

**TOWN OF HARVARD
PLANNING BOARD AGENDA
MONDAY, MAY 1, 2023 @ 7:00PM**

Pursuant to Chapter 2 of the Acts of 2023, An Act Making Appropriations for the Fiscal Year 2023 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects, and signed into law on March 29, 2023, 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.

Join Zoom Meeting

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Passcode: 968801

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Public Comment

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

New Business: a) Bylaw Violations at 320 Ayer Road (§125-23B Expired Special Permit & §125-20 activity detrimental to the natural environment, including wetland resources)

Public Hearings:

Standard Business: a) Board Member Reports

- Representatives & Liaisons Update
- Community Matters

b) Approve Minutes
c) Invoices

**NEXT SCHEDULED MEETING:
MONDAY, MAY 15, 2023**

AS



Town of Harvard
REQUEST FOR PROPOSAL
For
Planning Consultant
RFP 2023-001

Town of Harvard
Request for Proposal
For Planning Consultant
RFP 2023-001

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Attachments

- A. Pricing Form
- B. Certificate of Non-Collusion
- C. Statement of Tax Compliance

Executive Summary

The Commercial Zone along Ayer Road in Harvard, MA, may offer the best opportunity for the Town to develop a commercial tax base to offset the existing residential and agricultural tax burden. The approach must be measured, sensitive to the desires and expectations of the citizens of Harvard, and align with sustainability and smart growth principles important to the Town. Input from residents was collected in 2016 during the master planning process. Additional resident feedback has been in the form of responses to business-oriented surveys. Based on strong interest for appropriately scaled development, a framework for action was developed as part of the Town's Economic Development work program in 2021-22. The framework recommended a 3-phase strategy for planning and regulating the development and re-development of the Ayer Road Corridor. The following steps were recommended:

1. Market Study and Fiscal Impact Analysis – was recently completed and provided the necessary data regarding the types and scales of uses that the market area can support. It shows how much this development could contribute to local municipal revenues. It does not determine whether all of the development that is viable should be pursued. This needs to occur during the Vision Plan phase.

https://www.harvard-ma.gov/sites/g/files/vyhlf676/f/uploads/final_report_1-5-23_harvard_market_study_fiscal_impact_analysisrevised.pdf

2. Vision Plan – This will be a comprehensive strategic plan for a specific area, the Ayer Road commercial district, which will include infrastructure, traffic and transportation network analysis, land use and zoning analysis, design analysis, sustainability and climate change factors, public and stakeholder outreach, and other criteria relevant to studying the commercial and other land use objectives of the town while preserving and protecting what is important to the town's character as Harvard moves forward.

3. Zoning and Regulatory Tools – An anticipated result of the Vision Plan is a recommendation to significantly improve the zoning and other regulatory tools that govern the C District along Ayer Road. Once these tools are in place and other facets of the Vision are achieved, then the desired type and scale of development can commence with much less concern over the outcome and impacts. It needs to be noted up front that water and sewer infrastructure probably will not be available for district lands until this regulatory framework is in place.

These three (3) steps have been identified as critical because meticulously building a convincing argument for the type and scale of development that could be of immense value to the Town of Harvard is a required prerequisite. This argument requires hard data on marketability as well as net positive fiscal impact. It requires significant public input into design and outreach regarding development impact as well as what should be preserved and protected. Finally, it requires a predictable tool for both citizens and the developer to assure that the vision developed in the Plan is achieved. It is important to note that the analysis, planning, and potential creation and adoption of zoning tools to achieve the desired outcomes constitutes a public process. Inherent in this process is continuous public outreach and feedback.

Request for Proposals

The Town of Harvard invites proposals to provide consulting services to complete both a Vision Plan and Form Based Code. Together, these will serve as the framework for the Town's Ayer Road Corridor Commercial District, and guide the Town's development as envisioned in the 2016 Harvard Master Plan. The 2016 Harvard Master Plan describes the strong and widespread interest of residents for a re-imagined and re-vitalized Ayer Road Corridor, also known as the C District. Re-vitalization of Harvard Ayer Road Corridor includes potential changes to the Town infrastructure within the C-District including the introduction of water and sewer services, Complete Street improvements, public gathering areas and public amenities.

In 2019, the town adopted a three-phase plan for achieving desired growth in the commercial district. Harvard recently completed the first phase, a comprehensive *Market Study and Fiscal Impact Analysis*. The Town now wishes to engage a planning consultant to lead it in implementing the remainder of the project.

The remaining project will be segregated into two distinct phases: Phase Two and Phase Three.

In Phase Two, a planning consulting service will complete the Vision Plan for the Ayer Road Corridor.

Phase Three will be to employ a set of zoning tools to facilitate the vision. This is anticipated to be a "form-based" zoning model that is a prescriptive, graphic-based zoning tool that pre-establishes the building form, siting and bulk.

The scope of the Phase 2 work is as follows:

- Based on the results of the Phase I *Market Study and Fiscal Impact Analysis* to identify options for commercial and residential development of the C-District area that address community goals of re-vitalizing the Ayer Road Corridor while preserving the small-town, historical and rural atmosphere of Harvard.

- Prepare economic impact analyses including Cost/Benefit Analyses of such options.
- Lead meetings to gain input from residents.
- Create the visual graphics and precise options for community evaluation.

The scope of the Phase 3 work is as follows:

Prepare proposed zoning bylaws and associated Form Base Code to be presented to Harvard Town Boards for their support and ready for Town Meeting to present for ratification at Harvard Town meeting.

- Assist with community outreach and engagement with town boards.

Background & Goals

The Town seeks to develop the C-District into a corridor that can support commercial and residential development, redevelopment and restoration, provide amenities for the public and preserve the natural resources of the area. The Town envisions clusters of mixed-use sites that include retail, residential, and residential service businesses with connected walkways and open spaces. A commercial district that presents itself as a small-town New England village while reflecting the history of Harvard as a farming village is a vision shared among many residents.

The Town may need to provide modern waste management infrastructure to the C-District to address and mitigate potential health threats from failing septic systems in and around the Ayer Road Corridor. Potential questions and issues that may arise and be addressed include:

- What combinations of commercial and residential, and mixed-use sites provide the greatest benefits to the Town? Consider economic, social, environmental, and public safety-related including traffic flow and transportation, and pedestrian access
- What is the appropriate scale of development? What scale can be supported within the district, and how do stakeholders feel about development at that scale? This project is to reimagine the Ayer Road Corridor with resident support.

The process for determining proposed changes to zoning bylaws and developing alternative visions for how the C-District might be developed need to include extensive outreach and input from all stakeholders including Town residents, business and property owners, Town Counsel, and Town Boards and Committees. Any proposed zoning regulations and strategies designed to foster development and re-vitalization of the C-District need to balance the small-town, historic and rural atmosphere that defines Harvard. All models showing development options for the C-District must include an economic impact analysis measuring the costs and benefits to the Town and stakeholders.

II. SCOPE OF WORK

a. Conduct community-wide meetings and forums to gather input from Town residents in addition to meeting with Town Boards, Committees, officials, property and business owners, as needed to create the Vision Plan.

b. Use 3-D Computer Aided Design (CAD) software to develop four different architectural/landscape renditions of potential Ayer Road Corridor solutions. CAD design software may include, but not be limited to, Sketchup Pro and Turbo CAD Deluxe capable of generating animations in which lot coverage and building heights can be dynamically altered. One rendition shall be based on the existing conditions of the C-District. The remaining three shall each present varying density and different types of structures, including those of varying heights, and which may require changes in zoning bylaws.

c. Using the four renditions prepared in b. above, prepare an economic impact analysis of each, using (at a minimum) the U.S. Bureau of Economic Analysis as standards.

1) Include current trends in U.S. retail industry along with trends in housing in Harvard and in the I-495 corridor and other pertinent factors developed in consultation with the Town.

2) Compare and contrast the results of the Weitzman economic impact analyses with the vision and goals set out in the 2016 Harvard Master Plan.

d. Prepare renditions created in b. above, in a form suitable for inclusion in Harvard's website and in a format that allows users to see each rendition with brief descriptions and associated economic impact analysis.

e. Participate in no less than five (5) meetings or as many more as needed to get the job done to present final plans and recommendations to the Town via community-wide forums, meetings with Town Boards and Committees and at Town Meeting. Attending either virtual or in-person meetings may be negotiated.

f. Framework Paper: Work with Town Counsel to advise and inform the Town concerning results of initial assessments of zoning bylaws. Present framework paper with initial results and assessments. Outline policy decision points and gather feedback from Planning Board, Select Board, residents, property owners, and business owners.

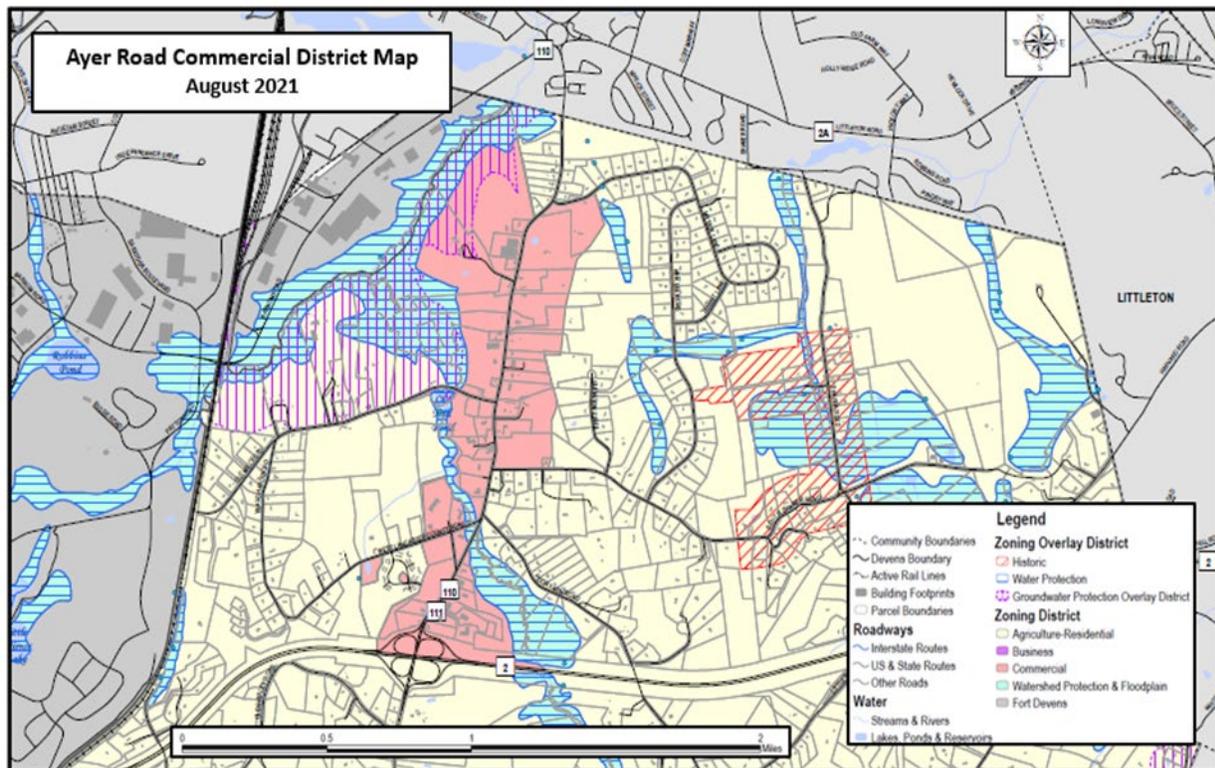
g. Outline Zoning Bylaw Amendments: Consultant will lead Town Counsel with the formulation and presentation to Select Board, Planning Board, and an outline and descriptions of zoning bylaw changes.

h. Work with Town Counsel to formulate and present to Select Board, Planning Board, and staff rationales for such alterations to zoning bylaws. This may be done by virtual meetings.

i. Public Outreach to current property owners in the Harvard C-District, residents and stakeholders. Consultant will provide close to final draft requiring only minor modification for descriptions of zoning bylaw amendments and associated mapping, including the rationales and logic that reduce or eliminate limitations and fears that might impede revitalization of the Harvard Ayer Road Corridor as described in the 2016 Harvard Master Plan.

j. Final Draft Zoning Bylaw Amendment for Public Hearing: Consultant will do the work and will receive assistance from Town Counsel and Planning Board for public outreach documents for the Public Hearing and in preparation for Town Meeting, including any maps. Consultant will provide Town Counsel with drafts of Planning Board regulations to implement proposed zoning bylaw amendments. Consultant will include pictures and diagrams of what the C-District will look like to help with clarity.

k. Provide required reporting information for state agencies and Planning Assistance Grant.



III. MINIMUM QUALIFICATIONS

- a. The firm and its team must have at least five years of experience in municipal design, town economics, planning, public policy, management consulting, architecture, and statistics.
- b. The principal and project manager to be assigned to this project must be available for meetings with the Town on weekdays or evenings, as required and be reasonably available for municipal meeting schedule.
- c. The firm must have previous experience in the management of public information processes, conducting assessments, and drafting of municipal zoning regulations. Completion of two such projects in municipalities within the last five years is required, and completion of at least five overall is desired.
- d. The firm must have proven experience in the public sector and working with federal state and municipal agencies as well as business organizations.
- e. The volume of the firm's current and projected workload must not adversely affect its ability to immediately initiate work and to follow through with the project in a timely and professional manner. The firm and all team members must be capable of devoting a significant amount of time in this project in order to complete the work within the schedule outline in this RFP.
- f. Significant experience developing and implementing public participation techniques such as holding public stakeholder and neighborhood meetings conducting key persons interviews and developing citizen surveys.

Timeline and Period of Performance

Contract Value: Not to Exceed \$240,000

Phase Two: \$155,000.00 (9 months maximum),

Phase Three: \$85,000.00 (9 months maximum).

Phase Three option shall be submitted as an Add Alt. / option, and will be authorized upon completion of an interim review of the Phase Two progress. The Phase Three option shall be priced and estimated separately, and the combined Phase Two and Phase Three proposals will be evaluated as a package.

Assessment criteria for progress into Phase III shall be:

1. Timely completion of planned Phase II milestones and commitments
2. Successful completion of community forums and meetings as identified in the Phase II Statement of Work.
3. Identification of concepts for the four potential Ayer Road Corridor solutions, scaled appropriately and consistent with the rural character of Harvard considering:
 - a. Open Space
 - b. Traffic
 - c. Infrastructure, especially water and waste management
4. Completion of at least one of the architectural/landscape renditions for the four concepts, preferably the rendition that represents current Ayer Road Corridor conditions.

Proposals Due: 15 June 2023

Interviews – Late June into early July

Evaluations Complete - initial notifications: 6 July 2023

Contract Award, Phase Two Authority to Proceed: No Later Than 31 July 2023

Interim (Phase Two) Review: No Later Than 20 December 2023

Phase Three Option Exercise and Authority to Proceed: 3 January 2024

Phase Two Vision Plan Final Submission: 1 April 2024

Phase Three Master Final Development Plan and Code Report: 15 June 2024

IV. COMPARATIVE EVALUATION CRITERIA

The selection committee will be comprised of a member of the Select Board, a member of the Planning Board, a member of the Zoning Board of Appeals and the Director of Planning. They will review all proposals to determine which contain all proposal submission requirements and meet the minimum qualifications. Those that do not meet the minimum criteria will not be accepted. Those proposals that contain all proposed submission requirements and meet the minimum qualifications may be asked for an interview and will be evaluated based on the following comparative evaluation criteria:

a. **Ability and knowledge** to explain how Consultant will solve this for the Town of Harvard. Consultant's team will explain how they will serve as a resource to the town as evidenced by direct involvement in (1) projects utilizing innovative zoning techniques, (2) projects involving public-private ventures and innovative economic development practices, (3) projects utilizing mixed-use revitalization strategies, (4) ability to create and use dynamic architectural renditions of municipal development projects suitable for deployment in mixed media including websites, and (5) ability to use cost/benefit analytic techniques and other economic impact assessment tools appropriate and valid to provide outcome models suitable for the municipal setting, as well as available to aid public understanding of options.

Highly Advantageous: substantial involvement i.e., lead consultant in each of the five types of projects specified.

Advantageous: involvement in each of the five types of projects specified.

Not Advantageous: involvement in at least two of the five types of projects specified.

Unacceptable: involvement and no more than one of the five types of projects specified.

b. **Staffing plan and methodology**: including the professional qualifications of all project personnel with particular attention to training, educational background, and professional experience. Demonstrated expertise and experience of the principal in charge project manager and other key personnel, and any consultants to be assigned to the project, including professional registration of the consultants and their qualifications:

Highly advantageous: the plan of services proposes a detailed, logical, creative and highly efficient scheme for producing a complete project that addresses all of the required issues and meets all of the minimum applicant qualifications detailed in Minimum Qualifications.

Advantageous: the plan of services proposes a credible scheme for producing a complete project that addresses all of the required issues and meets all of the minimum applicant qualifications detailed in minimum qualifications.

Not advantageous: the plan of services is not sufficiently detailed to fully evaluate, or the plan does not contain all the components necessary to produce a complete project that addresses all of the required issues and meets all the minimum applicant qualifications detailed in minimum qualifications.

Unacceptable: the plan of services does not meet all of the minimum applicant qualifications detailed in minimum qualifications.

c. **Depth of experience** with similar projects, and prior experience with public contracts and relevant codes, laws, regulations, economic impact analyses in the municipal setting, design and architecture:

Highly advantageous: the consultant has at least five years of experience consulting with municipalities on projects of similar size and scope to this project.

Advantageous: the consultant has at least three years of experience consulting with municipalities on projects of similar size and scope of this project.

Not advantageous: the consultant has had less than three years of experience but more than one year consulting with municipalities on projects of similar size and scope to this project.

Unacceptable: the consultant has less than one year of experience consulting with municipalities on projects of similar size and scope in this project.

d. **Demonstrated Performance**: prior client satisfaction with working relationship, project management, capabilities, and technical expertise in developing similar projects:

Highly Advantageous: Feedback from four or more clients who indicate that the projects on their behalf were completed satisfactorily, within budget and on schedule with minimal insignificant delays.

Advantageous: Feedback from three or more clients. One client indicates a project was not completed within budget or with substantial delays attributable to the consultant. No current project or project completed in the last three years has experienced substantial delays or overruns attributed to the consultant.

Not Advantageous: Feedback from two or more clients. More than one client indicates a project was not completed within budget or with substantial delays attributable to the consultant. No current project or project completed in the last year has experienced substantial delays or overruns attributed to the consultant.

Unacceptable: fewer than two clients who consider client services satisfactory, or three or more clients who consider services, budget or schedule unsatisfactory.

e. **Desirability of approach** to the project as well as a demonstrated understanding of all project components and public outreach needs. Harvard places a premium on the applicant's approach to the project and the ability to present a program of services which complies with the required project scope in a manner which is clear, concise and complete with respect to required activities and creative with respect to including unique or fresh methods of gathering input and presenting concepts.

Highly advantageous: the response contains a clear, creative, and comprehensive plan that addresses all of the project objectives stated in the RFP.

Advantageous: the response contains a clear plan that addresses most of the project objectives stated in the RFP.

Not Advantageous: the response does not contain a clear plan that addresses most of the project objective stated in the RFP.

Unacceptable: the response does not contain any plan to address the project objectives stated in the RFP.

f. **Specifics to uniqueness and nuances of this project (lack of water & sewer, dealing with sprawl)**:

Highly Advantageous: very familiar with these rural challenges.

Advantageous: some familiarity with these rural challenges.

Not Advantageous: minimal familiarity with these rural challenges.

Unacceptable: unfamiliar with these rural challenges.

V. PROPOSAL SUBMISSION REQUIREMENTS

Please send questions via eMail to FOConnor@Harvard-MA.gov. Submission of a technical proposal and a price proposal is required. The price proposal must be sealed and submitted separately from the technical proposal. ***The deadline for submitting proposals either in person or by mail is 3:00 PM on Thursday, JUNE 15, 2023. Late proposals will be rejected. Postmarks will not be considered. Submissions must be addressed to Town of Harvard, Town Procurement Office; 13 Ayer Road, Harvard, MA 01451.*** All submissions must be size 12 font Times New Roman.

a. Technical Proposal: Five (5) printed copies of the technical proposal must be submitted in a sealed envelope, along with one electronic version on a USB stick, clearly marked:

PROPOSAL ENVELOPE A – *TECHNICAL SUBMISSION*

TOWN OF HARVARD – PLANNING CONSULTANT

Consultant Name:

The Technical submission must contain the following information:

1) **Cover Letter**: a cover letter introducing the Consultant (firm) and the proposal Consultant team, including sub-consultants, and identifying the project manager and the name, title, address and telephone number of the person with authority to negotiate and contractually commit to all services. The cover letter shall be signed as follows: (1) if the respondent is an individual, by her/him personally; (2) if the respondent is a partnership, by the name of the partnership, followed by the signature of each general partner; and (3) if the respondent is a corporation, by the authorized officer, whose signature must be attested to by the Clerk/Secretary of the corporation and the corporate seal affixed.

2) **Table of Contents and page numbers**

3) **Executive Summary**: one page maximum, size 12 font Times New Roman

4) **Statement of Project Understanding and Approach**: A statement, not exceeding two pages, that describes the Consultant's understanding of the project, the Consultant's approach, and key considerations and guideposts that, in the Consultant's view, are essential to project success. What makes your firm the most qualified to perform this work? Please provide specific reasoning and additional information that would uniquely qualify your team for this project and why the Town of Harvard would do well to select you.

5) **Scope of Services:** A proposed scope of services that is detailed and responsive to the project as outlined in this RFP.

- The scope must be detailed by tasks (and subtasks if appropriate) beginning with the tasks identified in this RFP and expanding where the consultant feels is appropriate and necessary.
- It needs to be organized chronologically in clearly defined phases, milestones, or components with proposed completion dates for each. Tasks may overlap or run simultaneously.
- Include an estimated schedule of hours that the Consultant expects to spend on the various project tasks and sub-tasks, broken down by project team member.
- The Town's staffing resources are limited. The proposed scope must, to the extent necessary, define what organizational support would be needed from the Town.

6) **Project Team:** Provide the names and specific educational backgrounds, qualifications and expertise of all professional members of the Consultant's and sub consultant's (if any) project team who will perform the work related to some or all of the project tasks. Identify the person who will be the project manager with ultimate responsibility for the work.

7) **Relevant Experience and Prior Performance:** Provide details of relevant experience and prior performance for all the members of the Consultant team, including the sub-consultant's team members if any.

8) **References:** Respondents shall provide at least two references from municipalities and an additional reference from the private sector.

9) **Competing Commitments:** Respondents shall disclose any commitments that they may have that may compete or interfere with the respondent's ability to perform the Project in an expedient manner.

10) **Certificates:** signed certificates of non-collusion and tax compliance attached to this RFP.

b. **Price Proposal:** Five (5) printed copies of the price proposal are required for submission. The price proposal must be submitted separately from the technical submission, and sealed in a separate envelope marked:

PROPOSAL ENVELOPE B – *PRICE SUBMISSION*

TOWN OF HARVARD – PLANNING CONSULTANT

Consultant Name:

The price proposal must contain:

- 1) The proposed fee for the entirety of all services proposed in the technical proposal, including but not limited to travel, meetings, telephone, postage, and reproduction. 2) A breakdown of the professional service fees by each task and sub-task as shown in the Technical Submission.
- 3) The hourly rates to be charged by the Consultant for services performed by each team member.

4) Consultants must agree to honor price quotes until SEPTEMBER 31, 2023.

Proposal Form

All proposals shall be received and evaluated in conformance with the requirements of Applicable Law and the RFP.

Each proposal set must clearly state “Non-Price Services Submission” and include a separate sealed envelope containing a “Price Submission.”

A Proposal Selection Committee shall separate the “Price Submission” from the “Non-Price Services Submission”. The “Price Submission” will not be opened until a review and ranking of the Services “Non-Price Services Submission” by the Selection Committee.

The Selection Committee will determine whether the Non-Price Submissions contain all Proposal Submission Requirements and meet the Minimum Qualifications set forth herein. Failure of a proposal to contain any submission requirement(s) and/or meet a minimum qualification will disqualify the proposal from further consideration. The Committee shall state in writing its reason for disqualifying any proposal.

Modification of Proposals

A Consultant may correct or modify a proposal by written notice received by the Town prior to the receipt deadline. Modifications must be submitted in a sealed envelope clearly labeled “Modification No. .” Each modification must be numbered in sequence, and must reference the original RFP.

After the receipt deadline, a Consultant may not change any provision of the proposal in a manner prejudicial to the interests of the Town or fair competition. Minor informalities will be waived or the Consultant will be allowed to correct them. If a mistake and the intended proposal were clearly evident on the face of the document the mistake may be corrected to reflect the intended correct proposal, and the Consultant will be notified in writing. The Consultant may not withdraw the proposal. A Consultant may withdraw a proposal if a mistake is clearly evident on the face of the document, but the intended correct proposal is not similarly evident.

Withdrawal of Proposals

Proposals may be withdrawn prior to the time of receipt of proposals, only on written request to the Town. No Consultants shall withdraw their proposals within a period of sixty (60) days after the date set for the receipt of proposals.

Unexpected Closures

If at the time of the scheduled receipt deadline, the Town Offices are closed due to uncontrolled events such as fire, snow, ice, wind, building evacuation, etc. the receipt of proposals will be postponed to the next normal business day at the time posted in the Requests for Proposals. Proposals will be accepted until that date and time.

Rule for Award of Contract

A contract will be awarded to the Consultant offering the most advantageous proposal, taking into consideration all evaluation criteria as well as price. The Town reserves the right to reject any or all proposals as it deems to be in the best interest of the Town.

Execution of Contract

Upon the acceptance of selected consultant's submittal, the Town will incorporate into its Standard Contract, appropriate specifics for this procurement and submit the contract to the successful consultant for signing. In the event that the selected consultant fails, neglects or refuses to execute the contract within a specified number of days after receiving a copy of the contract from the Town, the Town may at its option terminate and cancel its action in awarding the contract and the contract shall become null and void and of no effect.

Incorporated by reference into the contract to be executed by the Town and the selected consultant will be all of the information presented in or with this RFP and the accepted portions of the consultant's response thereto.

ATTACHMENT A
PRICING FORM

As part of the package to standardize responses:

1. Proposed Fee:

The total fee (including expenses) is a flat fee of \$240,000.00 for the two above referenced tasks. Consultant may proceed to bill based on completion of tasks.

Phase 2 cost: _____

Phase 3 cost: _____

- a. Fee Proposal. Identify lump sum fees for which Respondent would be seeking compensation with the task breakdown.
- b. Fee Schedule. Please provide a current fee schedule for the types of service(s) that you offer. If referencing basic services costs, include typical staffing expectations and variations that the Town could expect for specific types of projects, if applicable.
- c. Please also provide detailed information on your billing practices (i.e., lump sum, percentage-based, other), including reimbursable cost categories and hourly billing rates by position for additional services. Additional Costs. Identify any additional fees, costs, expenses or reimbursable fees for which Respondent would be seeking compensation.

Consultants/Professional Fees: \$-

Meeting Express/Events: \$-

Project Supplies/Materials: \$-

Other/Miscellaneous: \$-

(Add others if necessary): \$-

Total Budget: \$ 0.00

ATTACHMENT B
CERTIFICATE OF NON-COLLUSION

The undersigned certifies under the penalties of perjury that this proposal or bid has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word “person” shall mean any natural person, business partnership, corporation, union, committee, club or other organization, entity or group of individuals.

Signature of person submitting contract/proposal Date

Name of Business

ATTACHMENT C
STATEMENT OF TAX COMPLIANCE

Pursuant to M.G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

*Social Security Number or
Federal Identification Number*

*Signature of Individual or
Corporate Name*

Date

Corporate Officer (if applicable)

§ 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.
 - (3) The OSC-PRD will aid the Town in developing sustainable housing and associated infrastructure in harmony, as much as possible, with the Town's Climate Action Plan.
- 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.

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.

- (b) Multi-family dwellings.
- (c) Agriculture and horticultural uses including but not limited to orchards, vineyards, forestry, farming for fruits and vegetables.
- (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
- (j) Site Development Climate Mitigation Plan. All features which are sustainable and designed to help mitigate climate impact should be included in this plan. This plan should specifically address, but not be limited to, the following areas.

[1]. Heating and Cooling. How the development will be heated and cooled. The plans to use heat pumps or a geothermal system to heat and cool the buildings. Electrification of all systems and appliances.

[2]. Energy Generation. Solar panels should be considered to the maximum extent. Include how much power they will provide both in absolute kilowatt-hours and as a percentage of the total electricity requirements.

[3]. Energy Use and Resource Use Minimization. Roofing that minimizes heat loss and cooling loss. LED lights should be installed in all common areas. Water-saving fixtures should be installed in units as well as for landscaping.

[4]. Parking. EV chargers installed with infrastructure to expand capacity based on anticipated growth. Include percentage of the anticipated automobile population that will be served by the chargers and the anticipated expansion readiness. Parking to be pervious to reduce runoff.

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

[5]. Landscaping. Any trees removed from the site to be replaced with trees of equal size or compensated by more trees than removed. Shade trees be planted in areas to offset heat from parking areas. Drought-tolerant and native plants to be used in the landscaping.

[6]. Site Infrastructure. Composting and recycling stations available to all residents. Rain water collection site to reduce water usage.

[7]. Open Space. Open space to be landscaped naturally or with grass that does not require regular mowing. No pesticide use given proximity to agricultural lands and waterways.

- (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 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.
 - (9) Consistent with the Town of Harvard Climate Action Plan, with sufficient conservation and sustainability in the design of the development.
- 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.
 - (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 ten units per acre. Increased permissible density will be allocated as the following conditions are met:

(a) Additional Open Space Preservation

[1] The applicant proposes a significant increase in open space above 50%, and preserves significant natural resources.

[2] 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.

(If (a)[1] or (a)[2] above are found to be satisfied, in the opinion of Planning Board, it may authorize a 2 unit per acre increase over base density.)

- (b) 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 (b) above is found to be satisfied, in the opinion of Planning Board, it may authorize a 1.5 unit per acre increase over base density.)

- (c) 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 (c) above is found to be satisfied, in the opinion of Planning Board, it may authorize a 1.5 unit per acre increase over base density.)

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

- (e) The development incorporates at least five elements of environmentally conscious design including, but not limited to heat pump/geothermal climate controls, smart windows, solar panels, smart outlets, LED lighting, conservation-minded landscaping, and low-flow water fixtures.

(If (e) above is found to be satisfied, in the opinion of Planning Board, it may authorize a 1.5 unit per acre increase over base density.)

Condition	Units per acre	Additional Units per acre
Base Density	2	
(a) Additional Open Space Preservation		2
(b) Substantial Benefit to Town		1.5
(c) Senior Housing		1.5
(d) Affordable Housing		1.5
(e) Environmentally Conscious		1.5
Maximum Density if all conditions met	10	

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 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.

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.

- (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 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 passage way(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.
- (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.
- (3) **Parking.** Unless otherwise approved by the Planning Board, a minimum of 1.5 and maximum of 4.52 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.

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

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 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.

OFFICE OF THE
PLANNING BOARD

13 AYER ROAD HARVARD, MA 01451 PHONE: 978-456-4100 FAX: 978-456-4119



Mr. Grant I. MacLean, Manager
Chestnut Tree and Landscape L.L.C.
320 Ayer Road
Harvard, MA 01451

April 25, 2013

RE: Protective Bylaw Violations at 320 Ayer Road by Chestnut Tree & Landscape.

Mr. MacLean,

The Harvard Planning Board has recently become aware of violations of the Town of Harvard Bylaw as it pertains to the provision of §125-23B at 320 Ayer Road by Chestnut Tree & Landscape. Specifically, the Special Permit issued on 17 August 2020 to Chestnut Tree & Landscape lapsed on 17 August 2022. It was witnessed by municipal staff that a second company is utilizing the site but is not listed on the Special Permit that was issued in 2020.

In addition, Chestnut Tree & Landscape appears to have violated §125-20A, where 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. On page 4 of the 2020 Special Permit, a special condition was applied as recommended by the Conservation Commission to no activity shall occur within 200' of the pond or 100' of the bordering vegetated wetland (BVW) without the proper permit of the Conservation Commission. Recent photographs show this condition has not been honored.

We are aware that a Licensed Site Professional will be investigating the parcel to determine the full extent of violations caused by activities with 200 feet of the pond or 100 feet of the bordering vegetated wetland without the proper permit of the Conservation Commission. The assessment of the LSP will guide the process for cleanup of contamination at the site, which may result in fines.

The Planning Board is requesting your presence at its meeting on Monday, 15th MAY 2023 at 7pm to discuss these provisions of the Protective Bylaw. If you were to require any additional information, please feel free to contact us through the Director of Planning, Mr. Frank O'Connor, Jr. Thank you for your cooperation.

For the Board,

Richard Cabelus
Chair

OFFICE OF THE
PLANNING BOARD

13 AYER ROAD HARVARD, MA 01451 PHONE: 978-456-4100 FAX: 978-456-4119



April 25, 2013

Mr. Jeff Hayes
Inspector of Buildings/Zoning Enforcement Office
Town of Harvard
13 Ayer Road
Harvard, MA 01451

RE: Protective Bylaw Violations at 320 Ayer Road by Chestnut Tree & Landscape.

Mr. Hayes,

The Harvard Planning Board has recently become aware of violations of the Town of Harvard Bylaw as it pertains to the provision of §125-23B at 320 Ayer Road by Chestnut Tree & Landscape.

Specifically, the Special Permit issued on 17 August 2020 to Chestnut Tree & Landscape lapsed on 17 August 2022. In addition, there is evidence of a second business operating out of the same location that is not listed on the expired permit.

Further, Chestnut Tree & Landscape appears to have violated §125-20A, where 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.

A special condition was applied as recommended by the Conservation Commission to no activity shall occur within 200' of the pond or 100' of the bordering vegetated wetland (BVW) without the proper permit of the Conservation Commission. This has not been honored.

The Planning Board is requesting enforcement of these provisions of the Protective Bylaw. If you were to require any additional information, please feel free to contact us through the Director of Planning, Mr. Frank O'Connor, Jr. Thank you.

For the Board,

Richard Cabelus
Chair

**HARVARD PLANNING BOARD
MEETING MINUTES
OCTOBER 17, 2022**

Chair Richard Cabelus called the meeting to order at 7:01pm virtually, 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, and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

Members Present: Richard Cabelus, Stacia Donahue, Brian Cook, Arielle Jennings and John McCormack (Associate Member)

Others Present: Frank O'Connor (Director of Planning), Liz Allard (Land Use Administrator), Valerie Hurley (Harvard Press), Ellen Sachs Leicher, Ken Atwell, Bruce Ringwall (GPR, Inc), Erin McBee (Select Board liaison) and Kara McGuire Minar, Kerri Green (Ag Commissioner)

Public Comment

There was no public comment this evening

Approve Not Require Endorsement – Littleton County Road (Map 19 Parcel 67.1)

Chair Cabelus asked if Liz Allard had any comments. Allard said Bruce Ringwall was available to explain the plan. Ringwall highlighted the proposal and explained the shape factor in the bylaw to avoid strange shapes such as dumbbell or spaghetti shaped lots. Allard asked Ringwall if the applicant were going to return to combine the smaller parcels. Donahue asked about the easement. Ringwall did not know what the property owner would do with those easement rights. Donahue made a motion to endorse the Plan of Land in Harvard, Mass., prepared for Luciano Manganella, 135 Commonwealth Ave, Unit B Boston, MA 0216, prepared by GPR, Inc., Job 221108, dated September 29, 2022. Jennings seconded the motion. The vote was unanimously in favor of the motion by roll call, Donahue, aye; Cook, aye; Jennings, aye; and Cabelus, aye.

Review comments on the Market Analysis and Fiscal Impact Analysis for the Ayer Road Commercial District from the Board and others to provide those to Weitzman

Cabelus asked O'Connor to share his thoughts on the comments from the Planning Board members related to the draft of the Weitzman Report. O'Connor said the comments were not edited but that he did remove names because with anonymity came authenticity and free flowing thoughts. O'Connor said the ideas could be cleaned up, whittled down and prioritize what they share with the team at Weitzman. Cabelus asked if the members had any thoughts or questions. Jennings asked about a lack of specific rezoning options particularly with multifamily a potential constraint to development. Cabelus said they could ask the consultant for more specifics such as what part of the bylaw is constraining. Allard thought this phase was to deal with financials and that future phases would deal with zoning. McCormack asked about potentially changing the boundaries of the C-District and where does multifamily zoning fit into all of this area. O'Connor said he spoke with the point person at Weitzman about various taxes and fees in the C-District as part of the final deliverable, especially with water & sewer. Allard added that Phase 3 would deal with updating the zoning bylaws. Cabelus told O'Connor to clean up the questions and comments to send to the consultant. Cabelus said it is a work in progress and we are still in the early phases. O'Connor mentioned a member of the Select Board had contributed comments, also.

Continuation of a Special Permit, Ayer Road Village-Special Permit and Site Plan Review - Yvonne Chern & Wheeler Realty Trust, 203 Ayer Road. Opened at (see page 4 for complete details)

54 **Proposed Protective Bylaw Amendment §125-7 Agricultural Uses**

55 • Draft of comments / concerns to the Select Board

56 • Review Procedural Process for Public Hearing

57 Cabelus asked if the public hearing info were posted. Allard explained it was submitted to local paper to
58 run on consecutive Fridays. Cabelus referenced the letter written by O'Connor on behalf of Planning
59 Board to the Select Board. Cabelus asked O'Connor if he were interested in adding comments. O'Connor
60 said he reviewed the Zoom meeting and kept everything in the same sequential order. Cabelus was not
61 sure if it were going to have any beneficial or appropriate to send the letter to Select Board at this time.
62 Donahue felt sending the letter would help Select Board understand what would come up in the Public
63 Hearing. Select Board member McBee asked if it were to issue permits for a period of thirty days.
64 Cabelus said yes. Cook said it does not have to be thirty days. He did want to see a timeframe with the
65 permit. McBee asked that the Planning Board do send the letter to the Select Board. McCormack felt the
66 letter was moot at this point because the Rutland bylaw raised several issues need to be addressed but
67 were not in the letter. Minar said the letter raised several good issues and was a starting point. Donahue
68 made a motion to send the letter as amended with the additional information from Agriculture
69 Committee, seconded by Cook. Roll call vote passed unanimously 4-0: Jennings: aye; Cook: aye;
70 Donahue: aye; and Cabelus: aye.

71
72 Cabelus started the topic of Review of Procedural Process. He said this is part of the treatises for Land
73 Use. Cabelus inquired how procedurally does this work. Allard mentioned she looked to Mass Planners
74 for guidance on bringing a bylaw amendment from the board of selectmen. Cabelus stated there are
75 three ways to initiate the adoption or change of zoning bylaws and in this instance, it came from the
76 Select Board. Cabelus said this would not be a joint hearing with Select Board. Cabelus said the statute
77 allows that the Planning Board *may* make recommendations and is advisory in nature.

78
79 Cabelus conferred with Allard that the Planning Board would have its Public Hearing and then could
80 choose to endorse the amendment or not endorse it as it saw fit. This proposed amendment could be
81 voted on at Town Meeting early next year. Cabelus said the Planning Board would need language to
82 define or limit accessory entertainment and events. He referenced an example from New Jersey. He
83 added that he thought limiting language would be helpful. Cook said it was good and gave an example if a
84 secondary use overtook the agricultural component of a farm. McCormack said the Rutland bylaw was
85 very good.

86
87 Cabelus invited Ms. Kerri Green to speak about the topic. She identified herself as a member of the
88 Agriculture Commission. Green said the Ag Commission would be meeting on 26th of October. McBee
89 asked if the Planning Board were going to add a definition of entertainment. McBee said a license would
90 need to be issued. Minar said there would be concerns for septic at events also. Cook said there needs to
91 be clear and limiting language to get passed Town Meeting. McCormack asked if there were language
92 available for the Town Center Entertainment District. Allard said language was received from Town
93 counsel earlier today and she would get that link out immediately. McBee said she thought it would be an
94 Overlay District for Town Center Entertainment. Cook added there might be a way to implement stream
95 lined container with a limit on the Special Permits.

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98 **Open Space Residential Development Bylaw Amendment**

99 Donahue wanted to make a motion to skip over Open Space Residential Development. This item was
100 passed over this evening.

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106 **Multi-Family update on MBTA adjacent small town housing mandate action plan**
107 Cabelus asked how the process for the Harvard Action Plan was proceeding. O'Connor said he submitted
108 the first draft of the Action plan to Massachusetts Department of Housing and Community Development.
109 O'Connor added he has a peer review by DHCD scheduled for next week. Cabelus said the next step was
110 to identify potential sites for mapping the multi-family district(s).

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Board Member Reports

• **Representatives & Liaisons Updates**

• **Community Matters**

- McCormack said the Harvard – Devens commission would present its updated plans at a public meeting Wednesday, October 19, 2022 at 7:00pm
- Donahue said she had attended a Transportation Advisory committee meeting. They are finishing MRPC update and will present to Select Board soon. Donahue said \$250,000 funds for the second phase of Ayer Road Visioning Plan were allocated to Harvard. She thought the funds were ARPA.
- Kara Minar said next Select Board meeting will be Nov. 1, 2023. She inquired when the Planning Board wanted to meet to discuss Agriculture and Entertainment bylaws. Cabelus said it would be good for Select Board to send an invitation for Planning Board to attend.
- Ellen Sachs Leicher said Climate Action Plan goals that would impact the Planning Board is in draft report and waiting on public comments until Nov. 4, 2023. She would appreciate any feedback by that date. She mentioned there might be money available for bylaw amendments. Allard asked if there were a reason for adopting a Land Clearing bylaw, which she thought was the Erosion Control bylaw. There was a question about which group would handle invasive plants and insects at Bare Hill Pond. Cabelus instructed O'Connor to circulate the draft to the Planning Board members.

Approve Minutes

None available this evening for approval

Approve Invoices

Donahue made a motion to approve the following invoices as submitted:

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

Cook seconded the motion. The vote was unanimously in favor of the motion by roll call, Donahue, aye; Cook, aye; and Cabelus, aye.

Adjournment

Donahue made a motion to adjourn the meeting at 9:15pm. Cook seconded the motion. The vote was unanimously in favor of the motion by roll call, Donahue, aye; Cook, aye; and Cabelus, aye.

Signed: _____ Frank O'Connor, Jr., Clerk

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EXHIBITS & OTHER DOCUMENTS

- Planning Board Agenda October 17, 2022
- Plan of Land in Harvard, Mass., prepared for Luciano Manganella, 135 Commonwealth Ave, Unit B Boston, MA 0216, prepared by GPR, Inc., Job 221108, dated September 29, 2022.

Harvard Planning Board

Continuation of a Special Permit, Ayer Road Village-Special Permit and Site Plan Review

Yvonne Chern & Wheeler Realty Trust, 203 Ayer Road

October 17, 2022

The public hearing was opened at 7:30pm by Chair Richard Cabelus under MGL Chapter 40A the Zoning Act and the Code of the Town of Harvard Chapter 125 the Protective Bylaw virtually pursuant to Chapter 22 of the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of Emergency, and signed into law on July 14, 2022

Members Present: Richard Cabelus, Stacia Donahue, Brian Cook, Doug Thornton, Arielle Jennings and John McCormack (Associate Member)

Others Present: Frank O’Connor (Director of Planning), Liz Allard (Land Use Administrator), Bruce Ringwall (GPR, Inc.) and Lou Russo (Wheeler Realty Trust) Kara Minar (Select Board member)

This hearing was continued from September 12, 2022 for a Special Permit, an Ayer Road Village-Special Permit and Major Building Special Permit and Site Plan Review filed on behalf of Yvonne Chern & Wheeler Realty Trust for the development of three commercial use buildings, including a Commercial Entertainment and Recreation use at 203 Ayer Road, Harvard.

Cabelus asked Ringwall if he were interested in starting the discussion. Ringwall exhibited a plan of the entire parcel. Ringwall showed several acres of the parcel that would remain undeveloped as part of the proposed project. Ringwall mentioned that the proposal had met the required frontage. Ringwall mentioned some of the incentives that came with the Ayer Road Special Village Permit. Donahue asked if anything were submitted to the Design Review Board. Ringwall said he was preparing to present to the DRB but that he was waiting for clear guidance if the materials for the DRB would include all three buildings or just the badminton facility. Jennings asked what was the benefit of going forward with just the badminton facility. Cabelus said the there was a meeting where applicability of the Ayer Road Special Permit was discussed. Cabelus said if Ringwall wanted the multi-use village development, it needs to meet §125-5E to avoid excessive building masses and unbroken façades. Cabelus explained that he believed Building A could be done under §125-37 of the bylaw and Buildings B & C under the Ayer Road Special permit, which is a different part of the bylaw, each independently but still work in harmony.

Lou Russo apologized for not being able to attend the previous meeting. He said he felt Ayer Road Special permit is appropriate. Russo showed renderings of buildings B & C and would appreciate having another meeting that he would be able to attend and discuss the site plan for those buildings. Russo said it was unfair to take away the Ayer Road Special permit and a mistake for the town. Russo said these would be presented to the Design Review Board along with the modifications to the badminton facility. Cabelus asked if there were a specific issue why Russo and Ringwall did not want to bring building A under §125-

211 37 and Buildings B & C under an Ayer Road Village special permit and if that were an impediment.
212 Ringwall said the bylaw allows for multiple buildings to be on a single lot with shared uses and protection
213 areas. Ringwall explained that if the applicant were to put one building on an eleven-acre lot at this time,
214 what is the guarantee the applicant would be able to put the additional buildings on the site later.
215 McCormack asked if Ringwall would do anything differently bringing the proposed buildings separately.
216 Ringwall explained that the Ayer Road Special permit allow dimensional relief. Ringwall said proposal was
217 designed for the three buildings by utilizing the allowed setbacks and shared curb cuts and septic.
218 Ringwall said the applicant was looking to use Buildings B & C as office space under the Ayer Road Special
219 permit. Russo added that the different interpretations of §125-13 and Mixed-Use Village Development
220 are not requirements of the Ayer Road Special permit. Russo said he is not looking for greater density.
221

222 Ringwall asked for an outline of how the proposal is mixed use development. He said proposal is a mixed-
223 use development and not tied to §125-13. Arielle Jennings was looking forward to a discussion of the
224 two main points that are contested. She said it would help her understanding the proposal. McCormack
225 reiterated his inquiry to applicant about what would they do differently if they were not able to get the
226 Ayer Road Village Special permit? Ringwall said it would be at least three lots, broken down with multiple
227 access points. Cabelus asked and Ringwall confirmed that the applicant is looking for incentives under G-
228 1. Ringwall said the applicant is looking for multiple buildings and Title V compliance with the site.
229 Cabelus asked Ringwall what is the specific use if there were not mixed used village development at the
230 site. Ringwall said it would be large scale recreation and office use. Donahue said the wetland replication
231 at the site still needed to be resolved. Ringwall said the applicant is preserving wetlands area and
232 woodlands. He said the only historic structure on the site are stone walls. Jennings said the bylaw is
233 trying to incentives mixed use.
234

235 Select Board member Kara McGuire Minar felt granting the exception then Ayer Road Village special
236 permit would be essentially dead. Cabelus asked Ringwall if it were possible to bring Building A under
237 §125-37 and Buildings B & C under Ayer Road Village special permit §125-52 on separate tracks
238 contemporaneously. Ringwall was not certain how the applicant could frame conditions so he was not
239 bringing one use on eleven acres of land. Russo said that he believes everything allowed under
240 commercial districts in sections 12, 13, and 14 are allowed to work with the Ayer Road Village special
241 permit. Cook said if it were approved, it would gut the bylaw. Cook said the Planning Board is trying to
242 guide applicant through the bylaw. He said it is up to the applicant to come back with a project that
243 meets the requirements.
244

245 Donahue made a motion to continue the public hearing to Monday, November 7th 2023 at 8:30pm.
246 Seconded by Cook. Roll call vote passed unanimously 4-0: Jennings: aye; Cook: aye; Donahue: aye; and
247 Cabelus: aye.
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253 Signed: _____ Frank O'Connor, Jr., Clerk
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**HARVARD PLANNING BOARD
MEETING MINUTES
March 6th, 2023**

10 Chair Richard Cabelus called the open meeting to order remotely consistent with Chapter 22 of the acts
11 of 2022 which had suspended the requirement of the open meeting law to have all meetings at publically
12 accessible locations and allowing all public bodies to meet entirely remotely so long as reasonable public
13 access is afforded so that the public can follow along with the deliberations of the meeting.

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15 **Members Present:** Richard Cabelus, Stacia Donahue, Doug Thornton, Brian Cooke, John McCormack

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24 **Others Present:**

25 Frank O'Connor, Bruce Ringwall, and Lou Russo

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34 **Topics of Discussion:**

- 35 1. Public Commentary (Proposed New Bylaw §125-60)
- 36 2. District Local Technical Assistance Augmentation funds (Transportation & Climate Initiatives)
- 37 3. Perspective MBTA multi-family zoned district map
- 38 4. Continued public hearing of 203 Ayer Rd Village special permit site plan review
- 39 5. Update on Revised Draft Ayer Road Phases II & III (vision plan & zoning to facilitate vision) Invitation
40 for Bid
- 41 6. §125-35 Open Space: OSC-PRD Residential Development Bylaw Amendment

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48 **Discussion Overviews:**

49 **1. Public commentary: Proposed New bylaw §125-60**

50 Steven Moeser started with a concern about the need for accuracy in the documented description the
51 rezoning. Richard Cabelus assured actions required would be taken.

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60 **2. District Local Technical Assistance Augmentation funds:**

61 Grant for technical assistance is still moving forward

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70 **3. Perspective MBTA multi-family zoned district map:**

- 71 • Mapping – The planned maps currently cover all requirements in compliance with the bylaw, but the
72 board is continuing to have backup plans and revisions
- 73 • Stacia shared screen showing the two t-stations focusing on the north and east part of town
- 74 • Specific sections looked at and considered: Craftsman Village, Littleton Road, Old Littleton Road,
75 Littleton County Road, Trail Ridge
- 76 • Note: 15 units per acre needed to be considered a multifamily under new bylaw

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85 **Questions/Concerns:**

86 John McCormack: notes that board should avoid cutting into our commercial zone

87 Stacia noted that she will add to the current list of possible sections to re-zone for future discussions

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96 **4. Continued public hearing of 203 Ayer Rd Village special permit site plan review**

97 *MA Zoning Act MA General Law Chapter 48 Protective bylaw Chapter 125:*

98 Bruce Ringwall and Lou Russo presented to the board:

99 Bruce Ringwall started this topic by presenting changes to architectural plans. Changes such as:

- 48 • Pedestrian path
- 49 • Refuge Area
- 50 • Shadowbox fencing around HVAC
- 51 • Modified planting
- 52 • Modified detention basin shape and size
- 53 • Landscape changes to be more conducive to pollinators
- 54 • Bollards added to modify nighttime lighting/security without too much light pollution
- 55 • Badminton – no windows/natural light to allow badminton to be played better.

56
57 Richard Cabelus suggested all participants look for any possible concerns until the next scheduled meeting
58 Next meeting: March 20th **YEAR** with a possibility of a continuance for April 3rd **YEAR**

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60 *Questions/Concerns:*

61 Brian Cook: Likes some of the changes, but does not agree with some of the designs; potential sightline
62 issue towards men’s urinals

63 Stacia Donahue: Asking on behalf of Parks and Rec - Will there be any community membership
64 opportunities?

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66 Motion: Stacia Donahue made a motion for a continuance for March 20th **YEAR** at 7:05

67 Seconded by Brian Cook

68 Voted yes by: Doug Thornton, Brian Cook, Stacia Donahue, Richard Cabelus

69 *Passed unanimously*

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71 **5. Update on Revised Draft Ayer Road Phases II & III vision plan**

72 May 30th **YEAR** deadline is the deadline for the application, but Frank O’Connor is hoping the invitation to
73 bid will be sent out soon (the earlier the better) so all contracts and parties can be signed on.

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75 *Questions/Concerns:*

76 John McCormack – would the planned \$20,000 be adequate? Brian Cook also believes this money would
77 not cover and that there should be time taken to re-examine how much it will really cost

78

79 **6. §125-35 Open Space: OSC-PRD Residential Development Bylaw Amendment**

80 Starting at Page 5 – The board accepted or struck multiple sections of the drafted wording

81 Some of the main topics covered: Landscaping, Cut Off Shields, Signage use, Base Development density,
82 development incentive and preserving open space (7 units per acre), Affordable housing, dimensional
83 requirements, Common open space

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85 Motion: Brian Cook made a motion to approve January 9th 2023 minutes

86 Seconded by Doug Thornton

87 Voted yes by: Doug Thornton, Brian Cook, Stacia Donahue, Richard Cabelus

88 *Passed unanimously*

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90 **Adjournment: TIME ? ?**

91 Motion: Brian Cook

92 Seconded by Stacia Donahue

93 Voted yes by: Doug Thornton, Brian Cook, Stacia Donahue, Richard Cabelus

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HARVARD PLANNING BOARD
MEETING MINUTES
March 20th, 2023

Chair Richard Cabelus called the open meeting to order remotely at 7:00pm, pursuant to Chapter 2 of the Acts of 2023, An Act Making Appropriations for the Fiscal Year 2023, which has suspended the requirement of the Open Meeting Law to have all meetings at publicly accessible locations and allowing all public bodies to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting.

Members Present: Richard Cabelus, John McCormack, Stacia Donahue, Doug Thornton, Ariel Jennings

Others Present:

Frank O'Connor, Mark Lanza, Mr. Russo, Brian Levy, Eric Loth, Erin McBee, Michelle Catalina, Mark Lanza, Steve Moeser, Ellen Sachs Leisure, Justin Brown, Ken Atwell, Catherine Warner, Kara Maguire, Chris Holmes, Greg Winter, Steve (of Scott Road)

Topics of Discussion:

1. Public Commentary
2. Continuation of Special Permit - Ayer Road Village-Special Permit and Site Plan Review Hearing
3. Ayer Road: pursue Phases II & III (vision plan & zoning to facilitate vision) RFP with funds from Rural & Small-Town Grant award
4. Correspondence on Local technical assistance augmentation funds
5. Special Permit Hearing – DISH Network, 60 Old Shirley Road for installation of collocator equipment
6. Proposed Bylaw Amendment Hearing – Wheeler Realty Trust and 12 Lancaster County Road LLC, 185-189 Ayer Road, for proposed Overlay District

Discussion Overviews:

1. No Public Commentary

2. Continuation of Special Permit - Ayer Road Village-Special Permit and Site Plan Review Hearing

No public comments or concerns.

Motion: Stacia Donahue made a motion for a continuance for 203 Ayer Road's special permit for April 24th 2023 at 7:30pm

Seconded by Doug Thornton

Voted yes by: Ariel Jennings, Doug Thornton, Stacia Donahue, Richard Cabelus

Passed unanimously

3. Ayer Road: pursue Phases II & III (vision plan & zoning to facilitate vision) RFP with funds from Rural & Small-Town Grant award

Frank O'Connor updated the board, starting by expressing a goal to find professional services that work with plans and point board in the right direction. Frank mentioned that he had modified the request from a proposal to an invitation to bid. One benefit of this would mean the board would not be compelled to stay with the same consultant for both phase II and phase III if things do not work out initially. The grant is \$250,000 and Frank suggested applying \$240,000 and using the remained wisely for the benefit of the town of Harvard. The current goal is to have a final draft of the bid for the April 24th 2023 board meeting.

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4. Correspondence on Local technical assistance augmentation funds

Grants were applied for to help transportation group and another to help Harvard Climate Initiative Committee for grant writing help.

Transportation grant approved: Focuses on Old Mill Road to Devens for a bike/walk track by rotary. Harvard Climate Initiative grant not approved due to lack of applicants, but could be accepted in second round of applications.

5. Special Permit Hearing – DISH Network, 60 Old Shirley Road for installation of collocator equipment

Public Hearing: David Bass, attorney with Arrow Smith Development and representative for the owner of the SPA 2012 TC assets LLC tower and the Dish Wireless applicant, updated the board on the current plans of the application. Dish seeking special permit to co-locate antennas on towers of 60 Old Shirley Road and proposing to modify the tower by adding antennas to the existing tower.

This proposal is up to the board to make sure the requests falls under the law and is applicable. David Bass is confident that the application is in compliance and following the law in all aspects.

Note: Frank will send photos to David Bass.

Questions/Concerns:

- Stacia Donahue questioned who would be responsible for damages around the area, citing the winter storm that has currently left the area in need of maintenance.
Answer from David Bass: SBA is the owner of the site and will be made aware of this (Dish is not responsible for this maintenance).
- Stacia Donahue also wanted clarification that the materials used to hide/cover antennas will be put back up after monthly checks. Concerns came from previous times when this was not done
Answer from David Bass: It is a stealth antenna so the materials covering are part of the antenna and will be put back up after each check.

Motion: Stacia Donahue made a motion to continue the discussion for April 3rd 2023 at 7:30pm

Seconded by Doug Thornton

Voted yes by: Doug Thornton, Ariel Jennings, Stacia Donahue, Richard Cabelus

Passed unanimously

6. Proposed Bylaw Amendment Hearing – Wheeler Realty Trust and 12 Lancaster County Road LLC, 185- 189 Ayer Road, for proposed Overlay District

Mr. Russo introduced Brian Levy (attorney drafting bylaw) and Eric Loth (Minco Corporation).

Brian Levy walked through the bylaw and the plans for the development, also stating that the purpose of the bylaw is to assist the town with meeting the 40b obligations and the MBTA community law requirements while also provided other benefits to the town.

Eric Loth presented some preliminary sketches of the plans for the proposed project and how it can potentially cover a majority or all of the town’s needs for the new MBTA requirement for housing.

Jeffrey Dirk, traffic consultant, spoke on the initial proposal’s location and how it is beneficial being close to Route 2, potentially putting minor strain on Harvard’s public transportation.

Questions/Concerns:

- Richard Cabelus had some general concerns about the open-ended wording.
- Stacia Donahue questioned if the 203 Ayer Road proposal would be voided if this new proposal were to pass.

95 Mr. Russo's response: Mr. Russo clarified that the 203 Ayer Road Buildings would not be built, but the
 96 Badminton facility would still move forward.

97 • Ariel Jennings questioned if this proposal would cover all affordable housing needs for the MBTA
 98 requirement.

99 Brian Levy's respond: Brian Levy stated that the proposal was not intended to cover (entirely) that
 100 type of proposal.

101 • John McCormick is concerned about the size the given area, the individual parcels of land being used,
 102 as well as the size of the proposal and that it has been previously stated that the maximum units are
 103 less than what was proposed here.

104 Mr. Russo's response: Mr. Russo clarified that he and the owners of the other parcels submitted their
 105 application in tandem. For the issue of the maximum amount of units, Mr. Russo believes this number
 106 can become greater if water and sewage is provided for the proposed units (a plan he has already
 107 moved forward with by using treated water connected from Devens).

108 • Richard Cabelus questions where the tax revenue number in the proposal came from.

109 Eric Loth's response: Eric Loth answered saying it is based on multiple areas, but a full fiscal impact
 110 analysis has not been done at this point.

111 • Erin McBee felt some of the provisions left it so more could be built into the parcels or turned into
 112 commercial areas. Erin also mentions concerns about a rear setback if the parcels were ever to be
 113 divided.

114 Mr. Russo's response to setback: He can add language to clarify and not duplicate setback
 115 requirements.

116 • Michelle Catalina of Old Littleton Road was concerned that there are only 2 parcels on Ayer road that
 117 are developable. Michelle Catalina was also concerned of the potential of the parcels being used in
 118 the future for large scale commercial development and wanted the board to look into the bylaw more
 119 and prevent any unwanted future actions.

120 Mr. Russo's response: Clarifies that the bylaw does not extend more than 48,000 feet; Bylaw is
 121 intended for three components of multifamily housing and can cap at 250 units instead of 400 units.

122 Mark Lanza's Response: Clarified that the wording could hypothetically/potentially be used in a
 123 misleading way.

124 • Steve Moeser of Park Lane wanted to know how the town would know of any changes to the language.
 125 Stacia Donahue clarified that that any changes must be track changed from here on out.

126 • Ellen Sachs Leisure of Warren Ave and chair of the Harvard Climate Initiative Committee wanted to
 127 comment and clarify the committee's position on the proposal. They believe the plan lacks specifics
 128 in: electrification, not using fossil fuels, energy generation (solar/wind), energy/water saving, EV
 129 charges/parking, native landscaping/shade trees, and open space.

130 Mr. Russo's response: Mr. Russo has agreed that language should be added to address climate
 131 initiatives.

132 • Justin Brown of Park Lane and former planning board member had concerns about the potential of
 133 development by right.

134 Mr. Russo's response: Cites that MBTA bylaw does not allow for development by right in special
 135 permit.

136 • Ken Atwell feels the language in the bylaw is very open and concerning. He does not agree with the
 137 beneficial tax revenue due to potential needs cancelling it out. He also believes the traffic situation
 138 in this area will be a mistake.

139 Mr. Russo's response: It is not his intention to keep things wide open and will take steps to be clearer

140 • Steve from Scott Road believed the bylaw's wording is too loose and agreed with Michelle's previous
 141 comments that this plan is not a potential money maker for the town.

- 142 • Catherine Warner of East Fairhill Road doesn't believe this is the best path to bring affordable housing
143 to the Harvard community and should be looked at more purposefully.
- 144 • Steve Moeser of Park Lane wanted to know what the Planning Boards final actions could be along
145 with their role (in comparison of the Select Board's role with the final decision).
- 146 • Kara Maguire Minar of Still River Road had a procedural question on MBTA zoning and if it is 2/3 or
147 majority to pass.
- 148 Mark Lanza's response: Clarified that simple majority is all that is needed.
- 149 • Concerns about language in hypothetical situation where if special permit passes and parcels are sold
150 to an outside source wishing to build commercial buildings. Additionally, only a simple majority would
151 currently be needed for this to potentially happen.
- 152 • Chris Holmes questions if there will be a full impact analysis made before moving forward.
- 153 Greg Winter's (from Winter Real Estate Investors) response: a development consultant, has been
154 gathering data he believes important. Greg would need information from other town departments in
155 order to have a full comprehensible data.
- 156 • Justin Brown of Park Lane hopes the board isn't trying to solve all its needs all in one project.
- 157 • Richard Cabelus made note of a comment in the commentary if the Fire Chief can extend the max
158 height from three stories to four stories in hopes it will be revisited and clarified on.
- 159 • ****Emailed comments/concerns will be attached to the minutes****

160
161 Motion: Stacia Donahue made a motion for a continuance April 3rd 2023 at 8:00pm
162 Seconded by Doug Thornton
163 Voted yes by: Ariel Jennings, Doug Thornton, Stacia Donahue, Richard Cabelus
164 *Passed unanimously*

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168 **Minutes**

169 Motion: Stacia Donahue made a motion to approve January 9th 2023 minutes
170 Seconded by Doug Thornton
171 Voted yes by: Doug Thornton, Ariel Jennings, Stacia Donahue, Richard Cabelus
172 *Passed unanimously*

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175 **Adjournment:**

176 Motion to adjourn by Stacy Donahue at 9:51pm
177 Seconded by Doug Thornton
178 Voted yes by: Ariel Jennings, Doug Thornton, Stacia Donahue, Richard Cabelus

**HARVARD PLANNING BOARD
MEETING MINUTES
April 3rd, 2023**

Chair Richard Cabelus called the open meeting to order remotely at 7:00pm, pursuant to Chapter 2 of the Acts of 2023, An Act Making Appropriations for the Fiscal Year 2023, which has suspended the requirement of the Open Meeting Law to have all meetings at publicly accessible locations and allowing all public bodies to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting.

Members Present: Richard Cabelus, John McCormack, Stacia Donahue, Doug Thornton, Brian Cook, Ariel Jennings (1:37:00)

Others Present:

Frank O'Connor, Dan Wolfe, Ellen Sachs Leicher, Michael Lawton of 94 Old Shirley Road, Greg Winter, Erin McBee, Steve Moeser, Kara McGuire Minar, Nessa Hedberg, Nancy Hoover

Topics of Discussion:

1. Public Commentary
2. Erosion Control plan - 79 Whitney Road
3. Discuss Harvard Climate Initiative Comm. and the Mass. Vulnerability Prevention grant with Montachusett Regional Planning Commission
4. Special Permit Hearing – DISH Network, 60 Old Shirley Road for installation of collocator equipment
5. Proposed Bylaw Amendment Hearing – Wheeler Realty Trust and 12 Lancaster County Road LLC, 185-189 Ayer Road, for proposed Overlay District
6. Ayer Road: pursue Phases II & III (vision plan & zoning to facilitate vision) RFP with funds from Rural & Small-Town Grant award

Discussion Overviews:

1. No Public Commentary:

2. Erosion Control plan - 79 Whitney Road

Dan Wolfe from David Ross and Associates is representing the owners of 79 Whitney Road. Wolfe is requesting to build a 30x30 horse barn and a 10x18 overhang on their property. The property would need smaller trees cleared, but leaving the bigger ones for shade. It is also suggested that swales are put around property to direct runoff to prevent erosion problems. Wolfe did not believe using swales due to lack of need and risk of unforeseen erosion problem.

Frank O'Connor spoke on behalf of the Nashoba Board of Health Septic Specialist that he believed that the plan for swales could prevent the runoff from mounding.

Motion: Stacia Donahue motioned to approve the Erosion Control Special Permit with the conditions presented by the Conservation Commission Agent in the March 30th memo

Seconded by Brian Cook

Voted yes by: Doug Thornton, Brian Cook, Stacia Donahue, Richard Cabelus

Passed unanimously

47 Motion: Stacia Donahue motioned to allow the Chair of the Planning Board to sign the conditional
48 approval prior to the next meeting

49 Seconded by Doug Thornton

50 Voted yes by: Doug Thornton, Brian Cook, Stacia Donahue, Richard Cabelus

51 *Passed unanimously*

52

53 **3. Discuss Harvard Climate Initiative Comm. and the Mass. Vulnerability Prevention grant with**
54 **Montachusett Regional Planning Commission**

55 The grant application will be due at the beginning of May 2023. Ellen Sachs Leicher requested help looking
56 into the current bylaw and the possibility of hiring an outside expert to check on the language and if this
57 will allow for the grant. Stacia Donahue offered to work with Ellen Sachs Leicher until the next Planning
58 Board meeting by helping with the remaining questions and looking at the possibility of amending the
59 erosions and wetland bylaws.

60

61 **4. Special Permit Hearing – DISH Network, 60 Old Shirley Road for installation of collocator equipment**

62 Frank O'Connor refreshed the Boards memory, explaining that David Bass is going to plug a new meter
63 into the existing board. Frank O'Connor also mentioned that fencing was gone and needs to be
64 repaired/replaced. SBA was made aware of the issue and had secured the gate after the last meeting.
65 SBA is now in the process of repairing the gate in its entirety.

66 *Questions/Concerns:*

67 Michael Lawton of 94 Old Shirley Road expressed the importance to the board to about the camouflage
68 used for the tower

69

70 Motion: Stacia Donahue made a motion to close the Special Permit Hearing for the application on 60 Old
71 Shirley Road as well as to make amendments to the application by striking the second sentence of
72 Condition 11 and adding the language "the new antenna will be mounted at the appropriate height nor
73 exceed 105 feet" to Condition 5 on page three of six.

74 Seconded by Brian Cook

75 Voted yes by: Doug Thornton, Brian Cook, Stacia Donahue, Richard Cabelus

76 *Passed unanimously*

77

78 **5. Proposed Bylaw Amendment Hearing – Wheeler Realty Trust and 12 Lancaster County Road LLC,**
79 **185-189 Ayer Road, for proposed Overlay District**

80 Greg Winter represented the property owner, stating that the public hearing was requested to be closed
81 for a future date. Frank O'Connor clarified through a received email that the owner would like to close
82 the hearing until the late summer or early fall to revise the proposal.

83

84 *Questions/Concerns:*

85 John McCormick questioned if there was a requirement to issue a report if this proposal officially closes
86 Greg Winter articulated that more time would be needed in order to fulfill the concerns of the public
87 heard at the prior meeting.

88 Susan Pamateer of Poor Farm Road expressed the traffic concerns and the importance of a full look into
89 the future impact report. Susan Pamateer also agreed with Steve Moeser about rejecting the proposal.

90 Erin McBee thinks that closing the proposal would be an unfortunate path. Instead, having a general
91 continuance in order to avoid repeating the application process and keeping the information updated.

92 Steve Moeser believes the proposal should be rejected due to the consequences of the large amount of
93 units that would be added to this development.

94 Kara McGuire Minar believes that the applicant should withdraw and re-apply at a later day in order to
95 abide by the 65-day plan.

96 Brian Cook believes that the board should continue the hearing, request more of the requested
97 information, but close the hearing during the next meeting if said evidence is not brought. Kara McGuire
98 Minar agrees.

99 Nessa Hedberg of Lancaster County Road wants the board to be mindful of their choice to either withdraw
100 or close the proposal due to the large impact the proposal could have in multiple areas.

101 Nancy Hoover of Shaker Hills is concerned that a quick closing of the proposal could lead to less scrutiny
102 and an opportunity for the proposal to come back without addressing all the concerns.

103 Doug Thornton believes the Board should write the bylaw rather than the developer.

104
105 Motion: Brian Cook motions a continuance of the Smart Growth Bylaw on April 24th 2023 at 8:00pm with
106 the request that the applicant withdraw the bylaw prior to the meeting.

107 Seconded by Stacia Donahue

108 Voted yes by: Ariel Jennings Doug Thornton, Brian Cook, Stacia Donahue, Richard Cabelus

109 *Passed unanimously*

110
111 **6. Ayer Road: pursue Phases II & III (vision plan & zoning to facilitate vision) RFP with funds from**
112 **Rural & Small-Town Grant award**

113 Frank O'Connor had questions about the wording in the last paragraph on Page 8 regarding creating the
114 criteria for the contractor for Phase II to earn consideration for Phase III.

115 Some of the following language was suggested for wording and points of emphasis for the paragraph:

- 116 • "Successful interim of Phase II will reward/allow the option of Phase III"
- 117 • "Completing the five benchmarks"
- 118 • "Initial Feedback"

119 Frank also questioned the wording on page 9-12 and the need to define "advantageous" and "highly
120 advantageous" when it comes to the criteria.

121 John McCormick has a concern that the bar may be getting set too high when it comes to applicants for
122 this contract but approves of the criteria so far. John McCormick also offered to help look for areas in the
123 criteria to loosen the requirements.

124
125 **Minutes**

126 Motion: Stacia Donahue made a motion to approve minutes from November 28th 2022 and December 5th
127 2022

128 Seconded by Doug Thornton

129 Voted yes by: Doug Thornton, Ariel Jennings, Brian Cook Stacia Donahue, Richard Cabelus

130 *Passed unanimously*

131
132 **Invoices**

133 Motion: Stacia Donahue made a motion to approve the invoices for Invoices for:

- 134 • Harvard Press: #9395 for 203 Ayer Rd. \$168.00
- 135 • Harvard Press: #9397 for DISH Wireless & Proposed amendment to bylaw \$336.00
- 136 • Citizen Planner Training Conference: 27 March 2023 for \$95.00

137 Seconded by Doug Thornton

138 Voted yes by: Doug Thornton, Ariel Jennings, Brian Cook, Stacia Donahue, Richard Cabelus

139 *Passed unanimously*

140

- 141 **Adjournment:**
142 Motion to adjourn by Stacia Donahue at 9:47pm
143 Seconded by Brian Cook
144 Voted yes by: Ariel Jennings, Doug Thornton, Brian Cook, Stacia Donahue, Richard Cabelus