants depend for their water supply
- To separate and otherwise isolate potentially conflicting property uses

(iv) **Inapplicable Elements**

- To avoid unsuitable traffic on residential streets
- To preserve the streets of the Town as firebreaks
- To preserve storage areas for seasonal or periodic high waters
- To protect ponds from accelerated and excessive plant growth and premature decay into swamps

[c] Section 125-52 ARV-SP Criteria

[1] Objectives of ARV-SP

- (i) Promotion of mixed-use development – **Not met by current application.**

- (ii) Promotion of shared access in properties, with appropriate links to adjoining properties, lessening the need for curb openings on Ayer Road- **Not met by current application.**
- (iii) Promotion of development that emphasizes pedestrian accessible walkways, benches, pathways, bicycle racks, and pedestrian-scale lighting and signage - **Initial plan set had partial compliance. Will re-review subsequent submissions.**
- (iv) Encouragement of building and site designs compatible with the local architecture, rather than generic designs - **Not met by current application.**
- (v) Avoidance of excessive building massing and unbroken building facade treatments – **Not met by current application.**
- (vi) Subordination of parking, loading docks, on-site utilities, heating, ventilation and air conditioning equipment (HVAC), utility lines, and solid waste dumpsters to building form – **Partially met by current application. Parking subordination not met.**

[2] ARV-SP Review Criteria

- (i) Mixed Use Project Siting – Not located, sited, or grouped in a manner that aligns with the context of adjoining residential uses. Does not meet appropriate clustering.
- (ii) Historical Significance – Not applicable.
- (iii) Development Designed for Pedestrian and Bicycle Passage – Does have some measure toward this objective but will need additional modifications.
- (iv) Building and Site Design Impacts Mitigation:
 - Applicant has appeared to comply with the parking lot provisions.
 - Stormwater and landscaping do not seem to be integrated. For example, there are no obvious Low Impact Development (LID) features but rather more typical detention basins.
 - Solid waste appears to be addressed adequately related to PHASE 1.
 - No loading facilities have been proposed.
 - PHASE 1 building is out of scale with the neighborhood and surrounding properties.
 - Changes in grade and these impacts shall be evaluated by PRC.
 - Sewage disposal shall be evaluated as per meeting Title V requirements by the Harvard Board of Health and in conformance with this section by the PRC.

- [3] Section G3 Findings – Section G3 of Section 125-52 provides for specific incentives to applicants in exchange for meeting the objectives and criteria. The Planning Board must first assess whether they feel the objectives and criteria have been met at a threshold level and then have been exceeded before determining to what extent these incentives should be awarded.

- (i) Preservation of an agricultural use, natural resources, including but not limited to woodlands, wetlands, streams and/or fields, or land with historic structures or other unique features - **NO**
- (ii) Connectivity between adjoining sites, or provisions for curb-cut reduction, shared access, and shared parking - **NO**
- (iii) Inclusion of multifamily use with a set aside of affordable housing units - **NO**

It is assessed that Section G3 criteria have not been met and that this project, in the assessment of this reviewer, is not eligible for any of the incentives noted in Section G2. Overall, no objectives of the ARV-SP have been met in full or partially. At this point, this reviewer does not see that this application has met the minimum criteria to be eligible for an ARV-SP and should resubmit a revised application packet that shows how it meets these specific provisions.

Section 125-20 Use Criteria

The applicant shall show satisfactorily that the use will comply with the Bylaw including in particular § [125-20](#). If a special permit is authorized, the authorizing board shall impose as a part of such permit conditions, safeguards, and limitations of time and use, in addition to any specifically provided in the Bylaw, as may be appropriate for protection of the neighborhood, the community, and the natural environment, including the groundwater supply, a groundwater absorption area, or other wetland resource. These criteria shall be reviewed by the PRC as part of their analysis.

(A) No use is permitted which is injurious, offensive, or otherwise detrimental to the neighborhood, the community, or the natural environment, including the groundwater supply, a groundwater absorption area, or other wetland resources, because of:

- Concussion, vibration, noise, or other mechanical disturbance; *Applicant should speak to hours of operation, use of machinery on site, and idling vehicles;*
- Smoke, dust, odor, fumes, or other air pollution; *Not anticipated based on initial PHASE 1 use but this should be confirmed;*
- Glare, fluctuating light, or electrical interference; *The applicant needs to provide additional information related to lighting as noted above;*
- Danger of fire, explosion, radioactivity, or other danger; *Fire or explosion are not anticipated based on proposed PHASE 1 use;*
- Wastes or refuse (except at the Town Transfer Station); *Applicant should note what times of the day waste will be hauled away given the close proximity to a residential area;*
- Likelihood of substantial increase in volume or rate of surface water runoff to neighboring properties and streets, or substantial danger of pollution or contamination of the groundwater supply, a groundwater absorption area, or a well, pond, stream, watercourse, W District, or inland wetland; *Shall be reviewed as part of PRC;*
- Other characteristics. *None anticipated.*

(D) Development shall provide water supply and sewage disposal approved by the Board of Health.

Defer to comments to be provided by the Board of Health.

Comments and Recommendations

Based on a review of the submitted packet, site visit, and review of the Protective Bylaw, staff has the following comments:

- **See Synopsis above for a summary of comments, status, and recommendation.**

Recommendation: Hear applicant update and continue hearing to a future date certain.

■ Ayer Road Vision Plan Project

Status of Consulting Work in Phase 1

We are close to agreeing in principle to the revised scope of work provided by Weitzman Associates. Once we go to contract, the timeline for the project is three (3) months which if we were to start the project on May 1st, it will be completed at the end of July—well in advance of Fall Special Town Meeting.

Preparations for Phases 2 and 3

There has been some public critique of the outreach conducted on Phase 2 and 3 and the request for CPIC funds. It would be helpful if members evaluated the outreach materials on the project website and provided some ideas and feedback to staff. Here are a few ideas for how we could conduct outreach for the Ayer Road Vision Plan project over the next few months:

1. Booth at Annual Town Meeting (May) – This has been discussed at the Planning Board and no further advancement of the idea as of yet. Perhaps we can have stacks of the handouts and perhaps a few bound versions of the White Paper (or we can have flash drives with the pdf loaded on it too). We could have Chris and one PB member staff the booth before and during Town Meeting. Any other ideas? Who do we need to speak to regarding securing a booth?
2. Build Up Website – So far, the project website is pretty robust but may be a little dated. Members should take a look at the site (link below) and evaluate it for what else we can do and how to improve.
3. Focus on Facebook Development – I have an economic development Facebook Group and we could further develop this or develop the Page as well. Right now, it only has seven followers but we could flesh it out a bit.

4. Other social media ideas include further marketing the Planning Blog, creating a podcast, creating a vlog, hosting coffees at the HGS, or something similar. We also discussed visiting the transfer station and we could also have a booth or presence at sports fields.

Additional ideas are welcome. The project page link is here:

<https://www.harvard-ma.gov/economic-development/pages/ayer-road-planning-framework-project>

■ MBTA Multifamily Zoning Draft Guidelines Update

Draft Letter

The draft letter was finalized, signed, and submitted to the state on 3/29/2022. It was also sent to MAPC, MRPC, 495 MetroWest Collaborative, and the Assabet Regional Housing Consortium.

Select Board Briefing

This required public briefing was held on Tuesday, April 12, 2022 during the Select Board's regular meeting.

Community Information Form

The required Community Information Form (CIF) was submitted on Wednesday, April 13, 2022 and confirmation was sent on to Planning Board members and other stakeholders.

Options to Proceed

At this point and to be discussed at the last meeting and this meeting, the Planning Board needs to further discuss potential alternatives for approaching this task. Once alternatives are developed, the Board can assess whether a single strategy will be pursued or whether it makes sense to try to develop more than one as a contingency. Here are some suggestions:

1. **OPTION A:** Consider weaving the provisions into the Ayer Road Vision Plan. Here we would shoot for Annual Town Meeting 2023 with a Form-Based Code solution that would include the multifamily requirements. This is arguably the ideal solution as we were advocating for a mixed-use solution for Ayer Road anyway and this allows for the seamless integration of MBTA Guidelines into our postponed bylaw.

Positives	Negatives
1. Best location 2. Aligns with pre-existing goals and objectives 3. Easiest to advocate for and sell 4. Citizens have expressed an interest in this area	1. Will take the longest time frame 2. No guarantee project will move forward

2. **OPTION B:** Find a specific location in the vicinity of the Ayer Road Corridor (but not in the C District) to zone for a standalone district. We will need to use a map and brainstorm specific locations that have reasonable access to Ayer Road and also are good options for hooking up to Devens or Ayer water and sewer. Ideally these parcels should be either part of larger parcels already zoned commercial or that are adjacent to commercially zoned parcels. Utilize a new standalone replacement language for existing multifamily language in bylaw.

Positives	Negatives
1. Next or alternative best location 2. Near alignment with pre-existing goals and objectives 3. Easiest to advocate for and sell 4. Citizens have expressed an interest in this area	1. May cause opposition from neighbors

3. **OPTION C:** Consider a temporary provision by amending the ARV-SP to meet the minimum requirements in order to buy time to develop something more appropriate and fitting. This would involve enhancing the ARV-SP to align with state guidelines and also remove it as a special permit (or say that if multifamily is built to requirements, it can be by-right but otherwise would need a special permit still).

Positives	Negatives
1. Best Location 2. Allows Town to buy time to thoughtfully consider a better permanent solution	1. Will be hard to build trust on a temporary solution 2. May be unintended consequences

4. **OPTION D:** Look for a specific location or locations throughout Harvard that meet the guidelines and use the existing multifamily language in the bylaw as a starting point. This would require an even bigger brainstorming effort by looking at the map for the entire community. Should you wish to proceed on this option, I would recommend taking the following preliminary steps:
- a. Note the locational guidance provided by the Guidelines, which state *“When an MBTA community has no land area within 0.5 mile of a transit station, the multi-family district should, if feasible, be located in an area with reasonable access to a transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that otherwise is consistent with the Commonwealth’s sustainable development principles—for example, near an existing downtown or village center, near an RTA bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new multi-family housing.”*
 - b. Think about other locational criteria that would apply such as being close to shopping and services, walkability, compatibility with adjacent zoning or land uses, etc.

- c. Use the GIS [HERE](#) to research parcels in town. If you do not know how to use the GIS, let us know and we can provide for you the useful tutorial that Liz developed a couple years ago. Using the GISm you can turn on and off layers showing zoning, wetlands, topography, and other criteria that can help you seek suitable properties.
- d. I can also send you a PDF file of the town map with parcels showing if that would be helpful. I have had several members already provide a map of parcels to consider and I have created a master map showing all of them. I can send this to you as well if you wish to see what others did.
- e. You may also wish to create a narrative or description for each property you identify that notes why this property is a good option and how it meets one or more criteria.

Positives	Negatives
<ol style="list-style-type: none"> 1. May find a location that does not have as much overall impact on Harvard 2. More likely to maintain rural character by marginalizing the development 3. Potential to isolate in an area that has no visibility or connectivity 	<ol style="list-style-type: none"> 1. Likely to cause opposition from citizens and neighbors. 2. Location(s) may be controversial 3. May not meet state's criteria

5. **OPTION E:** Consider establishing an MGL 40R district and include MGL 40S. DHCD has indicated that they may come up with a specific program like 40R for the MBTA communities. This may be more challenging to establish because it is complex and has lengthy requirements, but it also has some key benefits to consider. Foremost in benefits is cash payments from the state to the Town for each unit built and each school kid anticipated as part of the development. These are *one-time* payments and not ongoing but pretty big. I guess you might argue, "If you have to build multifamily, why *wouldn't* you do this?"

Positives	Negatives
<ol style="list-style-type: none"> 4. MGL 40R provides payments to Harvard for two provisions: zoning incentives and density bonus payments. 5. MGL 40S provides payments to communities that establish 40R districts to cover the cost of educating school-age children of up to \$600,000 and an additional \$3,000 per student. 6. Aligns with Ayer Road Vision Plan 	<ol style="list-style-type: none"> 1. Will take a long time to develop. 2. Will likely require a consultant to assist. 3. May not be timed to align with ARVP. 4. May not provide Harvard enough flexibility to control the design and layout.

Some of these may be blended or used together (e.g., 1, 3, and 5). The Board should also consider how it wants to engage the public. Would the Board want the public to give input on suggestion solutions or locations, or rather give the public a few options to respond to? Maybe the Board doesn't think public input is necessary or desirable? IMPO I would consider engaging early and often. There is a lot to further develop by the state before Harvard can go much further. For example, they may modify the guidelines based on community input. However, some of these issues should at least be preliminarily discussed.

Potential Timelines

The following table is a rough estimate for how long each suggested option might take. Of course, they will vary based on how we integrate public outreach, funding requirements, technical assistance, and other factors.

Option	Q2 2022	Q3 2022	Q4 2022	Q1 2023	Q2 2023	Q4 2023	Q1 2024	Q2 2024	Q3 2024	Q4 2024
OPTION A										
OPTION B										
OPTION C										
OPTION D										
OPTION E										

Finally, please note that the Planning Board is NOT constrained by the typical two-year wait to bring failed bylaws back to Town Meeting. This is clearly stated in MGL 40A, Section 5 as follows:

No proposed zoning ordinance or by-law which has been unfavorably acted upon by a city council or town meeting shall be considered by the city council or town meeting within two years after the date of such unfavorable action unless the adoption of such proposed ordinance or by-law is recommended in the final report of the planning board.

All it requires to supersede this provision is to develop a Planning Board report recommending passage of the Bylaw. The passage above is a clickable link taking you to MGL Chapter 40A, Section 5.

UPDATE: DHCD issued Compliance Guidelines on 10 August 2022. Harvard was categorized as an Adjacent Small Town, assigned a minimum multi-family unit capacity of 113. The Action Plan was submitted on 20 December 2022. As part of the Action Plan, a letter was sent to the owners of all known multi-family / multi-home parcels. This was part of the process to identify existing multi-family parcels as part of creating a zoning district of a reasonable size where multi-family housing would be permitted by right and to avoid spot zoning. A draft map of these parcels has been created. To meet the DHCD requirements that the zoning district have reasonably close proximity to existing MBTA commuter rail stations, the area of Harvard that is East and North of Route 111 seems to provide the most options, if a developer were able to meet state water and septic requirements.

DHCD has provided initial feedback on the Action Plan that was submitted in December 2022. Specifically, Harvard would do well to reduce the size of the proposed overlay district. Director of Planning is working with MPRC to refine map and complete the DCHC Compliance Model & Components. As an Adjacent Community, Harvard is required to complete its process by December 2025.

■ Ayer Road TIP Project Update

MassDOT Public Hearing

On Wednesday, March 30, 2022, the Massachusetts Department of Transportation conducted a public hearing remotely via Zoom in regard to a project referred to as Resurfacing and Box Widening of Ayer Road, which locally is described as the Ayer Road TIP² Project. Similar to the 10% design public meetings, this hearing on the 25% design, included several comments about a roundabout at Gebo Lane and also some landscaping concerns in the right-of-way.

Given the continued concern by several members of the Transportation Advisory Committee (but not the TAC formally), MassDOT expressed its willingness to meet with Town officials to further discuss the roundabout and some other issues. This meeting will be set up by the Town Administrator and be held soon.

Another concern expressed at the hearing was how the TIP project was going to take into consideration projected commercial and residential growth in the corridor and if the design was robust enough to absorb projected growth and also whether future water and sewer facility installation would necessitate excavation of the newly developed roadway shortly after completion.

MassDOT noted that to redesign the current 25% project would add 1-2 years onto a project already not set to begin until FY 2026 and would likely cost the town itself more funds for the engineering and ROW acquisition. It would also raise the cost of the federally funded portion of the project.

Site Plan Review –184 Ayer Road

Name of Applicant: Chris & Emily Goswick
Location of Property: 184 Ayer Road, Harvard, MA
Assessors Map/Parcel: 8/41
Zoning District: Commercial (C)
Property Owner: PHOENIX-DURANGO LLC
Consulting Engineer: Dillis & Roy
Application For: Site Plan Review

Request: The Applicant is seeking SITE PLAN APPROVAL for a commercial development in the C District. Based on the provisions of §125-13(A) of the Protective Bylaw, such developments and businesses are allowed in the C district with a Site Plan Review. Both §125-38 and §125-39 apply. Dillis & Roy represent the applicant. Existing building to be renovated as a first-floor optometrist office and upper floor for a residential use 3-bedroom unit. No plan to change exterior elevations. Septic system exists on the property – age and capacity are in question by the Board of Health –

² TIP refers to the Transportation Improvement Program that addresses federally funded highway projects.

records not conclusive. Applicant has submitted a new septic plan after soil testing in compliance with Title 5 and local regulations and expects to receive permit. System has been sized for the uses indicated this evening. Using existing curb cut, parking area, with no structural changes. Plan shows applicant will memorialize parking with striping, paving and re-grading as well as ADA accessible access to the offices. Applicant will remove excess pavement on the property as it is not needed for the proposed use. Keeping existing well because water use falls below the PWS requirements. Proposal tripped site plan review and Landscape plan due to change in use.

Recommendation: Hear applicant's updates and if it were necessary, continue hearing to a future date. Proposal may require Special Permit from Zoning Board of Appeals because it is a new use.

UPDATE: *Decision was voted and Approved with Conditions. Applicant must apply for a Special Permit due to the increase in commercial intensity with the allowed use changing from Small to Medium allowed commercial use.*

Comments for ZBA regarding Special Permit Request – 90 Warren Avenue

Name of Applicant: Mary Maxwell

Location of Property: 90 Warren Avenue, Harvard, MA

Assessors Map/Parcel: 27/15 (only 1.4 acres)

Zoning District: W-District

Property Owner: CURRAGHDUFF, LLC

Consulting Engineer: David E. Ross Associates, Inc.

Application For: Conversion of Seasonal Residence §125-11.

Dan Wolfe is representing the applicant for the parcel at 90 Warren Avenue, which has a lawful existing seasonal residence on a pre-existing, non-conforming lot that meets all required setbacks.

Section 125-11 requires that the conversion of a lawful existing seasonal residence for use as a permitted year-round residence and for which the lot is not conforming (only 1.4 acres) to the lot size standards of the Bylaw is subject to special permit. However, § 125-4(B) permits this use.

Such a permit shall be authorized only if Minimum Standards of Fitness for Human Habitation and Minimum Requirements for Subsurface Disposal of Sanitary Sewage (Chapter II and Title V of the State Sanitary Code) and any additional requirements of the Board of Health are all met for permanent year-round residence. The Board of Appeals finds that similar such conversion of all seasonal residences in the general area having lots similar (or less limited) in lot size and land and soil type characteristics would not result in substantial danger of contamination of the groundwater supply or of any pond or stream; the ability of the soil to absorb expected quantities of sewage disposal effluent, the degree of filtration of effluent before entering bedrock fissures or other groundwater supply, and other characteristics of the land and soil types shall be considered.

Recommendation: Because construction site is in an area adjacent to wetlands and Bear Hill Pond, review comments of Conservation Commission and verify approval from Board of Health. Proposal requires Special Permit.

Weitzman Associates LLC

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

January 6, 2023

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

c.c. Frank O'Connor, Director of Planning & Liz Allard, Land Use Administrator and Conservation Agent

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

Acc # 66-22

SERVICES RENDERED:

Market Analysis and Fiscal Impact Analysis- Ayer Road Commercial District

Part 1 Deliverable: Kick-Off Meeting & Initial Memorandum \$5,000.00

Part 2A Deliverable: Interim Memorandum Market Analysis \$10,000.00

Part 2B Deliverable: Expanded Memorandum Market Analysis \$20,000.00

Part 3 Deliverable: Fiscal Impact Analysis \$10,000.00

UP-TO-DATE TOTAL FEE FOR SERVICES \$45,000.00

Less Payment Received (\$35,000)

Total Due This Invoice \$10,000.00

(Handwritten circle around \$10,000.00)

FOC

9. Jan. 2023

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

Vendor # 15025

A/c # 22178217 - 520000

