

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

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

THVolGovt Pro is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/86943018920?pwd=ZWtLYmFtOGllZWpkNHZS05pbzBBQT09>

Meeting ID: 869 4301 8920

Passcode: 719242

One tap mobile

+13017158592,,86943018920# US (Washington DC)

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Dial by your location

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Meeting ID: 869 4301 8920

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

Public Comment

Standard Business: a) Board Member Reports

- Representatives & Liaisons Update
- Community Matter: Harvard- Devens' Jurisdiction Public Meeting update
- Approve Minutes
- Approve Invoices – Scott Patterson - ~\$4,000 (Sidewalk Escrow Refund)
MA. Economic Dev. Council: \$20 invoice (MBTA Housing webinar)
Harvard Press - \$192 (Legal Notices on Oct. 21 & 28, 2022)

New Business: a) Statutory time frames for endorsing decisions

b) Approval Not Required Endorsement – Prospect Hill Rd. (Map 16, Parcel 11.1)

c) Erosion Control Application – 73 Bolton Rd. (Map 27, Parcel 72)

Public Hearings:

7:30pm **Protective (Zoning) Bylaw Amendments:**

- 1) Amend Section 125-7 Agricultural uses; and Definitions; and
- 2) Add new section, 125-59 Town Center Overlay District

8:30pm **Continuation of a Special Permit, Ayer Road Village-Special Permit and Site Plan Review - Yvonne Chern & Wheeler Realty Trust, 203 Ayer Road**, for the development of three commercial use buildings, including a Commercial Entertainment and Recreation use

Old Business: a) Ayer Road Market Analysis & Fiscal impact update.

b) Open Space Residential Development Bylaw Amendment (§125-35 C, H & I)

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

**NEXT SCHEDULED MEETING:
NOVEMBER 21, 2022**

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**HARVARD PLANNING BOARD
MEETING MINUTES
MAY 16, 2022**

Chair Justin Brown called the meeting to order at 7:01pm 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 February 15, 2022, and under M.G.L. Chapter 40A and Code of the Town of Harvard Chapter 125

Members Present: Justin Brown, Richard Cabelus, Stacia Donahue, Brian Cook, Doug Thornton and Jefferson Burson (Associate Member)

Others Present: Christopher Ryan (Director of Community & Economic Development), Liz Allard (Land Use Administrator), Dan Wolfe (Ross Associates, Inc.), Michael Hood (Three-Season Landscape), Bruce Ringwall (GPR, Inc.), Ken Atwell (Harvard Green), Valerie Hurley (Harvard Press), Lou Russo (Wheeler Realty Trust) and Yvonne Chern,

Public Comment

There were no comments from the public this evening

Modification versus *De Minimus* Changes to a Special Permits

As a follow up to a discussion in December, Donahue asked if there are any thresholds to guide the Planning Board, such a dollar amount. Cook stated perhaps for certain projects, but maybe not be all; for example, a previously approved Special Permit, now is seeking to make a change to the front of a building, but the change is still within the spirit of the decision. Language within Chapter 133-31 is conflicting on this process. Cabelus suggest amending Chapter 133 to be similar to that of Chapter 147 Wetland Protection Bylaw, when it comes to amendments. Brown worried about full transparency in the public process. Burson stated on a quick search he found a definition which states “does not change the material fact in which a Board based their approval”. Ryan stated this issue requires a little research of Mass General Laws and case law, in order to provide what type of discretion the Planning Board may have. In addition to getting Town Counsel opinion to be certain the thresholds are legal.

Approve Minutes

Donahue made a motion to approve the minutes of April 4 and 8, 2022 as amended. Cook seconded the motion. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown; aye.

Director’s Report

Items in this report were discussed under other topics on the agenda this evening.

Modification of Special Permit– Michael Hood – Three Seasons Landscape, 264 Ayer Road. Opened at 7:31pm (see page 3 for complete details)

Continuation of a Special Permit, Ayer Road Village-Special Permit and Site Plan Review - Yvonne Chern & Wheeler Realty Trust, 203 Ayer Road. Opened at 8:09pm (see page 5 for complete details)

Continuation of a Special Permit & Site Plan Review – Kennedy & Company, 295 Ayer Road. Opened at 8:15pm (see page 6 for complete details)

Board Member Reports

• **Representatives & Liaisons Updates**

- *Parks & Recreation (P&R) Commission* – Donahue stated P&R is very interested in the badminton facility; but some members of the public are interested in pickle ball and are looking for a location;

- 54 with no Beach Director for the summer season swimming is at your own risk; swim lessons may be
55 available at Mirror Lake.
- 56 ○ *Montachusett Regional Planning Commission* – Donahue stated funding from the American Recovery
57 Plan Act 2.0 is ensuring all towns get some type of funding; \$250,000 had been earmarked to help
58 Harvard with the Ayer Road Visioning Plan. With water and sewer being an issue for a lot of the small
59 communities within the region MRPC is looking into regionalizing, as well as reaching out to other
60 abutting communities outside the region, such as Littleton or Boxborough
 - 61 ○ *Open Space Committee (OSC)* – Cook stated previous comments from Donahue were shared with the
62 OSC. OSC spent time at their last meeting clarifying the differences between active and passive
63 recreation.
 - 64 ○ *Climate Initiative Committee* – Burson stated the presentation of the decarbonation plan to the Select
65 Board has been pushed out. The plan is requesting all Town purchases take the environment into
66 consideration when doing so.
 - 67 ○ *Ayer Road Transportation Improvement Program Plan*- the Select Board will be discussing the
68 previously proposed round-about at their meeting tomorrow night. If anyone from the Planning Board
69 would like to weigh in on that topic there is a public comment period.
 - 70 ○ *Ayer Road Visioning Plan* – The contract with Weitzman was signed today. A pre-kick-off meeting is
71 scheduled for this Wednesday. An authorization to proceed needs to be drafted, which Ryan will
72 complete.
- 73
- 74 • **Community Matters**
 - 75 ○ *Lighting Bylaw* – Brown took some initiative and put the most vocal individuals in touch with each
76 other to move forward with a potential bylaw to be brought before the Planning Board as a citizen’s
77 petition. Police Chief Babu would be supportive of this bylaw change.
- 78

79 **Multi-Family District Bylaw Mapping Update**

80 Ryan and Cook met two weeks ago and are working on the map that will identify potential locations for a
81 multi-family district, as suggested by other Board members. Due to other constraints Cook has not had an
82 opportunity to move forward with this item as of yet. Ryan stated there is a wide variety of parcels in
83 Town that will be self-evident as to why they were chosen for this district. Ryan is hopeful that Board
84 members can suggest other parcels and/or narrow the list down. Cook wants to be certain that some of
85 these parcels do not take away from other uses needed in Town, such as an athletic facility.

86

87 **Adjournment**

88 Cook made a motion to adjourn the meeting at 9:13pm. Thornton seconded the motion. The vote was
89 unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and
90 Brown; aye.

91

92 Signed: _____ Liz Allard, Clerk

93

94 **EXHIBITS & OTHER DOCUMENTS**

- 95 • Planning Board Agenda May 16, 2022
 - 96 • Director of Community and Economic Development UPDATE, May 16, 2022
 - 97 • Site Plan Michael Hood Three Season Landscape 264 Ayer Road, Harvard, MA, prepared by Ross
98 Associates, Inc., Job No.: 33051, Plan No.: L-13982, 5/31/22
 - 99 • Commercial Development Special Permit/Site Plan prepared for Kennedy & Company, Inc., JOB
100 211096, prepared by GPR, Inc., dated 4/13/22
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107 **Harvard Planning Board**

108

109 **Modification of Special Permit & Site Plan Approval**

110

111 **Michael Hood Three-Season Landscape, 265 Ayer Road**

112

113 **May 16, 2022**

114

115 The public hearing was opened at 7:31pm by Chair Justin Brown under MGL Chapter 40A the Zoning Act
116 and the Code of the Town of Harvard Chapter 125 the Protective Bylaw virtually pursuant to Chapter 22 of
117 the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of
118 Emergency, and signed into law on February 15, 2022

119

120 **Members Present:** Justin Brown, Richard Cabelus, Stacia Donahue, Brian Cook, Doug Thornton and
121 Jefferson Burson (Associate Member)

122

123 **Others Present:** Christopher Ryan (Director of Community & Economic Development), Liz Allard (Land Use
124 Administrator), Dan Wolfe (Ross Associates, Inc.) and Michael Hood (Three-Season Landscape)

125

126 This hearing is for the Modification of a Special Permit & Site Plan Approval filed on behalf of Michael
127 Hood Three-Season Landscape to identify additional areas to be used to exhibits various seasonal
128 products and other activities not previously approved at 265 Ayer Road, Harvard

129

130 Dan Wolfe, of Ross Associates, Inc., stated the applicant received the Special Permit just about two-years
131 ago; it has been slow getting the business up and running and compliant with the Special Permit. Wolfe
132 stated the building looks far better then it has in the past, however some of the activities on the site came
133 to the attention of some of the residents in Town, in particular the front lawn; the display of such material
134 as bark mulch and seasonal items such as pumpkins, which were not in the original decision. Since things
135 can change from season to season the site plan show generalized areas for display at fairly a low level that
136 would not impede lines of sights. The site plan locates existing and new areas, including stock pile of loam
137 and an area for the preparation firewood. The Director's report alludes to thing not completed, such as
138 directional signs and the pavement apron on southerly entrance. Wolfe stated this is correct as the re-
139 development of this site is still a working in progress.

140

141 Ryan stated the site plan was well done; compliance with the special conditions from the original Special
142 Permit that have not yet been addressed can be provide on the final as-built, as required by Special
143 Permit. Ryan wondered if there is suitable parking on the site, as he observed parking occurring on the
144 grassed areas; perhaps employee parking? Ryan noted signage on the display areas between Ayer Road
145 and the building are large enough to be seen by passersby, but does not comply with the bylaw as they
146 are distracting. Donahue asked what the setbacks from Ayer Road and are these display areas behind
147 them. Wolfe stated setbacks as usually to a structure and the display areas are not structure; Wolfe felt
148 they would not fall under any off-set rules.

149

150 Cabelus asked how the signs are not compliant, the amount of square footage? How can they be
151 compliant. Ryan stated signs typically relate to the business itself. Other types of signs such as these that
152 are specific to products. There are temporary signs and if the applicant can fall within those it could work
153 out. Under §125-41E one temporary sign, not for more than 30-days is allowed by-right; need to find a
154 way to work with the applicant to make these display signs compliant. Cook stated the needs for a sign is
155 most likely 90-days. Allard direct the Board to §125-F, which allows discretion for the Board pertaining to
156 temporary signs. Cook suggested increasing to two signs. Ryan suggested a clear direction with this
157 modification for the applicant to follow. Cabelus stated limited signage is the intent of the bylaw. Cook
158 requested the applicant provide an inventory of signs necessary and the size of those signs to assist in
159 crafting conditions for the modification of the Special Permit. Cabelus asked if it is the applicant's intent

160 to come in compliance with the Special Permit. Wolfe stated it is. Wolfe had questions as to where the
161 parking blocks are to be located, as he does not see them on the previously approved plan. Brown
162 explained the need and use of the parking blocks. Wolfe noted parking blocks were required for the
163 gravel parking spots in front of building C. Brown confirmed that is in fact the location for the parking
164 blocks to be installed and will be shown on the final as-built. Brown asked about the timeline to be
165 compliant. The applicant, Michael Hood, stated he is hoping by the end of 2022. Donahue asked if
166 lighting on the site was compliant with §125-40. Wolfe and Hood confirmed there are new lights
167 proposed for the site other than that for the business sign, which is compliant to the bylaw.
168

169 Frank Carlson, Littleton County Road, voiced support of this business and its improvements to the site.
170

171 The members agreed the following will be necessary in order to make a final decision on the request to
172 modify the Special Permit: signage clarification, light compliance, and compliance with existing conditions
173 with a timeline.
174

175 Donahue made a motion to continue the hearing to June 6, 2022 at 7:30pm. Cook seconded the motion.
176 The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye;
177 Thornton, aye; and Brown; aye.
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179 Signed: _____ Liz Allard, Clerk
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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

May 16, 2022

The public hearing was opened at 8:09pm by Chair Justin Brown 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 February 15, 2022

Members Present: Justin Brown, Richard Cabelus, Stacia Donahue, Brian Cook and Doug Thornton

Others Present: Christopher Ryan (Director of Community & Economic Development), Liz Allard (Land Use Administrator), Bruce Ringwall (GPR, Inc.) and Lou Russo (Wheeler Realty Trust)

This hearing was continued from April 25, 2022 for a Special Permit, an Ayer Road Village-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.

Bruce Ringwall, of GPR, Inc., stated with no word from the peer reviewer, Beals & Thomas, or Town Counsel, he is requesting a continuation to June 6, 2022. Donahue stated the Parks & Recreation Commission is very interested in this project as it pertains to the Charlie Waite field; could parking be allowed at 203 Ayer Road for use of that field and will the facility include pickle ball courts? With Yvonne Chern, the applicant for the badminton facility, not present this evening an answer to these questions could not be obtained. Brown asked about the filing with the Design Review Board (DRB) for this development. Ringwall stated is awaiting a meeting date and has information to share with the DRB.

Donahue made a motion to continue the hearing to June 6, 2022 at 8:30pm. Cabelus seconded the motion. The vote was unanimously in favor of the motion by roll call, Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown; aye.

Signed: _____ Liz Allard, Clerk

266 **Harvard Planning Board**

267

268 **Continuation of a Special Permit & Site Plan Review**

269

270 **Kennedy & Company, 295 Ayer Road**

271

272 **May 16, 2022**

273

274 The public hearing was opened at 8:15pm by Chair Justin Brown under MGL Chapter 40A the Zoning Act
275 and the Code of the Town of Harvard Chapter 125 the Protective Bylaw virtually pursuant to Chapter 22 of
276 the Acts of 2022, An Act Relative to Extending Certain COVID-19 Measures Adopted during the State of
277 Emergency, and signed into law on February 15, 2022

278

279 **Members Present:** Justin Brown, Richard Cabelus, Stacia Donahue, Brian Cook and Doug Thornton

280

281 **Others Present:** Christopher Ryan (Director of Community & Economic Development), Liz Allard (Land Use
282 Administrator), Bruce Ringwall (GPR, Inc.), Mike Kennedy Sr. & Jr.

283

284 This hearing was continued from April 25, 2022 for a Special Permit & Site Plan Review filed on behalf of
285 Kennedy & Company for Landscape Services at 295 Ayer Road, Harvard.

286

287 Bruce Ringwall, of GPR, Inc., stated the peer review by Beals & Thomas has not yet been completed.
288 However, Ringwall requested in preparation for the June 6th meeting that Town staff begin drafting a set
289 of conditions. Brown stated it might be too much to hope that this will all be wrapped up on June 6th, but
290 staff can do their best to move this along. Brown noted comments received from “Concerned Citizens
291 and Workers Along Road”; adding that comments submitted to the Board carries more weight if it can be
292 signed by those individuals.

293

294 Ringwall explained the existing well on site will be used for dust control for gravel access in the back,
295 potable water and irrigation. Ryan stated one of the concerns with the letter received was the screened
296 material. When asked about screening material onsite, it was explained the Kennedy’s receive screened
297 loam for specific projects and do not typically store it on site; do bring material back to the site and screen
298 material about 10 times a year; screening of material is not a part of their overall business. Donahue
299 stated with water available on-site dust should be well controlled. A condition to be included in the
300 decision: daily dust control during dry weather, with additional measures during minimal screening
301 preparations to prevent dust from leaving the site.

302

303 There were no comments from the general public comments.

304

305 Site lighting, signs and sidewalks were discussed. Conditions to consider include: the temporary use of the
306 trailer as an office and repair to the house, with set timeframes and the ability to extend those
307 timeframes. Ringwall explained sidewalks within the development including a connection to the share-
308 use path once the final Transportation Improvement Project is completed. Lighting at hoop house and
309 the house (office) are for security and will be compliant with bylaw. Cabelus asked with no on-site lighting
310 what are the hours of operation. The hours of the garden center will be from 10am to 5pm. Off-site
311 landscapers will return to the site after 5pm, but not after dark. Conditions pertaining to business hours
312 and seasonal business use were discussed; determined no pumpkins or Christmas trees will be sold on
313 site. Brown mentioned the past practice of requiring payment in-lieu of installing a sidewalk. Ringwall
314 stated other applicants along Ayer Road have met this requirement, with funds returned because
315 timeframes had or will soon lapse and therefore felt there was no need for this requirement. A condition
316 pertaining to sidewalks to be determined for this matter as necessary, but not funds.

317

318 With peer review still not received, Donahue made a motion to continue the hearing to June 6, 2022 at
319 8:00pm. Cook seconded the motion. The vote was unanimously in favor of the motion by roll call,
320 Cabelus, aye; Donahue, aye; Cook, aye; Thornton, aye; and Brown; aye.
321
322 Signed: _____ Liz Allard, Clerk

DRAFT

Worcester South District Registry of Deeds Electronically Recorded Document

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Recording Information

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Document Type	: DECN
Recorded Date	: August 05, 2020
Recorded Time	: 02:19:47 PM
Recorded Book and Page	: 62962 / 59
Number of Pages(including cover sheet)	: 17
Receipt Number	: 1248990
Recording Fee	: \$105.00

Worcester South District Registry of Deeds
Kathryn A. Toomey, Register
90 Front St
Worcester, MA 01608
(508) 798-7717

OFFICE OF THE
TOWN CLERK



13 AYER ROAD · HARVARD, MASSACHUSETTS 01451-1458
(978)456-4100 · FAX: (978)456-4113

REF: Harvard Planning Board
Applicant: Scott Patterson
256 Ayer Road
Assessors Map 4, Parcel 41
Worcester Registry of Deeds
Book 59556, Page 235
Special Permit

CERTIFICATE OF NO APPEAL

The undersigned, being the Town Clerk of the Town of Harvard, hereby certifies that the foregoing decision was filed with the Town Clerk on July 6, 2020, that twenty (20) days have elapsed after filing of the decision, and that no notice of any action appealing the decision has been filed with the Office of the Town Clerk during this twenty (20) day period.

Certified this 28th Day of July, 2020,

Catherine Bowen
Assistant Town Clerk
Town of Harvard



RECEIVED
HARVARD TOWN CLERK

2020 JUL -6 PM 4: 14

OFFICE OF THE
PLANNING BOARD

13 AYER ROAD HARVARD, MA 01451

978-456-4100

www.harvard.ma.us



To: Marlene Kenney, Town Clerk
Harvard Town Hall
13 Ayer Road
Harvard, MA 01451

JUNE 15, 2020

HARVARD PLANNING BOARD

**NOTICE OF DECISION ON APPLICATION OF SCOTT
PATTERSON FOR A SPECIAL PERMIT AND SITE PLAN
APPROVAL FOR THE ESTABLISHMENT OF AN INDOOR
ATHLETIC FACILITY AT**

256 AYER ROAD

HARVARD, MA 01451

ASSESSORS MAP 4 – PARCEL 41

WORCESTER REGISTRY OF DEEDS

BOOK 59556 PAGE 235

PROCEDURAL HISTORY

- I. Application for the establishment of an indoor athletic facility as per §125-14, Large-scale commercial uses, of The Protective Bylaw, for a Special Permit and site plan review pursuant to Protective Bylaw, for the property located at 256 Ayer Road was made by the above referenced applicant.
- II. The following plans and documents were submitted in support of the application:
 - A. An application for a Special Permit and site plan review with a Special Permit for an indoor athletic facility pursuant to §125-14 of the Town of Harvard Protective Bylaw was received by the Harvard Town Clerk on April 28, 2020, including a cover letter from Nicholas Pauling, P.E. of Goldsmith, Prest, & Ringwall, Inc. (GPR) dated April 27, 2020 and the following:
 - 1. Corresponding fees paid via check #234 for \$680.00 dated April 16, 2020
 - 2. A document entitled "Special Permit Application, 256 Ayer Road, Harvard, MA", which also included:
 - a. Application form referenced above

Town Clerk
True Copy Attest

- b. Cover letter referenced above
- c. Letter of agent authorization dated April 16, 2020
- d. Certified abutters list report dated April 16, 2020

- B. A plan set dated April 2020 entitled "Special Permit, Large Scale Commercial Uses, Site Plan & Construction Details, 256 Ayer Road, Harvard, MA" prepared for applicant Scott Patterson, 11 Spring Street, Lunenburg, MA 01462, by Goldsmith, Prest, & Ringwall, Inc., 39 Main Street, Suite 301, Ayer, MA 01432, JOB 181090, containing one (1) sheet.
- C. A revised plan set dated June 9, 2020 entitled "Special Permit, Large Scale Commercial Uses, Site Plan & Construction Details, 256 Ayer Road, Harvard, MA" prepared for applicant Scott Patterson, 11 Spring Street, Lunenburg, MA 01462, by Goldsmith, Prest, & Ringwall, Inc., 39 Main Street, Suite 301, Ayer, MA 01432, JOB 181090, containing one (1) sheet.
- D. An undated graphic rendering entitled "256 Ayer Road / Potential Residential Garage Representation" showing an elevation drawing of the proposed design of the garage rehabilitation.

III. The following additional documents were provided to the Planning Board in regard to the application:

- A. E-mail communication from the Harvard DPW Director, in regard to Special Permit & Site Plan Review, 256 Ayer Road, dated May 12, 2020.
- B. E-mail communication from Andrew Perry, Lieutenant/Fire Prevention, Harvard Fire Department, in regard to 256 Ayer Road, dated May 12, 2020.

IV. Legal Notices: Advertised and Letters to Abutters

- A. An Affidavit of Mailing to Abutters dated May 12, 2020 was endorsed by the Town Clerk on [the same date].
- B. A Legal Notice advertising the virtual public hearing to be held on June 1, 2020 on the Special Permit for the operation of an indoor athletic facility appeared in "The Harvard Press" on May 15, 2020 and May 22, 2020.

V. A public hearing, after proper notice was given, was opened on June 1, 2020 and closed on June 15, 2020.

VI. Public Input

At public hearing sessions held on June 1, 2020 and June 15, 2020, the representatives of the applicant attended including Scott Patterson and Nicholas Pauling, PE.

Members of the public attending public hearings: None.

BACKGROUND AND FINDINGS

The Harvard Planning Board reviewed the application, the plan sets, and all other materials and information submitted prior to the close of the public hearing. The Board received and gave due consideration to the testimony given at the public hearing. The following is a compilation of the comments provided by the Director in review of the application and plans.

I. General

A. The subject property is a 3.63 ± acre parcel (3.54 acres on GIS) within a Commercial (C) zoning district and the land use is commercial and residential with 2 existing buildings (commercial at 6086 s.f. and residential at 1966 s.f.).

B. The following zoning tables assesses conformance with zoning dimensional criteria:

Requirement	Required	Provided	Conformance
Minimum Lot Area	1.50 acres	3.63 acres	Y
Floor Area Ratio (FAR)	10% or 8000 s.f.	5%	Y
Lot Frontage	180'	282' est.	Y
Lot Width	200'	290' est.	Y
Minimum Side Yard	20'	48' est.	Y
Minimum Rear Yard	20'	420' est.	Y
Minimum Front Yard	20'	78' est.	Y
Maximum Height	35'/3 stories	Undetermined	No Data
Required Parking	No Specification	10 dedicated	NA
Loading Area	Required	No Data	No Data

II. Special Permit Criteria

A. Advice from Planning Board or other Town Boards

Fire Department – A “No comments” communication was received via email
 DPW – Comment from DPW Director forwarded to applicant team received via email

B. Special Permit Authorization

1. Will not result in substantial increase of volume or rate of surface water runoff to neighboring properties and streets, and will not result in substantial danger of pollution or contamination of the groundwater supply, a groundwater absorption area, a well, pond, stream, watercourse, W District, or inland wetland. Any and all surface water runoff resulting from development shall be retained within the lot in which it originates or shall be discharged into existing identifiable watercourses without material impact on abutting properties.
 - a. While no stormwater analysis was conducted, it is anticipated that there will be minor, if any, changes to stormwater as a result of the proposed project.
 - b. Pollution is not anticipated to be an issue.

2. Will, if the use is not agricultural or residential, result in no substantial increase in traffic, compared to refusal of the permit, on any residential street where the premises have access; and

Traffic generation not calculated or provided by applicant but it was speculated that there would be a minor increase, if any. The Director had recommended peer review if there was further concern by the Board. The Board did not indicate any concern.

3. Will be in harmony with the general purpose and intent of the Bylaw, including each purpose stated in § 125-1, Purpose, which is pertinent to the particular application.

- a. To conserve health;

Not deemed applicable.

- b. To secure safety from fire, wind, flood, and traffic;

May create minor traffic issues based on anticipated increased trip generation but no means to assess other than peer review.

- c. To preserve and increase the value of land and buildings;

The proposed use is not expected to be very different than current uses and if the buildings and site are improved over the current condition of the buildings and site, this is likely to slightly improve property values.

- d. To protect the community from the detrimental effects of unsuitable development;

While the proposed use is not in precise alignment with the goals for developing the Ayer Road corridor, it is a reasonable interim use and this is NOT unsuitable.

- e. To preserve and increase the amenities of the Town;

This proposal does not impact amenities.

- f. To prevent overcrowding of the land;

This is not applicable.

- g. To provide for compatibility with individual water supply and sewage disposal systems and their renewal, and with public systems which may become available;

This determination must come from the Board of Health.

- h. To facilitate future reuse and redevelopment of property;

The use and proposed improvement of the property does not impact future use.

- i. To provide for safe, rapid traffic flow to, from, and along the streets;

It is undetermined whether trip generation will increase and thus impact traffic flow and safety along Ayer Road.

- j. To avoid confusing and distracting signs in areas along the streets;

It is unknown what the design of the signs will be as no sign package was submitted. Director had recommended requesting a sign package from applicant should the Planning Board have wished to review more closely. The Board did not request additional information from the applicant.

- k. To avoid unsuitable traffic on residential streets;

This is not applicable.

- l. To preserve the streets of the Town as firebreaks;

This is not applicable.

- m. To protect persons and property against the hazards of inundation and pollution;

Inundation is assumed to be water and this is not expected to be a factor.

- n. To prevent pollution or contamination of, to conserve, and to protect watercourses, and their adjoining lands, groundwater absorption areas, and the groundwater table on which the inhabitants depend for their water supply;

Same recommendation as m. above.

- o. To preserve storage areas for seasonal or periodic high waters;

This does not appear to be applicable.

- p. To protect ponds from accelerated and excessive plant growth and premature decay into swamps;

This is not applicable.

- q. To conserve natural conditions and open spaces;

This is not applicable as there are no natural features impacted by the proposal.

- r. To separate and otherwise isolate potentially conflicting property uses.

This is not applicable.

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

C. Section 125-20 Use Criteria

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

a. Concussion, vibration, noise, or other mechanical disturbance;

Not anticipated.

b. Smoke, dust, odor, fumes, or other air pollution;

Not anticipated.

c. Glare, fluctuating light, or electrical interference;

It is not anticipated that light, glare, or electrical interference will be generated.

d. Danger of fire, explosion, radioactivity, or other danger;

Not anticipated.

e. Wastes or refuse (except at the Town Transfer Station);

There is a question of where waste staging will take place and what facilities will be used for the holding of wastes. The Director recommended that the Applicant should specifically note on site plan where waste receptacle(s) will be placed and what screening will be used. Additionally, what times of the day will waste be hauled away. The applicant responded that no commercial waste receptacle would be utilized on the property and there was no further discussion of this criterion.

f. Likelihood of substantial increase in volume or rate of surface water runoff to neighboring properties and streets, or substantial danger of pollution or contamination of the groundwater supply, a groundwater absorption area, or a well, pond, stream, watercourse, W District, or inland wetland;

Not anticipated.

g. Other characteristics.

None anticipated.

2. Development shall provide water supply and sewage disposal approved by the Board of Health.

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

III. Site Plan Review Criteria

The following is an assessment of how the application meets the requirements of §125-38, Site Plans:

A. Content

1. Existing and proposed lot boundaries and buildings and other structures (including signs) within the lot or side setback area abutting the lot, including elevation views as well as plan views to show conformance to the Bylaw; and

Site plan does not technically show the full extents of the property, but a smaller scale full extent has been provided as an inset. Service bay garage (Sections 1 and 2), garage (Section 4), and existing residence are shown on plan. Elevation view concept submitted by the applicant.

2. Parking, loading, maneuvering, storage and service areas or uses, walkways, driveways, lighting, green areas and visual screening; and

The applicant had proposed fourteen (14) dedicated parking spaces for the business but eight (8) of these are tandem spaces and there is one (1) handicapped space that is part of the five (5) paved spaces in the front of the building. The other eight spaces are gravel. No internal walkways were proposed and no sidewalks on Ayer Road were proposed. The latter is challenging for reuse of buildings rather than redevelopment so the Board was recommended to take each on a case by case basis related to this provision although the better option would be to consider linkages to the proposed multi-use path as part of the road reconstruction project. Driveways include a pair of paved entrances with the northern wider entrance apparently intended to serve as a two-way access to the business while the narrower southern entrance is primarily for the residence, although they are connected and the Board was recommended to consider asking applicant how this would function. Fire and DPW had no comments other than DPW noting that a driveway connection permit would be required. There are no existing or proposed walkways and green areas include grass for most of the site and trees along the north property line, some of which show as being on the adjacent lot.

3. Provisions for water supply and reservoirs, surface water drainage, and treatment and disposal of sewage and any other wastes;

There appears to be a well serving the residence but no water supply is shown for the commercial buildings. There appears to be two septic tanks—one serving the residence and another serving the commercial building. However, only one leach field is shown in the rear.

4. Levels and grades where substantial excavation or fill is involved.

There is no apparent or proposed grading for the site. It is assumed that some minor grading will need to occur for the driveways and parking areas.

5. Clearing limits used to calculate both the volume and rate of surface water runoff.

No clearing appears to be proposed.

Site Visit Notes

On Wednesday, June 1, 2020, the Director conducted a brief site visit and determined the following:

1. The driveway serving the residence is in poor shape and has broken asphalt.
2. The solid waste container is not identified on the plan and there is currently a large solid waste dumpster on the site.
3. The commercial buildings are in very poor shape with paint peeling and deteriorated siding and doors/windows.
4. The site itself is undergoing significant site work for the septic tank and presumably for other purposes.
5. There are several mature trees on the site itself which should be retained.

B. Design Review, Applicability, Procedure, and Purpose

Not applicable to this project as it does not propose any new development. However, the Planning Board may wish to require elevation drawings and other sign details.

Note that the Commercial District Design Guidelines do not currently address signage, which is an oversight. Additionally, Protective Bylaw sign requirements do not specify what kind of sign submittal package is required, if any. Given that this is a Special Permit, The Director recommends that the Planning Board require some or all of the following from the applicant:

1. Appropriately scaled drawing showing the location of the sign; submit two (2) 8" X 10" or 11"X 17" copies. Alternatively, this information may be provided on the site plan.
 - a. If the sign is to be mounted, please include a description of the structure on which the sign will be mounted and provide photographs of the structure and the sign will be.
 - b. If the sign will be free-standing either on the property if off the premises, submit a plot plan showing the exact height and location above natural grade.

- c. A scaled rendering including dimensions, with proposed sign shown in color or with color chips attached. Submit two (2) copies; size can range from 8"X10" to 11"X17".
- d. A detailed description of the proposed sign materials and lighting. The lighting description must specify whether the sign will be illuminated with interior or exterior lighting and include information on bulb wattage

Director Comments 6/15/2020

- 1. Sign proposed to be a re-facing of pole sign and wall sign. It was recommended that the Board determine whether they wish to see the renderings prior to approval or have them administratively approved as a condition of the approval. I will write the decision as per the latter.
- 2. Section 125-38F1 explicitly states that "site plan applications for proposed development in the Commercial 'C' District shall include renderings of the proposed building(s) or addition..." Given that this application is for rehabilitation and reuse, the Board may wish to relax or waive this requirement, but it is for the Board's discretion.

C. Landscape Plan

Applicant should show any landscaping to be proposed. There are several mature trees on site which should be preserved. It was recommended that the remainder of the site be thoughtfully landscaped with grass and native plantings adjacent to buildings and parking areas.

Director Comments 6/15/2020

- 1. Recommend that any additional landscaping be depicted on a revised plan as Section 125-38G is clear that a landscape plan is a requirement for site plans unless the Board wishes to relax or waive. Relaxation could be allowing the applicant to include landscaping features on the site plan itself.
- 2. Director recommended that areas on site to be hydro seeded should be so depicted.
- 3. Landscaping materials provided on revised plan seem sufficient.

IV. Site Standards (Section 125-39)

A. Parking and Loading

- 1. No shared parking, loading, or other traffic areas is being proposed. Not recommended for this scale of review.
- 2. While proposed parking areas are highlighted, the Planning Board may wish to get further information related to 1) whether the tandem parking is satisfactory or how it will be administered. It appears as though the site could accommodate a travel lane between the two rows and if so, that would be staff recommendation, and 2) How the drives are to function related to accessing each use.

3. *Parking areas not to the scale that would require subdivision or interspersed green landscaped areas. Parking stalls are proposed to be 9'x19' and the tandem parking is 9' x 20'. Car stops were not proposed in the plan but the Director recommended that they be considered for the gravel parking area.*
4. *The plan does not show where waste receptacles (dumpster) will be located and it was recommended by the Director that the applicant show appropriate screening (for commercial building). The applicant stated that there would be no commercial waste receptacles.*
5. *Plan review could not assess whether parking spaces to be provided would be enough for the proposed use but that it would be important to make that determination provided there are no special events, clinics, etc. For the latter, the Board was recommended to ask the applicant if they may need overflow parking areas for such events and where that would be staged. The Director also recommended that visitors or staff not park along the driveway due to safety and aesthetics. The Director also suggested that the Board consider requesting the applicant to provide examples of parking standards for such uses in other communities.*

Director Comments 6/15/2020

1. *Recommend against tandem parking. The Director recommended that the Plan be revised to eliminate these spaces. The applicant agreed with this provision and the revised site plan was so modified.*
2. *Recommend 6' commercial parking block for all gravel spaces.*
3. *Recommend paved parking spaces, including handicapped, to be appropriately striped.*
4. *Cannot assess whether 10 spaces are sufficient for use.*

B. Standards for Driveways

1. *It is not clear whether existing driveways meet the AASHTO line of sight criteria. These are existing driveways but there may be more cars that access the site and it was recommended that this should be addressed by the applicant to ensure traffic safety entering and exiting the site. This criterion was not addressed.*
2. *Non-residential driveway standards*
 - a. *Standards recommend only one ingress-egress point but existing lot has two.*
 - b. *No trip generation data is recommended but it was recommended that the applicant speak to expected motor vehicular traffic anticipated on a daily basis and the timing of said traffic.*

- c. While a formal 10% buffer strip around the perimeter of the lot has not been established, the aerial photograph of the site indicates a setback of at least 10' that is grassy with trees along the north border of the property.
- d. No inter-parcel connectivity is proposed.
- e. It was recommended that the Applicant speak to whether the angle of intersection of the driveway center line is at least 60° and that the transition is sufficiently flared for required turn movements. This was not addressed.
- f. Regarding construction, as no new development is being proposed, no construction or reconstruction is required unless the transition(s) are found to be deficient.
- g. The 30' turnaround for "circular" driveway appears to be met. The "runout" ratio also appears to be compliant.

Director 6/15/2020 Comments

- 1. No further line-of-sight comments. Prior comments stand.
- 2. It was recommended that anticipated driveway directional travel be depicted on plan—if narrower southern driveway still recommended for two-way travel, it would be more effective to be limited to residential use and signed to reflect this.
- 3. It was recommended that the applicant speak to whether the angle of intersection of the driveway center line is at least 60° and that the transition is sufficiently flared for required turn movements.

C. Open Areas

- 1. Buffer strip requirement appears to be met in principle or mimicked on the ground.
- 2. The 50% minimum green area appears to be met.

D. Screening

No existing or proposed lighting is shown on the plan and the Board was recommended to determine whether these should be added. As this property is surrounded by other commercial properties, it was determined that the Board may wish to exclude the screening requirement. If not, the applicant must meet the requirements of subsections D(4) and D(5).

E. Fire Protection

Not an applicable provision for this site.

F. Drainage

No new building construction is proposed and only some additional gravel and asphalt is being introduced to the site and therefore stormwater is not anticipated to change significantly. Agree with applicant's consultant that there will likely be no substantial increase in runoff.

G. Sidewalks

While the Bylaw says that any use subject to site standards shall provide sidewalk and curbing, this certainly cannot pertain to changes in tenancy with little site development. I would suggest that this provision is not applicable in this instance.

6/15/2020 Director Update

Director spoke at length to the DPW Director and advised that, particularly with the Ayer Road project being in design, that no other sidewalk projects be undertaken at this time. He was also opposed to gravel paths which he said could devolve into parking areas on the shoulder. He was, however, in favor of a payment-in-lieu condition for site plans and special permits for properties that were reviewed for design guidelines in the Ayer Road corridor.

H. Section 125-40, Lighting

The applicant notes that no additional lighting is being proposed either attached to buildings or on poles.

I. Section 125-41, Signs

There are no existing signs on the property and it is assumed that a business sign will be installed. It was recommended that there at least be an elevation drawing for the sign.

6/15/2020 Director Update

Section 125-38D1 explicitly states that existing and proposed signs shall be indicated on the site plan. Section 125-38F2f notes that the "use of pedestrian-scale lighting and signage" is required. As a special permit, the Board may request a signage package from the applicant in advance of seeking permits for the signs and within this review. However, it is not required.

DECISION

After reviewing the Application, plans, and other materials and information submitted, comments by the Director of Community and Economic Development, comments by other Town officials, responses by the applicants consulting engineer, testimony given at the public hearing, the Board made the above-referenced findings of fact and, based on those findings, the Board hereby decides that the Property is suitable for an indoor athletic facility pursuant to §125-14 of the Town of Harvard Protective Bylaw and that all the required criteria for a Special Permit has been met. Accordingly, the Board hereby grants a Special Permit and approves the accompanying Site Plan to Scott Peterson for an indoor athletic facility, pursuant to §§125-1, 125-2, 125-14, 125-38, 125-39, and 125-46 of the Town of Harvard Protective Bylaw in accordance with the terms and conditions stated below.

TERMS AND CONDITIONS

Standard Conditions

- I. This Special Permit shall lapse no later than June 15, 2022, but shall not include such time required to pursue or await the determination of an appeal referenced to in M.G.L. Chapter 40A, §17, if substantial use of the Special Permit has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause.
- II. The site plan accompanying this Special Permit application shall be incorporated into this decision and shall be a standard condition of this approval.
- III. The granting of this Special Permit and site plan approval, and the project which is the subject of the Special Permit and accompanying site plan, including all construction and subsequent operations, is predicated on the applicant complying fully with all provisions of the Town of Harvard Protective Bylaw, the Code of the Town of Harvard, and Massachusetts General Law, as applicable.
- IV. The applicant shall be responsible for acquiring and complying with all other local, state, or federal permits and approvals as necessary to construct and operate the project as approved by the Board.
- V. This Decision and accompanying site plan shall be recorded by the applicant at the Worcester County Registry of Deeds. A copy of the recorded Decision and site plan shall be submitted to the Planning Board prior to commencing construction.
- VI. The applicant shall provide to the Planning Board, Building Commissioner, and Fire Chief, a detailed construction schedule identifying the sequence and timetable of all key components of the proposed construction activity, as applicable.
- VII. Duly authorized agents of the Town shall have the right to enter upon the Property to ensure continued compliance with the terms and conditions of this Special Permit.
- VIII. This decision allows the proposed improvements and activities in the location shown on the approved site plan. No alterations, changed to the approved improvements, other additional uses or additional improvements shall be allowed without further review and approval by the Planning Board in the form of a modification to the Special Permit.

Special Conditions

The following Special Conditions were voted affirmatively by the Planning Board at their regular meeting of June 15, 2020:

- I. Adherence to all standard conditions of approval for site plans.
- II. That the applicant offers the Town a payment-in-lieu, rather than providing the 6' concrete sidewalk specified in the Section 125-39G(1) on a cost per linear foot of \$15.13 and on a 5' width. In this case, a payment would translate to \$4000 to be deposited in an escrow

account dedicated to this site or on the opposite side to be determined at the 75% design phase of the Ayer Road project.

- III. That the applicant be prohibited from tandem parking spaces on the property.
- IV. That the applicant provides an as-built site plan upon completion of project prior to final inspection.
- V. That the applicant seeks and receives a driveway permit from DPW.
- VI. That if any commercial scale waste receptacle is deemed necessary in the future, that the applicant submit plans for the receptacle to the Planning Board for approval.

VOTE

The following members of the Board voted to grant the Special Permit, subject to the above stated terms and conditions:

- I. Erin McBee, Chair
- II. Stacia Donahue
- III. Frances Nickerson
- IV. Justin Brown

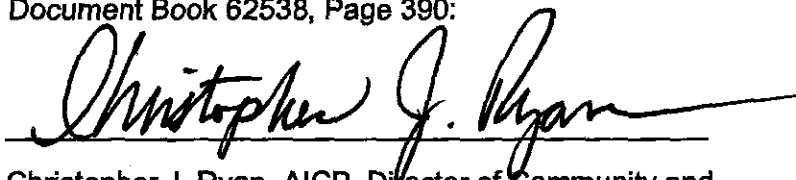
The following members voted to deny the grant of a Special Permit:

None

ELECTRONIC SIGNATURE

The Harvard Planning Board, on May 18, 2020, voted to authorize the Director of Community and Economic Development, to electronically sign Harvard Planning Board documents during the Covid-19 State of Emergency as per the provisions of M.G.L. Chapter 110G, which the Planning Board recognizes and accepts heretofore throughout the duration of the emergency.

Recorded at the Worcester South District Registry of Deeds as an Electronically Recorded Document Book 62538, Page 390:




Christopher J, Ryan, AICP, Director of Community and Economic Development

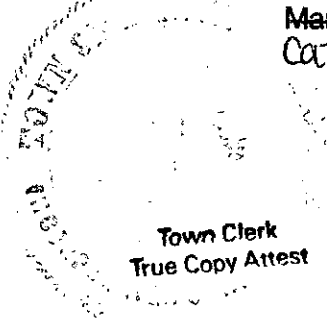
This decision is not valid until after it has been certified with respect to an Appeal by the Harvard Town Clerk, as provided in MGL, Chapter 40A Section 11, and a copy as certified has been recorded in the Worcester Registry of Deeds.

An Appeal of this decision may be made pursuant to MGL Chapter 40A Section 17 within twenty (20) days after the decision is filed with the Town Clerk.

This is to certify that as of July 28, 2020 no notice of appeal has been filed with this office in regard to this decision.

Signed: 

~~Marlene Kenney~~, Town Clerk
Catherine Bowen, Asst.



Vendor # 15087



When
Friday, October 28, 2022 from 9:00 AM to 10:30 AM EDT
[Add to Calendar](#)

Where
This is an online event.

Contact
Samantha Penzone
Massachusetts Economic Development Council
508-755-5734
info@massedc.org

W-9
Rcv'd

Local Economic Development in a Hybrid World: MBTA Communities

Join MEDDC as we welcome an expert group of speakers who will share their knowledge about the MBTA Communities program, guidelines and how RPA's can help their communities.

You have successfully registered for this event; look for a confirmation email arriving shortly. Thanks for supporting MEDDC!

This is an online event. Check your confirmation e-mail for instructions on how to join.

[View and print my ticket\(s\)](#)

[Share this event on Facebook](#)

[Tweet that you're attending](#)

Personal Information

First Name:	Frank
Last Name:	O'Connor
Email Address:	foconnor@harvard-ma.gov
Address 1:	13 Ayer Rd
City:	Harvard
State:	Massachusetts
ZIP Code:	01451
Phone:	9784564100
Organization:	Planning Dept
What do you hope to learn from this event?	1.) How Septic requirements impact meeting
What is a question you would like to ask a panelist?	mandated number of housing units. 2.) Final Action Plan

Payment Summary

Payment Method
Pay By Check

Please make check payable to:
Massachusetts Economic Development Council
c/o WBDC
89 Shrewsbury Street
Suite 300
Worcester, MA 01604

Name	Type	Quantity	Fee	Total
Frank O'Connor	Member	1	\$20.00	\$20.00
TOTAL:				\$20.00

[Go back to Event Page](#)

Local Economic Development in a Hybrid World: MBTA Communities

OCT 28 FRI 2022 from 9:00 AM - 10:30 AM

FRIDAY

Frank O'Connor
foconnor@harvard-ma.gov

Online via Zoom

Event Host
Samantha Penzone
508-755-5734
info@massedc.org

W-9

Payment Status
Check - PENDING

Order Total: \$20.00

We'll scan this when you check in!



ETB44ASJ3

Payment Summary

Fee	1 Frank O'Connor - Member	\$20.00
		Total \$20.00

ETB44ASJ3

Massachusetts Economic Development Council

Serving Economic Development Professionals since 1963

INVOICE

89 Shrewsbury Street, Suite 300
Worcester, MA 01604
508-755-5734

DATE: October 31, 2022
INVOICE # 2022-31
FOR: 10/28 Event
Registrations

Bill To:

Frank O'Connor
Town of Harvard
13 Ayer Road
Harvard, MA 01451

DESCRIPTION	AMOUNT
10/28 Event Registration - Member	\$ 20.00
<u>MBTA Communities Webinar</u>	
TOTAL	\$ 20.00

Make all checks payable to **Massachusetts Economic Development Council**

If you have any questions concerning this invoice, contact:
Samantha Penzone, info@massedc.org

THANK YOU!

The Harvard Press
 PO Box 1
 Harvard, MA 01451
 978-456-3700
 admin@harvardpress.net
 www.harvardpress.com

Invoice

BILL TO
 Harvard Planning Board
 13 Ayer Road
 Harvard, MA 01451

SHIP TO
 Harvard Planning Board
 13 Ayer Road
 Harvard, MA 01451

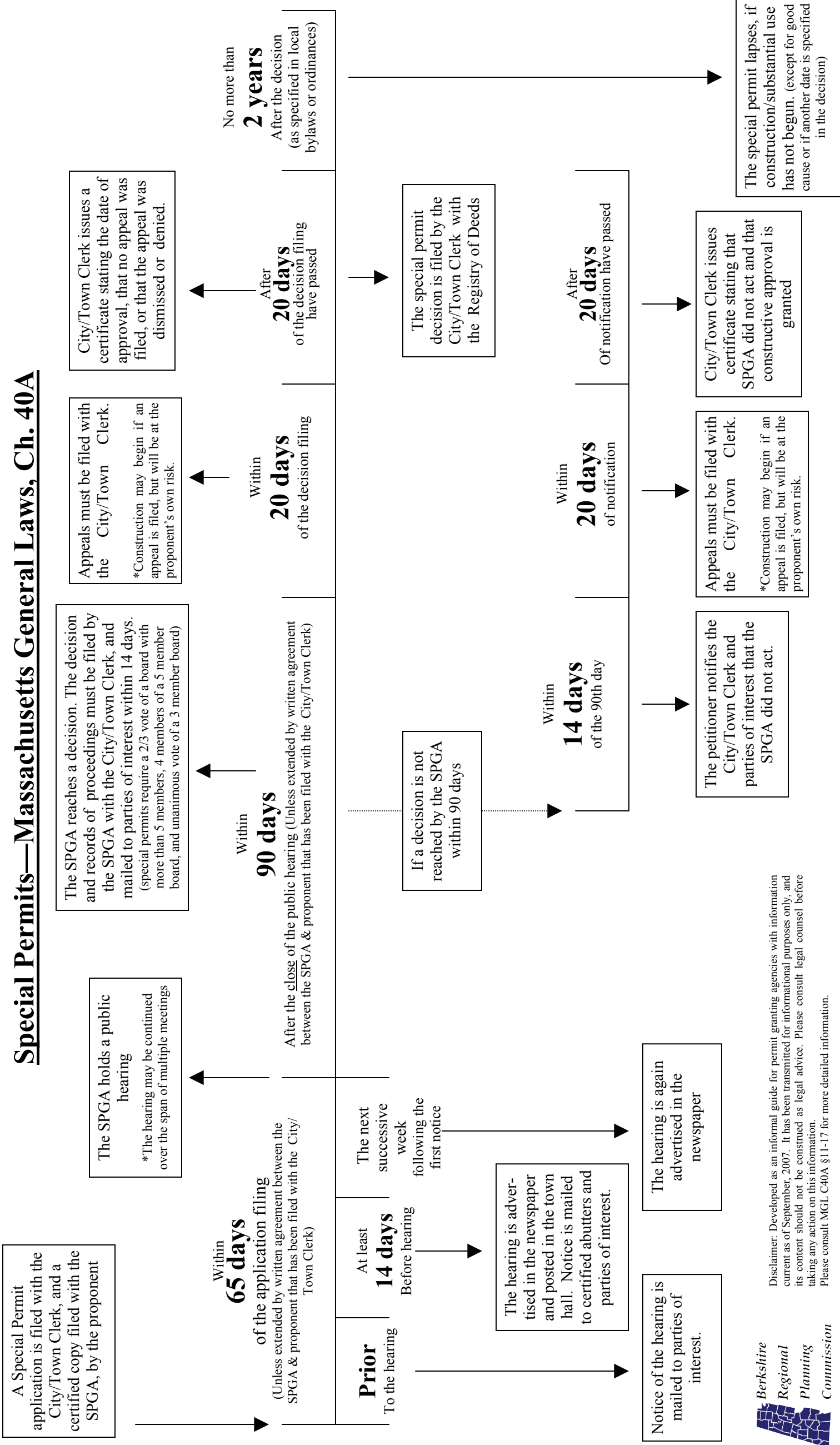
INVOICE #	DATE	TOTAL DUE	DUE DATE	TERMS	ENCLOSED
9210	11/01/2022	\$192.00	11/16/2022	Net 15	

DATE	DESCRIPTION	QTY	RATE	AMOUNT
10/21/2022	2x4.1 LEGAL NOTICE Publication dates: 10/21/22 and 10/28/22; Planning Board virtual public meeting on November 7 to hear comments concerning proposed amendments to the town's protective bylaw	2	96.00	192.00

BALANCE DUE

\$192.00

Special Permits—Massachusetts General Laws, Ch. 40A



Disclaimer: Developed as an informal guide for permit granting agencies with information current as of September, 2007. It has been transmitted for informational purposes only, and its content should not be construed as legal advice. Please consult legal counsel before taking any action on this information. Please consult MGL C40A §11-17 for more detailed information.





TOWN OF HARVARD
The Commonwealth of Massachusetts

FORM A and CHECKLIST

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

File ten (10) completed copies of this form, and associated plans as described in Planning Board Procedural Rules and Regulations, Chapter 133 of the Code of the Town of Harvard, with the Town Clerk and in accordance with the requirements of Section 81P

No. _____, 20____

To the Planning Board:

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

- 1. The accompanying plan is not a subdivision because the plan does not show a division of land.
- ② The division of the tract of land shown on the accompanying plan is not a subdivision because every lot shown on the plan has frontage of at least such distance as is presently required by the Protective (Zoning) Bylaw under Section _____ which requires _____ feet for erection of a building on such lot; and every lot shown on the plan has such frontage on:

a. a public way or way which the Town Clerk certifies is maintained and used as a public way, namely PROSPECT HILL ROAD; or

b. a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, namely _____ on _____, and subject to the following conditions _____; or

c. a private way in existence on February 6, 1954, the date when the Subdivision Control Law became effective in the Town of Harvard having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon, namely _____.

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

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

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

The owner's title to the land is derived under deed from EARLA M'EVROY AND VICTORIA M'EVROY, dated OCTOBER 17, 2014 and record in Worcester County Registry of Deeds, Book 52794 Page 364 or Land Court Certificate of Title No. _____, registered in Worcester District Book _____, Page _____, and Harvard Assessors' Book 016, Page 111.

6. Fee paid (\$150 per lot) \$300.

APPLICANT'S NAME (Please print) COMMUNITY HARVEST PROJECT, INC.

Applicant's signature  Phone No. 774-551-~~6544~~

Applicant's address 37 WHEELER ROAD NORTH GRAFTON, MA

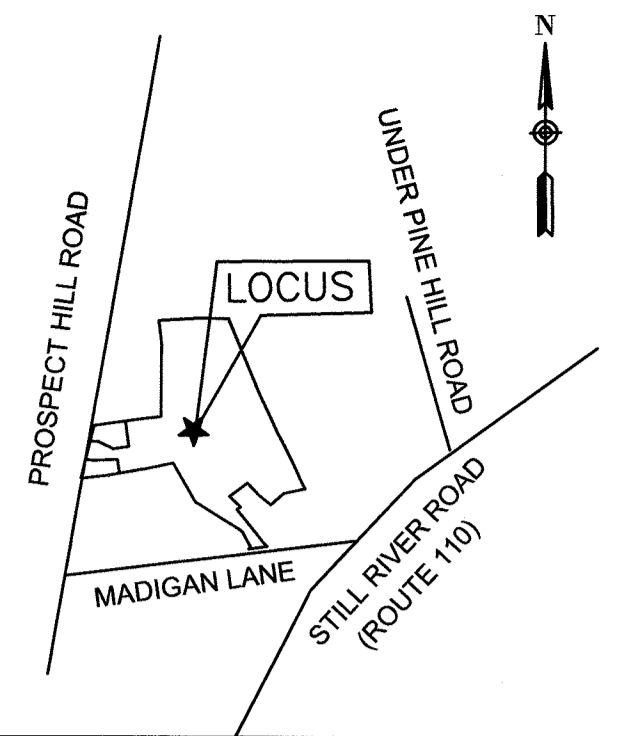
OWNER'S SIGNATURE and address if not the applicant, or applicant's authorization if not the owner

01536

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

Received by Town Clerk:

Date/Time: _____



Locus Map
(NOT TO SCALE)

GENERAL NOTES

1. THIS PLAN IS BASED UPON ON-THE-GROUND SURVEYS PERFORMED BY BSC GROUP, INC. BETWEEN MARCH 2021 AND MAY 2021.
2. HORIZONTAL DATUM IS BASED ON NAD OF 83 - MASSACHUSETTS STATE PLANE COORDINATE SYSTEM MAINLAND ZONE.

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS

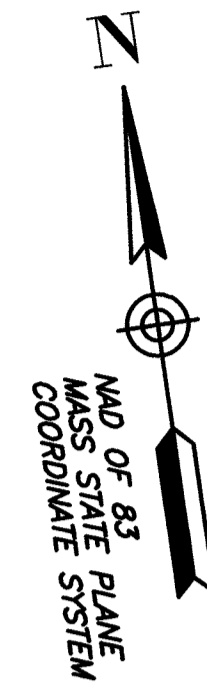
PROFESSIONAL LAND SURVEYOR FOR BSC GROUP INC. **10/31/22** DATE



Signature

LEGEND

- RBOPC REBAR WITH ORANGE PLASTIC CAP
- BIT. CONC. BITUMINOUS CONCRETE
- CONC. CONCRETE
- INV. INVERT
- (R) RECORD INFORMATION
- N/F NOW OR FORMERLY
- STONEWALL
- UTILITY POLE
- AC. ACRES
- S.F. SQUARE FEET



OWNER OF RECORD

COMMUNITY HARVEST PROJECT, INC.
37 WHEELER ROAD
NORTH GRAFTON, MA 01536

DEED BOOK 52994 PAGE 364
PLAN BOOK 885 PLAN 38

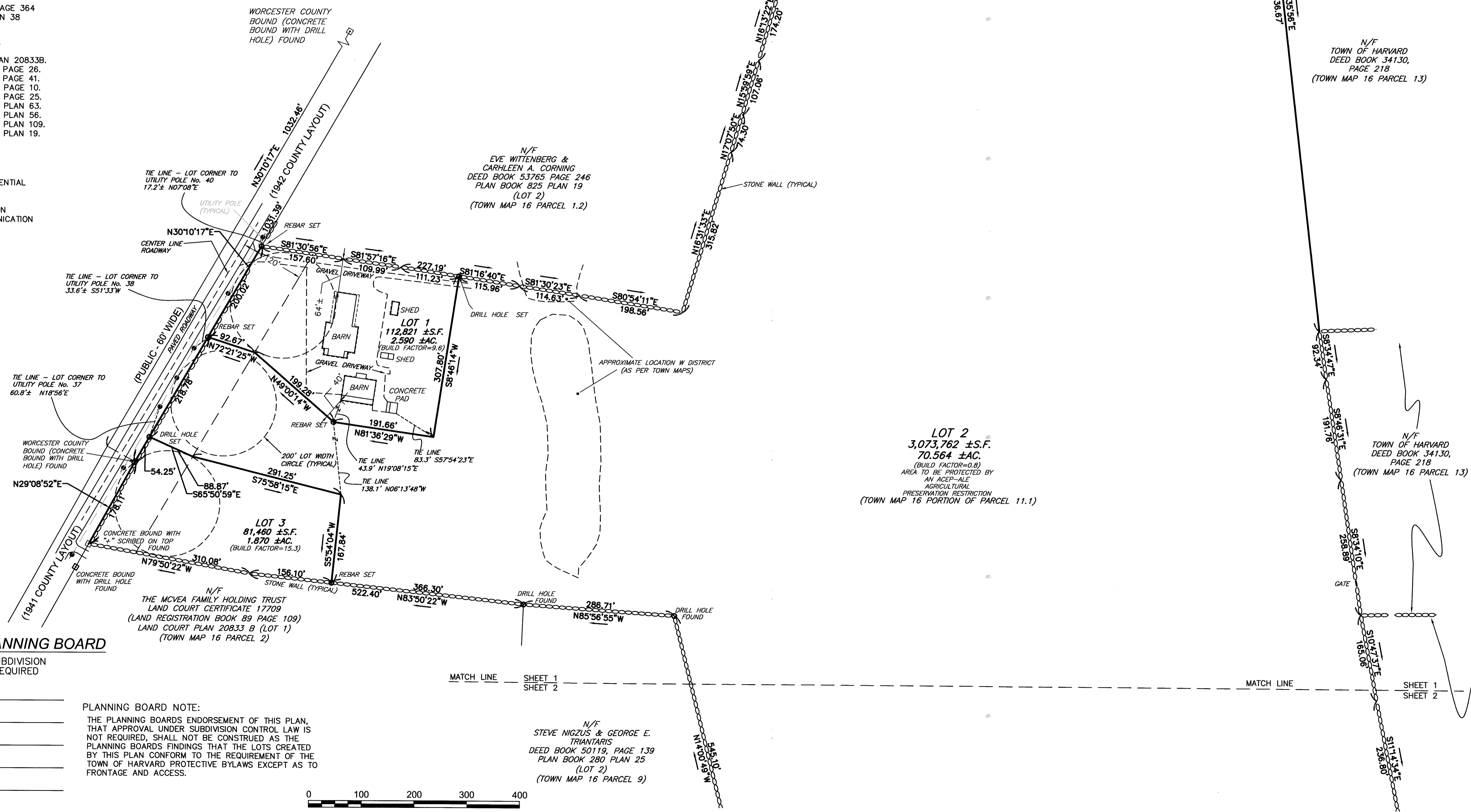
PLAN REFERENCES

1. LAND COURT PLAN 20833B.
2. PLAN BOOK 123 PAGE 26.
3. PLAN BOOK 128 PAGE 41.
4. PLAN BOOK 207 PAGE 10.
5. PLAN BOOK 280 PAGE 25.
6. PLAN BOOK 357 PLAN 63.
7. PLAN BOOK 679 PLAN 56.
8. PLAN BOOK 692 PLAN 109.
9. PLAN BOOK 825 PLAN 19.

ZONING DISTRICT

AGRICULTURAL/RESIDENTIAL

OVERLAY DISTRICTS
WATER PROTECTION
WIRELESS COMMUNICATION



RESERVED FOR REGISTRY USE

PLAN
OF LAND
IN
HARVARD,
MASSACHUSETTS
(WORCESTER COUNTY)
PROSPECT HILL ROAD

APRIL 25, 2021

REVISIONS:

NO.	DATE	DESC.

PREPARED FOR:

MASSACHUSETTS
DEPARTMENT OF
AGRICULTURAL
RESOURCES



803 Summer Street
Boston, Massachusetts
02127

617 896 4300

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PROJ. MGR.: C.MCNARY

FIELD: C.MCNARY

CALC./DESIGN: C.MCNARY

DRAWN: C.MCNARY

CHECK:

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DWG: 8541800PL2.DWG SHEET

JOB. NO: 85418.00 1 OF 2

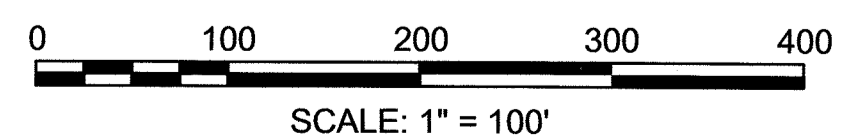
HARVARD PLANNING BOARD

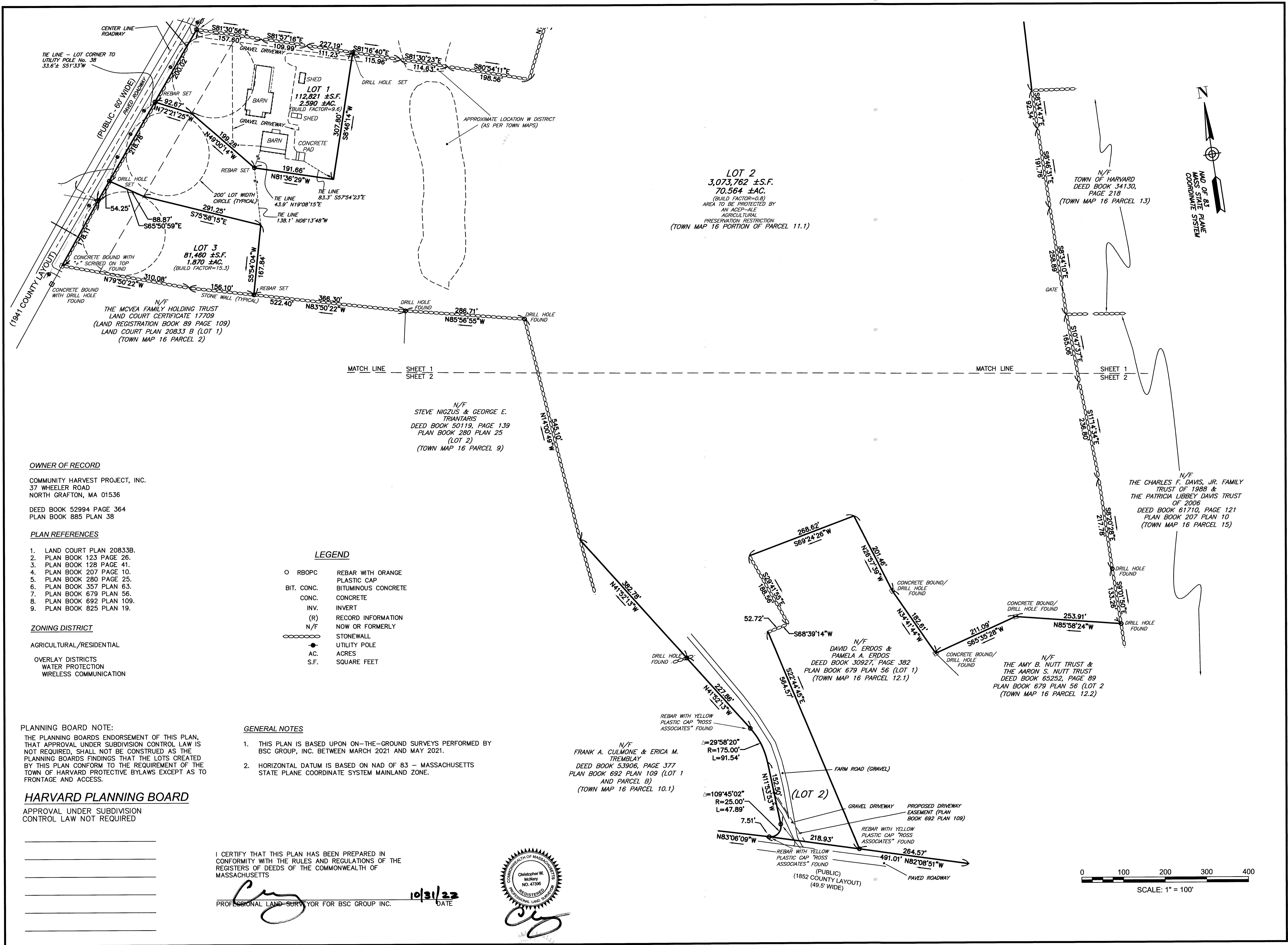
APPROVAL UNDER SUBDIVISION
CONTROL LAW NOT REQUIRED

PLANNING BOARD NOTE:

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

N/F
STEVE NIGZUS & GEORGE E.
TRIANTARIS
DEED BOOK 50119, PAGE 139
PLAN BOOK 280 PLAN 25
(LOT 2)
(TOWN MAP 16 PARCEL 9)





LOT 2
 3,073,762 ±S.F.
 70.564 ±AC.
 (BUILD FACTOR=0.8)
 AREA TO BE PROTECTED BY
 AN ACEP-ALE
 AGRICULTURAL
 PRESERVATION RESTRICTION
 (TOWN MAP 16 PORTION OF PARCEL 11.1)

LOT 3
 81,460 ±S.F.
 1.870 ±AC.
 (BUILD FACTOR=15.3)

N/F
 THE MCVEA FAMILY HOLDING TRUST
 LAND COURT CERTIFICATE 17709
 (LAND REGISTRATION BOOK 89 PAGE 109)
 LAND COURT PLAN 20833 B (LOT 1)
 (TOWN MAP 16 PARCEL 2)

N/F
 STEVE NIGZUS & GEORGE E.
 TRANTARIS
 DEED BOOK 50119, PAGE 139
 PLAN BOOK 280 PLAN 25
 (LOT 2)
 (TOWN MAP 16 PARCEL 9)

N/F
 THE CHARLES F. DAVIS, JR. FAMILY
 TRUST OF 1988 &
 THE PATRICIA LIBBEY DAVIS TRUST
 OF 2006
 DEED BOOK 61710, PAGE 121
 PLAN BOOK 207 PLAN 10
 (TOWN MAP 16 PARCEL 15)

OWNER OF RECORD

COMMUNITY HARVEST PROJECT, INC.
 37 WHEELER ROAD
 NORTH GRAFTON, MA 01536
 DEED BOOK 52994 PAGE 364
 PLAN BOOK 885 PLAN 38

PLAN REFERENCES

1. LAND COURT PLAN 20833B
2. PLAN BOOK 123 PAGE 26
3. PLAN BOOK 128 PAGE 41
4. PLAN BOOK 207 PAGE 10
5. PLAN BOOK 280 PAGE 25
6. PLAN BOOK 357 PLAN 63
7. PLAN BOOK 679 PLAN 56
8. PLAN BOOK 692 PLAN 109
9. PLAN BOOK 825 PLAN 19

LEGEND

- RBOPC REBAR WITH ORANGE PLASTIC CAP
- BIT. CONC. BITUMINOUS CONCRETE
- CONC. CONCRETE
- INV. INVERT
- (R) RECORD INFORMATION
- N/F NOW OR FORMERLY
- STONEWALL
- UTILITY POLE
- AC. ACRES
- S.F. SQUARE FEET

ZONING DISTRICT

- AGRICULTURAL/RESIDENTIAL
- OVERLAY DISTRICTS
- WATER PROTECTION
- WIRELESS COMMUNICATION

PLANNING BOARD NOTE:

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

HARVARD PLANNING BOARD

APPROVAL UNDER SUBDIVISION CONTROL LAW NOT REQUIRED

GENERAL NOTES

1. THIS PLAN IS BASED UPON ON-THE-GROUND SURVEYS PERFORMED BY BSC GROUP, INC. BETWEEN MARCH 2021 AND MAY 2021.
2. HORIZONTAL DATUM IS BASED ON NAD OF 83 - MASSACHUSETTS STATE PLANE COORDINATE SYSTEM MAINLAND ZONE.

N/F
 FRANK A. CULMONE & ERICA M. TREMBLAY
 DEED BOOK 53906, PAGE 377
 PLAN BOOK 692 PLAN 109 (LOT 1 AND PARCEL B)
 (TOWN MAP 16 PARCEL 10.1)

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS

PROFESSIONAL LAND SURVEYOR FOR BSC GROUP INC. **10/31/23** DATE



RESERVED FOR REGISTRY USE

PLAN OF LAND IN HARVARD, MASSACHUSETTS (WORCESTER COUNTY) PROSPECT HILL ROAD

APRIL 25, 2021

REVISIONS:

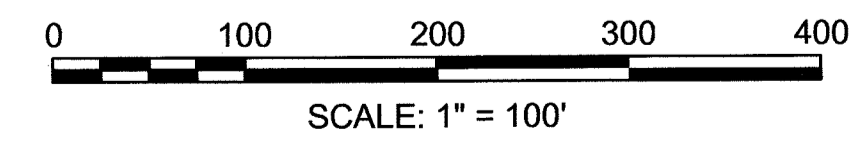
NO.	DATE	DESC.

PREPARED FOR:
 MASSACHUSETTS DEPARTMENT OF AGRICULTURAL RESOURCES

BSC GROUP
 803 Summer Street
 Boston, Massachusetts 02127
 617 896 4300

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PROJ. MGR.:	C.MCNARY
FIELD:	C.MCNARY
CALC./DESIGN:	C.MCNARY
DRAWN:	C.MCNARY
CHECK:	
FILE:	85418\SD\8541800PL1.DWG
DWG.:	8541800PL2.DWG SHEET
JOB. NO.:	85418.00 2 OF 2



EROSION CONTROL APPLICATION

Applicants should review the Harvard Protective (Zoning) Bylaw, Chapter 125-58 of the Code of the Town of Harvard, the Planning Board's Rules and Regulations, Chapter 133 of the Code of the Town of Harvard. Copies of the Bylaw may be purchased from the Town Clerk and copies of the Rules and Regulations may be purchased from the Land Use Office. Information is also available online at www.harvard-ma.gov. The Rules and Regulations specify the documents that are required as a part of the application.

Applicant's Name: Samuel Lowenstein & Diane Baddar
Address: 73 Bolton Road Phone: 703-307-1486 Email: cheers1510@gmail.com
Applicant is (check one): Owner X Agent _____ Prospective Buyer _____
Location of Property: 73 Bolton Road Zoning District: Agriculture-Residential
Harvard Assessors' Map 27 Parcel 72
Owner's Name: Samuel Lowenstein Email: cheers1510@gmail.com
Owner's Address: 73 Bolton Road Owner's Phone: 703-307-1486
Signed: _____

APPLICATION CHECK LIST

Minor Permit

- Sketch plan showing limits, scope of work and proposed Best Management Practices (BMPs)
- Project narrative that includes a description of the proposed project and a description of how and where stormwater will be controlled and erosion and sediment controls to be used
- \$25.00 filing fee

Major Permit

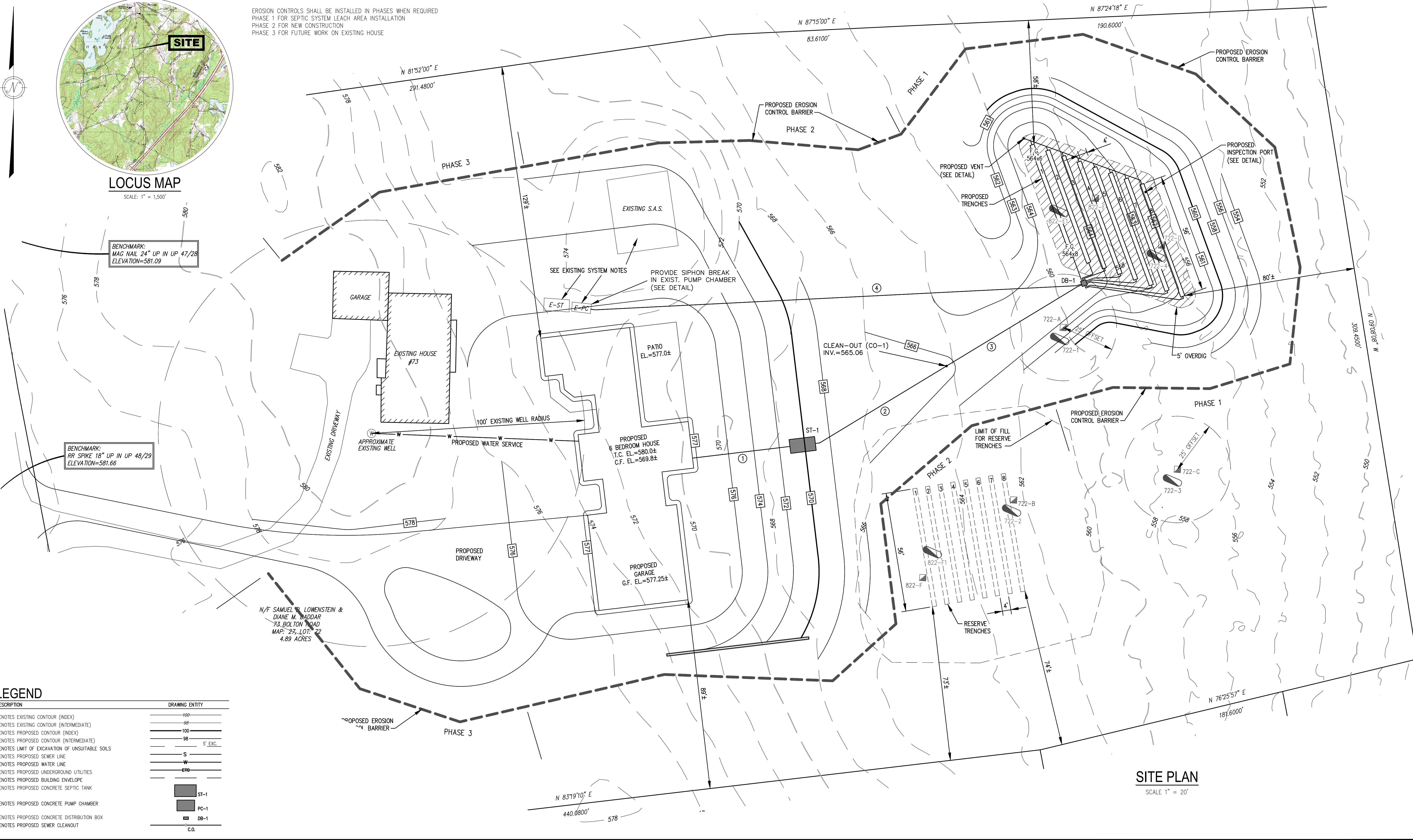
- Applicants shall file one (1) original completed application packet and seven (7) copies
- Project narrative that includes a description of the proposed project and a description of how and where stormwater will be controlled and erosion and sediment controls to be used, plus a description of any specimen trees within the project area.
- Engineered plan set, signed and stamped by a professional engineer or a professional land surveyor registered in the Commonwealth of Massachusetts, and drawn at a legible scale and including:

- **Existing and proposed conditions plans**, which shall identify significant natural features and native trees greater than a diameter of (6) inches within the project area.

- **Erosion control plan**, which shall include the following related specifically to the disturbance area:
 - Location of all structural and non-structural erosion and sediment control measures and BMPs;
 - Locations where stabilization practices are expected to occur;
 - Locations for storage of materials, waste, vehicles, equipment, soil, snow, and other potential contaminants;
 - Operations and Maintenance Plan for BMP's including inspections and maintenance activities as noted in §133-41 below;
 - Areas where previous stabilization has been accomplished and no further construction-phase permit requirements apply; and
 - Any other information deemed necessary by the Planning Board.

\$200.00 filing fee

Reid #227



LEGEND

DESCRIPTION	DRAWING ENTITY
DENOTES EXISTING CONTOUR (INDEX)	100
DENOTES EXISTING CONTOUR (INTERMEDIATE)	98
DENOTES PROPOSED CONTOUR (INDEX)	100
DENOTES PROPOSED CONTOUR (INTERMEDIATE)	98
DENOTES LIMIT OF EXCAVATION OF UNSUITABLE SOILS	5' EXC.
DENOTES PROPOSED SEWER LINE	S
DENOTES PROPOSED WATER LINE	W
DENOTES PROPOSED UNDERGROUND UTILITIES	ETU
DENOTES PROPOSED BUILDING ENVELOPE	ST-1
DENOTES PROPOSED CONCRETE SEPTIC TANK	PC-1
DENOTES PROPOSED CONCRETE PUMP CHAMBER	DB-1
DENOTES PROPOSED CONCRETE DISTRIBUTION BOX	C.O.
DENOTES PROPOSED SEWER CLEANOUT	

PREPARED BY:

DILLIS & ROY
 CIVIL DESIGN GROUP

CIVIL ENGINEERS LAND SURVEYORS WETLAND CONSULTANTS
 1 MAIN STREET, SUITE 1 LUNENBURG, MA 01462 PHONE: (978) 779-6091 www.dillisandroy.com

OWNER:
 SAMUEL LOWENSTEIN
 73 BOLTON ROAD
 HARVARD, MASSACHUSETTS 01451

APPLICANT:
 SAMUEL LOWENSTEIN
 73 BOLTON ROAD
 HARVARD, MASSACHUSETTS 01451

SCALE:

1 in. = 20 ft.

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PROFESSIONAL ENGINEER
 GREGORY S. ROY
 NO. 4870
 STATE OF MASSACHUSETTS

DATE:	8/23/2022
DESIGN BY:	CLM
DRAWN BY:	CLM
CHECKED BY:	WJM

SEWAGE DISPOSAL SYSTEM DESIGN 73 BOLTON ROAD (M: 27 P: 72) HARVARD, MASSACHUSETTS			
NO.	DATE	DESCRIPTION	BY
1	9/27/2022	PER N.A.B.O.H. REVIEW COMMENTS	CLM
2	10/28/2022	EROSION CONTROLS & TOPOGRAPHIC BENCHMARKS	CLM

JOB NO. 7198
 DRAWING NO. 7198-SDS
 SHEET NO. **1** OF 2

GENERAL PUMP NOTES (TEMPORARY CONNECTION)

- GENERAL-** CONNECT EXISTING PUMP TO NEW LEACH AREA TO PROVIDE TEMPORARY SERVICE FOR THE EXISTING HOUSE DURING CONSTRUCTION OF THE NEW HOUSE. PUMP TO BNE DISCONNECTED AND REMOVED FOLLOWING CONNECTION OF THE NEW HOUSE TO LEACH AREA. THE CONTRACTOR SHALL PROVIDE A SUFFICIENT QUANTITY OF CLEAN WATER TO CONDUCT TWO PUMP OPERATION TESTS.
- PUMP CHAMBER-** RE-USE EXISTING PUMP CHAMBER IN PLACE.
- PUMP AND MOTOR-** RE-USE EXISTING PUMP AND MOTOR. CONTRACTOR TO CONFIRM THAT EXISTING PUMP IS A MYERS MODEL SRM-4 SUBMERSIBLE SEWAGE PUMP CAPABLE OF PASSING 2-INCH SOLIDS. PUMP AND MOTOR SHALL BE FULLY SUBMERSIBLE.

H.P. 0.4 H.P.
 RATE: 57 GPM
 TDH: 11 FEET
 MODEL: MYERS SRM-4 - OR EQUAL (SEE SYSTEM CURVE)

- PIPING-** 2-INCH (SCHEDULE 80) PVC PIPE AND FITTINGS SHALL BE USED FOR INTERIOR PUMP STATION DISCHARGE PIPING AND FITTINGS. THE SEWAGE FORCE MAIN SHALL BE 2-INCH DIAMETER SDR 21 PVC PIPE OR EQUAL. THE DISCHARGE LINES WITHIN THE PUMP CHAMBER SHALL INCLUDE THE FOLLOWING:

- 1) IN THE VERTICAL POSITION: A 2-INCH CHECK VALVE
- 2) IN THE HORIZONTAL POSITION: A 2-INCH BALL VALVE

ALL PIPING BETWEEN THE PUMP CHAMBER AND THE DISTRIBUTION BOX SHALL BE INSULATED. (SEE NOTE 8)

- 5. LEVEL CONTROLS-** SEALED FLOAT TYPE MECHANICAL SWITCHES SHALL BE SUPPLIED TO CONTROL THE PUMP LEVEL AND ALARM SIGNAL. THREE FLOAT SWITCHES SHALL BE USED TO CONTROL THE PUMP LEVEL: ONE EACH FOR PUMP "ON" AND FOR PUMP "OFF" AND A THIRD SWITCH SHALL BE PROVIDED WITH A POWER SOURCE SEPARATE FROM THE PUMP POWER AND SHALL BE FOR THE ALARM. THE ALARM SHALL BE LOCATED IN THE BUILDING SERVED BY THE SYSTEM. FLOAT SWITCHES SHALL BE OF THE MECHANICAL TUBE TYPE SEALED IN POLYURETHANE FLOATS. THE FLOAT LEVEL CONTROLS SHALL BE SET TO OPERATE AT THE ELEVATIONS INDICATED ON THE PLANS. FLOATS AND ALARMS SHALL BE WIRED TO THE CONTROL BOX IN THE DWELLING WITHOUT THE USE OF A JUNCTION BOX.

- 6. CONTROL PANEL-** THE SIMPLEX CONTROL PANEL SHALL BE EQUIPPED WITH A RUN LIGHT FOR THE PROPERLY SIZED PUMP CIRCUIT BREAKERS, A TRANSFORMER TO GIVE PROPER VOLTAGE TO THE CONTROL CIRCUITS AND A THREE-WAY HAND CONTROL SWITCH. THE SWITCH POSITIONS SHALL BE AS FOLLOWS:

- 1) PUMP OFF
- 2) AUTOMATIC PUMP ON
- 3) MANUAL PUMP ON

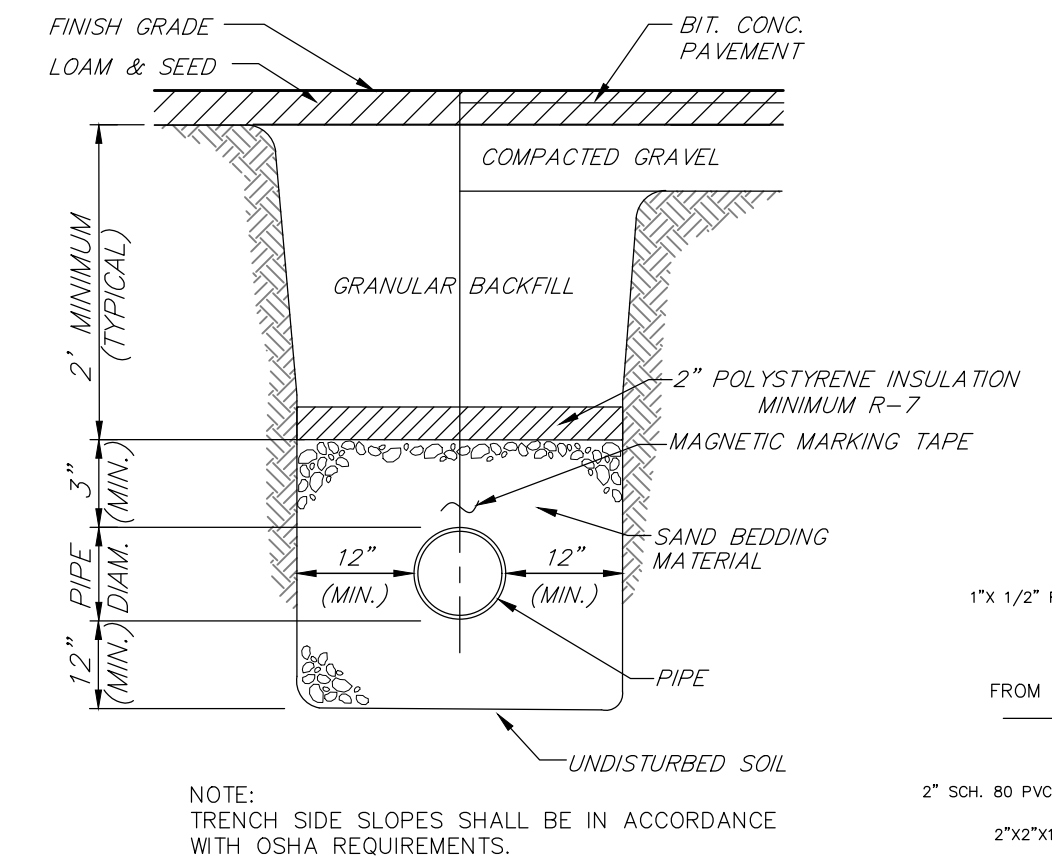
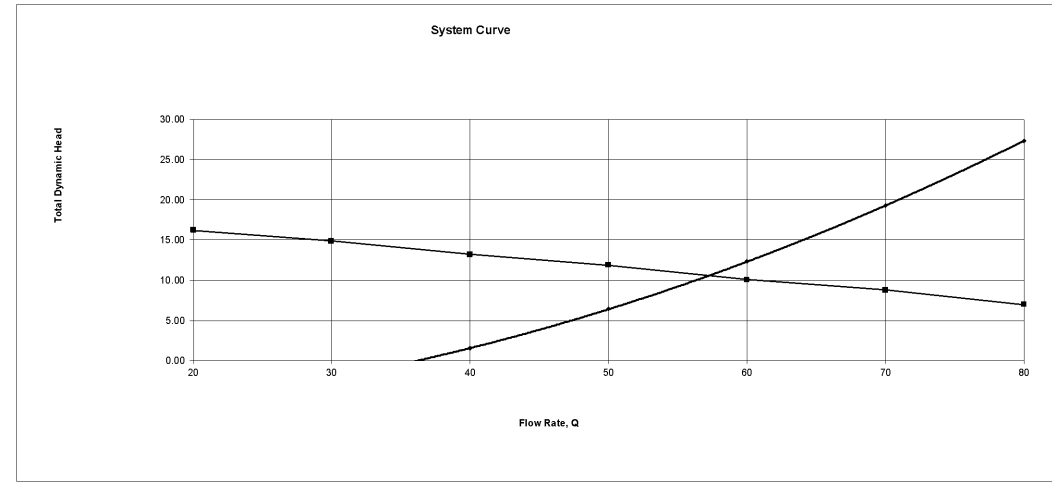
THE CONTROL PANEL SHALL BE HOUSED IN A NEMA-1 CONTROL BOX FOR 220V, SINGLE PHASE OPERATION. PANEL SHALL BE INSTALLED IN A SUITABLE LOCATION INSIDE THE BUILDING.

- 7. ALARM-** A HIGH WATER ALARM SHALL BE SUPPLIED WITH BOTH AUDIBLE AND VISUAL ALARM WITH A SEPARATE POWER SUPPLY FROM THE PUMP. THE ALARMS SHALL BE MOUNTED IN A NEMA-1 ENCLOSURE SEPARATE FROM THE CONTROL PANEL. AN ALARM SILENCER BUTTON SHALL BE PROVIDED TO SILENCE THE AUDIBLE ALARM WHILE THE VISUAL ALARM REMAINS ILLUMINATED UNTIL MANUALLY RESET.

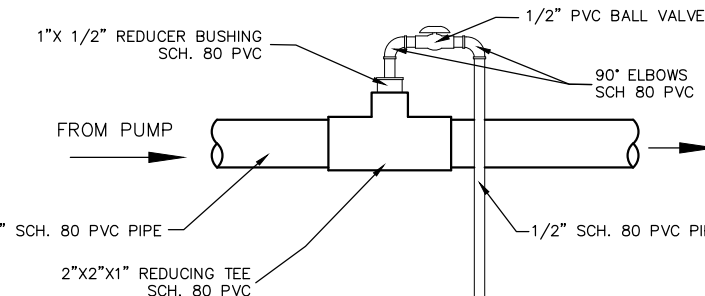
- 8. PIPE INSULATION-** FORCE MAIN SHALL BE COVERED WITH 2-INCH, THICK RIDGED POLYSTYRENE INSULATION.

- 9. EFFLUENT TEE FILTER-** EFFLUENT TEE FILTER SHALL BE ZABEL A-1800 OR EQUAL DEP APPROVED FILTER.

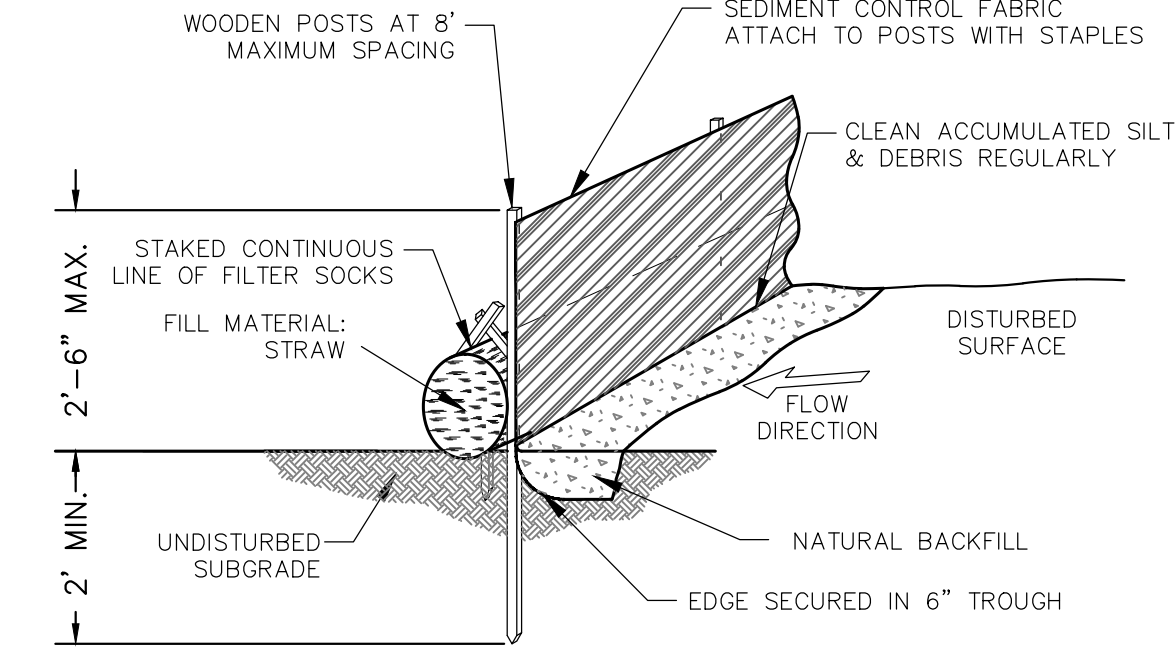
FOR TEMPORARY EXISTING HOUSE CONNECTION ONLY



FORCE MAIN INSULATION
NOT TO SCALE



SIPHON BREAK DETAIL
NOT TO SCALE



SILTATION BARRIER
NOT TO SCALE

SCHEDULE OF ELEVATIONS:

SYSTEM ELEVATIONS:		PIPE DATA:	
TOP EL. OF FOUNDATION WALL= 580.0±		PIPE 1 GRAVITY SEWER	PIPE 3 GRAVITY SEWER
INV. EL. AT FOUNDATION WALL= 568.87		4" PVC (SCH. 40)	4" PVC (SCH. 40)
SEPTIC TANK (ST-1) - H=10		L= 46' S= 0.03	S= 0.02
4" INV. (N)= 567.49		PIPE 4 GRAVITY SEWER	PIPE 4 FORCE MAIN (TEMPORARY)
4" INV. (OUT)= 567.24		4" PVC (SCH. 40)	2" PVC (SDR 21)
		L= 72' S= 0.03	L= 231'
CLEAN-OUT (CO-1)		DISTRIBUTION BOX (DB-1)	
4" INV. (N)= 565.08		4" INV. (N)= 563.60	
		4" INV. (OUT)= 563.43	

PRIMARY TRENCH ELEVATIONS:		RESERVE TRENCH ELEVATIONS:	
TRENCH NO.	EL. INV. BEG. OF TRENCH	EL. INV. END OF TRENCH	EL. INV. BEG. OF TRENCH
P1	563.21	562.93	561.93
P2	562.81	562.53	561.53
P3	562.41	562.13	561.13
P4	562.01	561.73	560.73
P5	561.61	561.33	560.33
P6	561.21	560.93	559.93
P7	560.81	560.53	559.53
P8	560.41	560.13	559.13

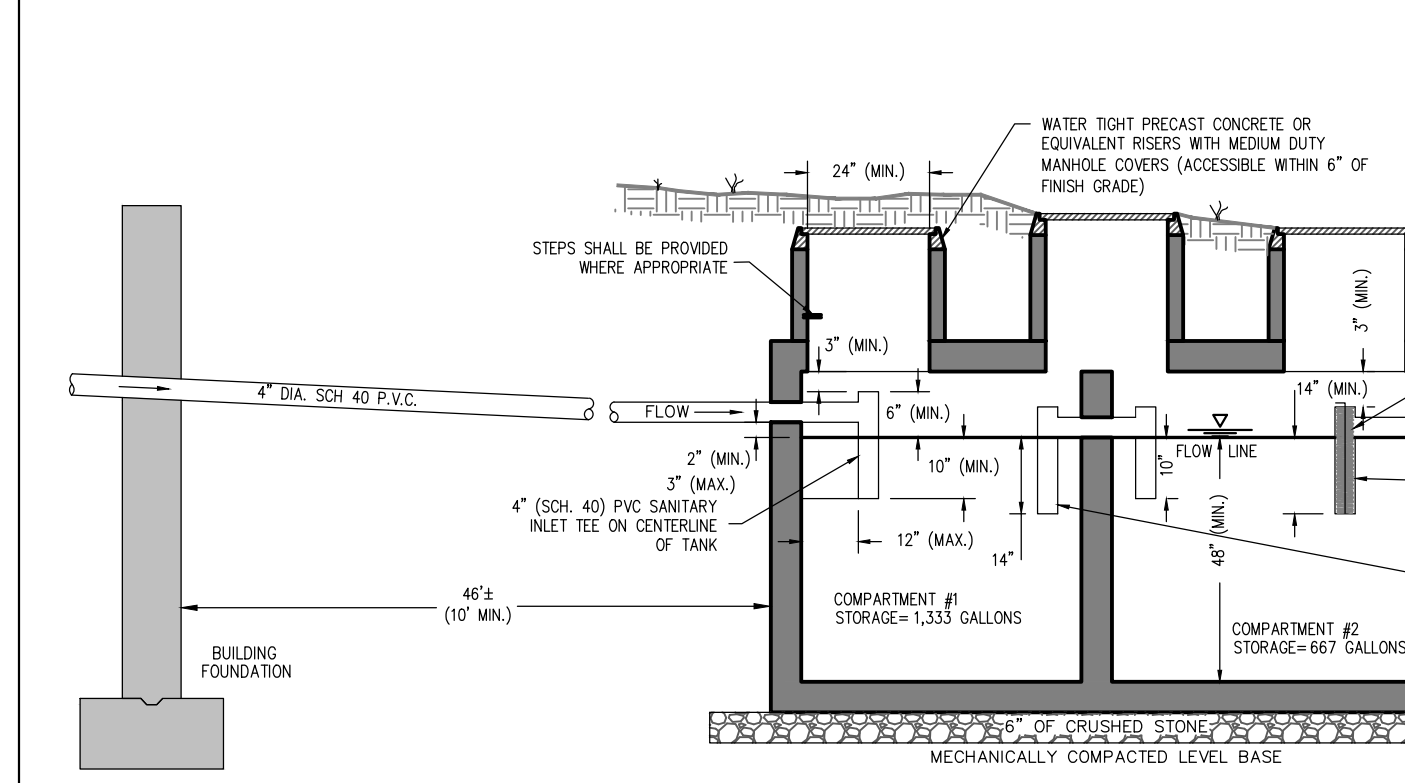
CALCULATIONS:

HYDRAULIC LOADING:
 SIX (6) BEDROOMS AT 110 GALLONS PER DAY PER BEDROOM = 660 GALLONS PER DAY.

SEPTIC TANK SIZE:
 AVERAGE DAILY FLOW = 660 G.P.D.
 MINIMUM STORAGE REQUIRED WITH GARBAGE GRINDER:
 COMPARTMENT #1 = 660 G.P.D. X 200% = 1,320 GALLONS
 COMPARTMENT #2 = 660 G.P.D X 100% = 660 GALLONS
 SEPTIC TANK PROVIDED = 2,000 GALLON, 2 COMPARTMENT (1,333/667)

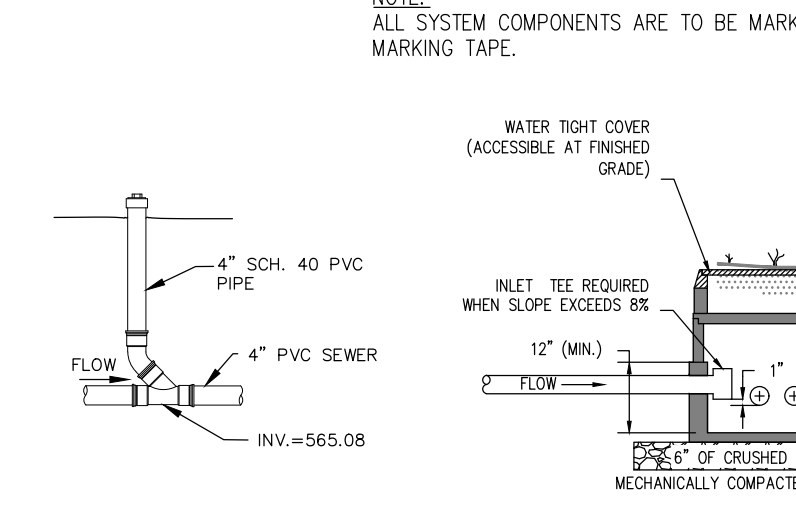
PRIMARY LEACHING AREA:
 DESIGN PERCOLATION RATE = 14 M/A (SOIL CLASS II)
 EFFLUENT LOADING RATE = 0.56 GALLONS/S.F.
 LEACHING AREA REQUIRED = 660 GPD / 0.56 GPD/S.F. = 1,179 S.F.
 WITH GARBAGE GRINDER = 1,179 S.F. X 150% = 1,768 S.F.
 TOTAL LEACHING AREA PROVIDED = (8) 56' TRENCHES, 2' WIDE X 1' DEEP (8 X 56 X 4) = 1,792 S.F.

RESERVE LEACHING AREA:
 DESIGN PERCOLATION RATE = 14 M/A (SOIL CLASS II)
 EFFLUENT LOADING RATE = 0.56 GALLONS/S.F.
 LEACHING AREA REQUIRED = 660 GPD / 0.56 GPD/S.F. = 1,179 S.F.
 WITH GARBAGE GRINDER = 1,179 S.F. X 150% = 1,768 S.F.
 TOTAL LEACHING AREA PROVIDED = (8) 56' TRENCHES, 2' WIDE X 1' DEEP (8 X 56 X 4) = 1,792 S.F.

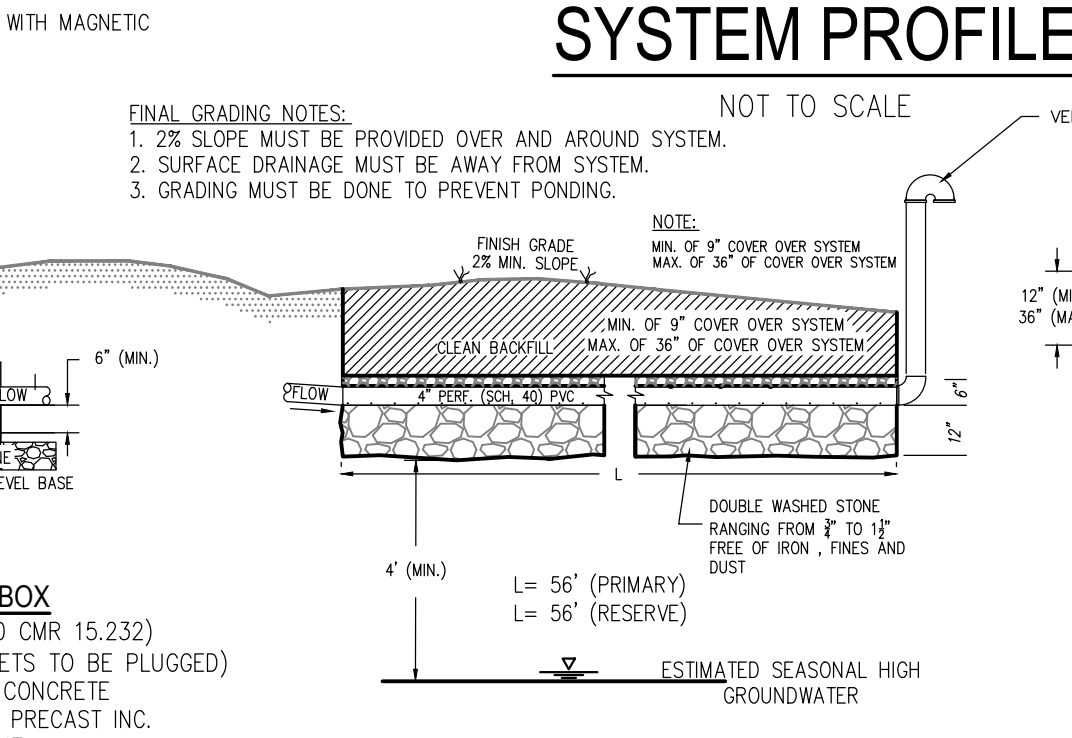


DUAL COMPARTMENT SEPTIC TANK
 (IN ACCORDANCE WITH 310 CMR 15.223 TO 15.228)
 CAPACITY = 1,500 GALLONS
 PRECAST REINFORCED CONCRETE (H=10)
 MANUFACTURER: LAMARRE PRECAST INC.
 (NOT TO SCALE)

- BUILDING SEWER NOTES:**
1. SEWER LINE MUST BE LAID ON A FIRM COMPACTED BASE.
 2. PIPE MUST BE SLOPED AT A MIN. OF 1% (2% PREFERRED).
 3. PIPE MUST BE LAID ON A CONTINUOUS UNIFORM GRADIENT.



SEWER CLEANOUT #1
NOT TO SCALE

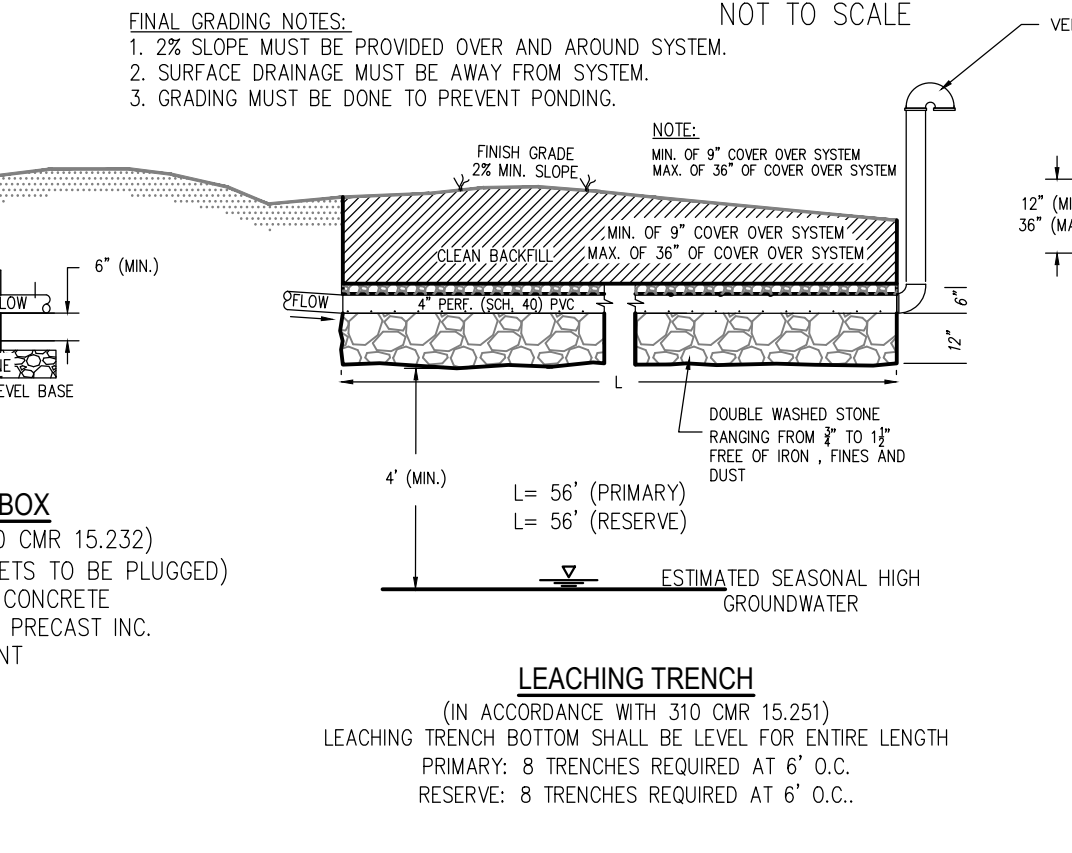


LEACHING TRENCH
 (IN ACCORDANCE WITH 310 CMR 15.251)
 LEACHING TRENCH BOTTOM SHALL BE LEVEL FOR ENTIRE LENGTH
 PRIMARY: 8 TRENCHES REQUIRED AT 6' O.C.
 RESERVE: 8 TRENCHES REQUIRED AT 6' O.C.

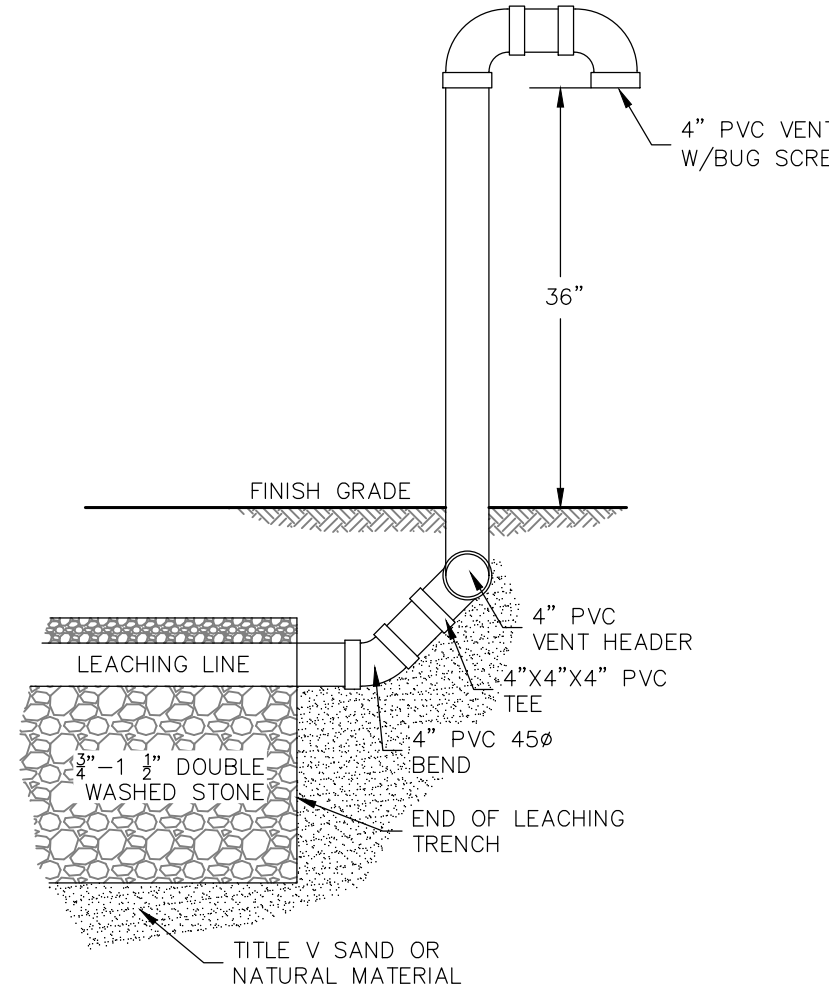


DISTRIBUTION BOX
 (IN ACCORDANCE WITH 310 CMR 15.232)
 SIZE = 5 OUTLET (UNUSED OUTLETS TO BE PLUGGED)
 PRECAST REINFORCED CONCRETE
 MANUFACTURER: LAMARRE PRECAST INC.
 OR EQUIVALENT

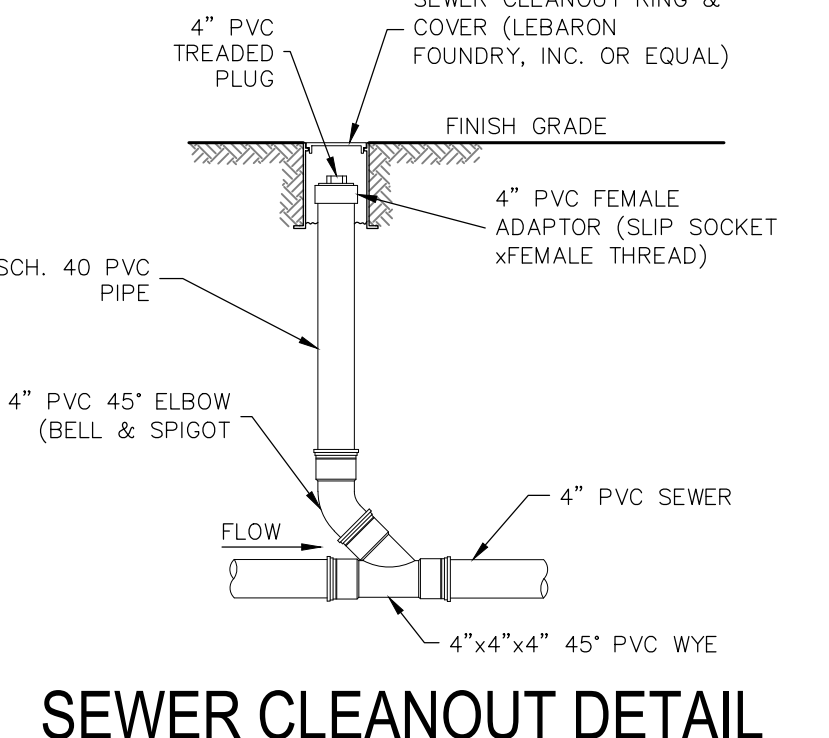
SYSTEM PROFILE



SYSTEM PROFILE
NOT TO SCALE



VENT DETAIL
NOT TO SCALE



SEWER CLEANOUT DETAIL
NOT TO SCALE

GENERAL NOTES:

1. TOPOGRAPHIC INFORMATION IS THE RESULT OF AN ON-THE-GROUND SURVEY PERFORMED BY DILLIS & ROY CIVIL DESIGN GROUP, INC. ELEVATIONS REFER TO ASSUMED DATUM (SEE BENCH MARK LOCATED ON PLOT PLAN).
2. PROPERTY LINE INFORMATION TAKEN FROM RECORDED DEED ON FILE WITH THE WORCESTER SOUTH DISTRICT REGISTRY OF DEEDS.
3. PERCOLATION TESTS PERFORMED IN ACCORDANCE WITH 310 CMR (TITLE 5) REGULATIONS 15.104 AND 15.105.
4. ANY DEVIATIONS FROM THE DESIGN PLAN MUST BE APPROVED IN WRITING BY DILLIS & ROY CIVIL DESIGN GROUP, INC.
5. NO PERMANENT STRUCTURES MAY BE CONSTRUCTED OVER THE RESERVE LEACHING AREA.
6. THE BOARD OF HEALTH REQUIRES INSPECTION OF ALL CONSTRUCTION BY THE DESIGN ENGINEER OR BY AN AGENT OF THE BOARD OF HEALTH, AND THAT SUCH A PERSON CERTIFIES IN WRITING THAT ALL WORK HAS BEEN COMPLETED IN ACCORDANCE WITH THE TERMS OF THE PERMIT AND THE APPROVED PLANS.
7. FOR PROPER PERFORMANCE, A SEPTIC TANK SHOULD BE INSPECTED AT LEAST ONCE EVERY YEAR AND WHEN THE TOTAL DEPTH OF SOIL AND REGULATIONS EXCEEDS ONE THIRD OF LIQUID DEPTH OF THE TANK, THE TANK SHOULD BE PUMPED.
8. THIS DESIGN DOES NOT ACCOMMODATE A GARBAGE DISPOSAL (SEE DESIGN CALCULATIONS).
9. CONSTRUCTION WITHIN 100 FEET OF A WETLAND RESOURCE AREA AS DEFINED IN THE MASSACHUSETTS WETLAND PROTECTION ACT AND REGULATIONS (310 CMR 10.00) SHALL NOT BE PERFORMED UNLESS AN ORDER OF CONDITIONS OR NEGATIVE DETERMINATION OF APPLICABILITY HAS BEEN OBTAINED FROM THE LOCAL CONSERVATION COMMISSION.
10. EXISTING UTILITIES SHOWN ON THIS PLAN WERE OBTAINED FROM FIELD MEASUREMENT AND RECORD PLANS. THE UTILITIES SHOWN ON THIS PLAN ARE FOR REFERENCE ONLY AND SHOULD NOT BE ASSUMED TO BE CORRECT NOR SHOULD IT BE ASSUMED THAT THE UTILITIES SHOWN ARE THE ONLY UTILITIES LOCATED ON OR NEAR THE SITE. THE CONTRACTOR SHALL CALL DIG SAFE 1-888-DIG-SAFE PRIOR TO CONSTRUCTION IN ACCORDANCE WITH STATE LAWS.
11. THIS PLAN HAS BEEN PREPARED TO DETAIL THE CONSTRUCTION REQUIREMENTS FOR A SUBSURFACE SEWAGE DISPOSAL SYSTEM ONLY. THIS PLAN SHALL NOT BE UTILIZED FOR ANY OTHER PURPOSE.

CONSTRUCTION NOTES:

1. FINISH GRADING SHALL BE DONE IN ACCORDANCE WITH THE PLOT PLAN. ALL DISTURBED AREAS SHALL BE COVERED WITH A MINIMUM OF 4" OF LOAM AND SEED WITH A NATIVE GRASS MIXTURE.
2. BACKFILL OVER THE SOIL ABSORPTION SYSTEM, SEPTIC TANK AND PUMP CHAMBER SHALL BE A MINIMUM OF 9 INCHES EXCLUDING TOPSOIL, PLACED IN LIFTS AND SUFFICIENTLY COMPACTED TO PREVENT DEPRESSIONS DUE TO SETTLING. BACKFILL OVER THE SOIL ABSORPTION SYSTEM SHALL BE FREE OF STONES AND Boulders GREATER THAN 6 INCHES IN SIZE.
3. THE BUILDING SEWER SHALL BE LAID ON A COMPACTED FIRM BASE.
4. ALL PIPING SHALL BE MINIMUM OF SCHEDULE 40 UNLESS OTHERWISE NOTED.
5. ALL PIPE JOINTS AND CONNECTIONS TO SYSTEM COMPONENTS SHALL BE MECHANICALLY SOUND, WATER TIGHT AND PROTECTED AGAINST DAMAGE BY ROOTS.
6. ALL BUILDING SEWERS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE STATE PLUMBING CODE 248 CMR 2.00.
7. FINAL COVER OVER THE SYSTEM SHALL BE GRaded TO REDUCE INFILTRATION OF SURFACE WATER AND MINIMIZE EROSION. FINISH GRADE SHALL HAVE A MINIMUM SLOPE OF 2%.
8. EFFLUENT DISTRIBUTION LINES SHALL HAVE A SLOPE OF 0.5%.
9. OULET DISTRIBUTION LINES FROM THE D-BOX SHALL BE LEVEL FOR A MINIMUM OF TWO FEET OF THEIR LENGTH.
10. FILL MATERIAL FOR SYSTEMS CONSTRUCTED IN FILL SHALL CONSIST OF SELECT ON-SITE OR IMPORTED SOILS THAT MEET THE MINIMUM REQUIREMENTS STATED IN 310 CMR 15.255(3).
11. WHERE FILL IS REQUIRED TO REPLACE UNSUITABLE OR IMPERMEABLE SOILS, THE EXCAVATION OF THE UNSUITABLE MATERIAL SHALL EXTEND A MINIMUM OF 5 FEET LATERALLY IN ALL DIRECTIONS BEYOND THE OUTER PERIMETER OF THE SOIL ABSORPTION SYSTEM TO THE DEPTH OF 3 INCHES INTO THE NATURALLY OCCURRING PERVIOUS MATERIAL.
12. THE BOTTOM SURFACE OF THE EXCAVATION SHALL BE SCARIFIED AND RELATIVELY DRY. FILL SHALL NOT BE PLACED DURING RAIN OR SNOW STORMS. IF THE WATER TABLE ELEVATION IS ABOVE THE ELEVATION OF THE BOTTOM OF THE EXCAVATION, THE EXCAVATION SHALL BE DETAILED.
13. SUBSURFACE COMPONENTS SHALL BE MARKED WITH MAGNETIC MARKING TAPE OR A COMPARABLE MEANS IN ORDER TO LOCATE THEM ONCE BURIED. THE DESIGNER SHALL INSPECT THE CONSTRUCTION AFTER THE INITIAL EXCAVATION, PRIOR TO BACKFILLING, AND DURING BACKFILLING. IN ADDITION, THE FINAL INSPECTION OF THE SYSTEM SHALL BE CONDUCTED BY THE APPROVING AUTHORITY, THE SYSTEM INSTALLER, AND THE DESIGNER PRIOR TO THE ISSUANCE OF A CERTIFICATE OF COMPLIANCE PURSUANT TO 310 CMR 15.02(3). ANY COMPONENT OF THE SYSTEM WHICH HAS BEEN COVERED WITHOUT SUCH PERMISSION SHALL BE UNCOVERED UPON THE REQUEST OF THE APPROVING AUTHORITY OR THE DESIGNER.
14. ALL SYSTEM COMPONENTS SHALL BE MARKED WITH MAGNETIC MARKING TAPE OR A COMPARABLE MEANS IN ORDER TO LOCATE THEM ONCE BURIED.
15. ALL SOIL ABSORPTION SYSTEMS SHALL HAVE A MINIMUM OF ONE (1) INSPECTION PORT CONSISTING OF A PERFORATED FOUR (4) INCH PIPE PLACED VERTICALLY DOWN INTO THE STONE TO THE NATURALLY OCCURRING SOIL OR SAND FILL BELOW THE STONE. THE PIPE SHALL BE CAPPED WITH A SCREW TYPE CAP AND ACCESSIBLE TO WITHIN THREE (3) INCHES OF FINISH GRADE.

EXISTING SYSTEM NOTES:

1. CONTRACTOR TO VERIFY EXISTING SYSTEM LOCATIONS AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION AND REPORT TO ENGINEER ANY VARIATIONS IN ELEVATIONS TO THOSE SHOWN ON THIS PLAN.
2. EXISTING PUMP CHAMBER TO BE TEMPORARILY CONNECTED TO THE NEW LEACH AREA. THE EXISTING LEACH AREA IS TO BE DISCONNECTED AND REMOVED. DISPOSAL AND UTILIZATION OF MATERIAL SHALL BE IN ACCORDANCE WITH THE TOWN OF HARVARD'S BOARD OF HEALTH RULES AND REGULATIONS.
3. EXISTING TANK AND PUMP CHAMBER TO BE DISCONNECTED FROM NEW LEACH AREA FOLLOWING CONSTRUCTION OF THE NEW DWELLING AND DISMANTLED CONNECTION FROM THE LEACH AREA. TANKS TO BE PUMPED, CRUSHED AND BACKFILLED WITH CLEAN GRANULAR MATERIAL AND/OR REMOVED IN ACCORDANCE WITH THE TOWN OF HARVARD'S BOARD OF HEALTH RULES AND REGULATIONS.

SOIL TEST DATA										NAME OF SOIL EVALUATOR:																													
IN-SEASON GROUND WATER TESTING - (IF REQ'D)						PERCOLATION TEST DATA				DILLIS & ROY CIVIL DESIGN GROUP																													
TEST PIT NO.	DATE	SURFACE ELEVATION	DEPTH TO GROUNDWATER	G.W. SURFACE ELEVATION	TEST NO.	DATE	DEPTH FROM SURFACE	SURFACE ELEVATION	RATE PER INCH	WILLIAM J. "JACK" MALONEY, JR. (SE-13704)																													
722-A	7/12/2022	560.0±	48"	560.0±	722-A	7/12/2022	48"	560.0±	FAIL																														
722-B	7/12/2022	562.0±	54"	562.0±	722-B	7/12/2022	48"	557.5±	7 M/A																														
722-C	7/12/2022	565.5±	48"	557.5±	722-C	7/12/2022	48"	556.5±	6 M/A																														
722-E	8/9/2022	557.5±	55"	557.5±	822-F	8/9/2022	96"	565.0±	10 M/A																														
822-F	8/9/2022	565.0±	96"	565.0±																																			
SOIL CLASSIFICATION: PAXTON FINE SANDY LOAM GEOLOGICAL MATERIAL: DRUMMINS, HILLS LAND FORM: NONE SOIL LIMITATIONS: NONE GENERAL NOTES: 305B																																							
DEEP TEST PIT: 722-1 <table border="1"> <thead> <tr> <th>DEPTH</th> <th>HOR.</th> <th>TEX.</th> <th>COLOR</th> <th>MOTT.</th> <th>G.W.</th> <th>OTHER</th> </tr> </thead> <tbody> <tr> <td>0-12"</td> <td>A</td> <td>S.L.</td> <td>10R 3/3</td> <td>NONE</td> <td>NONE</td> <td>CRUMB, FRABLE</td> </tr> <tr> <td>12-24"</td> <td>B</td> <td>S.L.</td> <td>10R 4/8</td> <td>NONE</td> <td>NONE</td> <td>S.A.B., FRABLE</td> </tr> <tr> <td>24-96"</td> <td>C</td> <td>F.S.L.</td> <td>10R 5/4</td> <td>Ø 4"</td> <td>NONE</td> <td>MASSIVE, FRABLE</td> </tr> </tbody> </table>												DEPTH	HOR.	TEX.	COLOR	MOTT.	G.W.	OTHER	0-12"	A	S.L.	10R 3/3	NONE	NONE	CRUMB, FRABLE	12-24"	B	S.L.	10R 4/8	NONE	NONE	S.A.B., FRABLE	24-96"	C	F.S.L.	10R 5/4	Ø 4"	NONE	MASSIVE, FRABLE
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I CERTIFY THAT I AM CURRENTLY APPROVED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION PURSUANT TO 310 CMR 15.017 TO CONDUCT SOIL EVALUATIONS AND THAT THE ABOVE ANALYSIS HAS BEEN PERFORMED BY ME CONSENT WITH THE REQUIRED TRAINING, EXPERIENCE, AND EXPERTISE DESCRIBED IN 310 CMR 15.017. I FURTHER CERTIFY THAT THE RESULTS OF MY SOIL EVALUATION, AS INDICATED ON THE ATTACHED SOIL EVALUATION FORM, ARE ACCURATE IN ACCORDANCE WITH 310 CMR 15.10 THROUGH 15.107.

Jack Maloney
 LICENSED SOIL EVALUATOR:
 WILLIAM J. "JACK" MALONEY, JR. (SE# 13704)

PREPARED BY:

DILLIS & ROY
 CIVIL DESIGN GROUP

CIVIL ENGINEERS LAND SURVEYORS WETLAND CONSULTANTS
 1 MAIN STREET, SUITE 1 LUNENBURG, MA 01462
 PHONE: (978) 779-6091
 www.dillisandroy.com

OWNER:

SAMUEL LOWENSTEIN
 73 BOLTON ROAD
 HARVARD, MASSACHUSETTS 01451

APPLICANT:

SAMUEL LOWENSTEIN
 73 BOLTON ROAD
 HARVARD, MASSACHUSETTS 01451

SCALE:

1 in. = 20 ft.

COPYRIGHT DILLIS & ROY CIVIL DESIGN GROUP, INC 2022

DATE: 8/23/2022

DESIGN BY: CLM

DRAWN BY: CLM

CHECKED BY: WJM

SEWAGE DISPOSAL SYSTEM DESIGN
 73 BOLTON ROAD (M: 27 P: 72)
 HARVARD, MASSACHUSETTS

NO.	DATE	DESCRIPTION	BY
1	9/27/2022	PER N.A.B.O.H. REVIEW COMMENTS	CLM
2	10/28/2022	EROSION CONTROLS & TOPOGRAPHIC BENCHMARKS	CLM

JOB NO. 7198

DRAWING NO. 7198-SDS

SHEET NO. 2

OF 2

October 17, 2022

Dear Planning Board Members,

I am writing to express my concern over the Select Board's initiation of the agricultural uses bylaw amendment to allow entertainment and events on farms. One of my biggest issues is the the fact that they are proposing this so Carlson Orchards can obtain the annual entertainment license they discovered they couldn't legally issue back in the spring.

A part of my farm and my personal residence are both direct abutters to Carlson Orchards, and to this date the Select Board has not show one ounce of compromise in regards to any permits or licenses they have issued. We have repeatedly asked for a compromise of 6pm and instead they turn around and expand their days and hours each time they ask.

It makes no sense to me how a developer is being put through an extensive process, and hiring legal council to defend applicability for a special permit to build/operate a badminton facility in the C district, yet it's carte blanch to bring annual non-agricultural uses into the A/R district under the feel good of farming without any criteria thresholds. The language is incredibly vague, open ended; it doesn't state the extent to which entertainment and events can take place, doesn't provide language as to how such entertainment and events must relate to the agricultural output of the farm, or provide attendance or volume capacity for a residential area.

My family has been farming in Harvard for 103 years - I am part of the 4th generation, and have been a farmer for 35+ years. Farms have and can function alongside each other without issue. Bringing non-agricultural uses into the A/R such as entertainment and events by way of an annual license is a slippery slope. What protections will be put into place to ensure abutting entertainment and events don't take priority over my right to farm, or any of the other farms that abut farms in town?

The outdoor growing season in New England is limited to 6-7 months of the year. 30 one day licenses in my opinion, as a farmer myself, is sufficient opportunity to supplement agricultural income with non-agricultural uses.

And to answer John McCormick's question from the last meeting of how this could hurt Ag in Harvard; the environment that Town Administration and the Select Board has created over the past 3 years by putting the priorities of one farm/farmer and his non-farm business partners, before residents and a

abutting farm (that has a large stakehold in the town) has me questioning if this is the Harvard I want to be part of. I would hate to see others (residents or farmers) be put in the same position. I think the Planning Board should be pushing for something better, for Harvard Ag.

Thanks for your time,

Chris Green
102 Oak Hill Rd
Westward Orchards

§ 250-21. Accessory uses.

- A. Home occupations. In all districts, professional office or customary home occupation uses are permitted, provided that:
- (1) The profession or home occupation is conducted by a resident of the premises.
 - (2) The use is clearly incidental to and secondary to the use of the premises for residential purposes and the external character of the premises is that of a one-family residence.
 - (3) Not more than two persons other than the residents of the dwelling and not more than a total of four are employed at any one time on the premises in the home occupation.
 - (4) No noise, vibration, dust, heat, odors, glare, traffic congestion, unsightliness or other nuisance results which is discernible from other properties, or which is detrimental to the environment.
- B. Swimming pools. No person shall erect or construct a permanent swimming pool in the Town of Bolton without a building permit. Outdoor swimming pools shall be protected by an enclosure consistent with the requirements of the State Building Code.
- C. Accessory scientific uses. Scientific research or development may be allowed on special permit as an accessory use in any district, as provided in paragraph 16 of MGL c. 40A, § 9.
- D. Accessory apartments. **[Added 5-4-1987 ATM by Art. 11; amended 5-3-2021 ATM by Art. 11]**
- (1) No accessory apartment permitted under this section shall be constructed and occupied without building and occupancy permits issued by the Building Inspector.
 - (2) All applicable federal, state and local building and health codes must be satisfied, including all bylaws of the Town of Bolton.
 - (3) The residence must be owner-occupied, except for bona fide temporary absences. The owner of the property shall occupy either the principal dwelling or the accessory apartment.
 - (4) There shall be a maximum of one accessory apartment per residence and it shall have its own complete kitchen and complete bath and toilet facilities.
 - (5) Accessory apartments shall not be used for online home rental services for transient occupancy.
 - (6) The outside appearance of the premises shall remain that of a single-family residence.
 - (7) Construction of an accessory apartment is allowed as of right, either in or

attached to a new or existing principal dwelling, subject to the following requirements:

- (a) The size of the accessory apartment is to be limited to no larger than 1/3 of the aggregate heated floor space of living area of the residence.
 - (b) The accessory apartment shall have its own separate entrances from the outside.
 - (c) A certified drawing showing the above shall be filed with the Select Board either for new construction or the creation of an accessory apartment in an existing dwelling. **[Amended 5-3-2021 ATM by Art. 10]**
- (8) The Planning Board, acting as the special permit granting authority (SPGA), may grant a special permit for a detached accessory apartment within an accessory building subject to the following requirements:
- (a) The detached accessory apartment shall appear incidental to the principal residence.
 - (b) The gross heated floor space of living area of the detached accessory apartment shall not exceed the lesser of 50% of the gross floor area of the principal dwelling or 1,200 square feet.
 - (c) Accessory buildings, either grandfathered or constructed with a building permit prior to May 3, 2021, whose gross floor areas exceed the maximum allowed area may be considered at the discretion of the SPGA.
 - (d) An additional driveway or curb cut for the use of the detached accessory apartment may be considered at the discretion of the SPGA.
 - (e) Adequate provision shall be made for ingress and egress to the outside from the detached accessory apartment as required by the State Building Code.
 - (f) Adequate parking shall be arranged on the premises so as not to disturb abutting properties or be detrimental to the neighborhood.
 - (g) Any other conditions, safeguards and limitations on time or use as may be imposed by the SPGA according to MGL c. 40A or regulations pursuant thereto.
- E. Agricultural/Business use. The Town of Bolton finds that in order to protect and preserve agricultural, horticultural, floricultural, or viticultural lands, to preserve natural resources and maintain land in active agricultural, horticultural, floricultural, or viticultural use, it is necessary to allow the owners of said lands to conduct an accessory business to supplement income from said uses. Agricultural/Business use may be allowed by special permit issued by the Select Board under § 250-7 as an accessory use in any district. **[Added 5-1-1995 ATM by Art. 7; amended 5-3-1999 ATM by Art. 10; 5-3-2021 ATM by Art. 10]**

- (1) Allowable agricultural/business uses. Allowable accessory uses are the following:
 - (a) Retail sales of farm products, crafts and similar retail products, as well as newspapers or magazines, including serving and consumption of baked goods and other prepared foods on the premises during hours of operation as defined in the special permit;
 - (b) Large and small animal veterinary services;
 - (c) Hosting or staging of revenue-generating events, tours, weddings, and functions which are appropriate in scale to the premises and surrounding residential area, including the preparation and serving of food and beverages for such events.
 - (d) Wireless communication facility(s), as defined in § 250-25, Wireless communications, and any accessory structure(s) and/or building(s) replaced, constructed, installed and/or maintained pursuant to a special permit(s) issued under this Subsection E and § 250-25, Wireless communications.
- (2) Prohibited uses.
 - (a) Specific uses which are not allowed on residentially zoned agricultural land are the following:
 - [1] Gas stations or retail or wholesale fuel storage or delivery;
 - [2] Retail stores such as drug, department, pastry, hardware, and clothing stores; and
 - [3] Manufacture of nonagricultural products.
 - (b) All other uses must meet the requirements of Subsection E(1) above.
- (3) Eligibility. An owner may apply for an agricultural/business use special permit if the owner has not fewer than 20 acres on one or more contiguous parcels or 75 contiguous acres as specifically required by Subsection E(5), Wireless communication agricultural/business use, within the Town of Bolton which is:
 - (a) Being actively farmed, or which has a specific farming plan submitted with the application; and
 - (b) Which has a state, Town, or privately held perpetual agricultural preservation restriction or conservation restriction or an application for such a restriction pending before the appropriate approving authority for the restriction. The restriction must apply to at least 20 acres, but the accessory use may be on unrestricted land contiguous to the agricultural land. Any special permit granted regarding land which is the subject of a pending restriction will be issued conditionally upon approval of the restriction.

- (4) Criteria. The proposed agricultural/business use must be clearly accessory to the principal use of the premises. The special permit shall be granted only upon the determination that:
- (a) The use meets the definition of Subsection E(1) above and is not one of the excluded uses in Subsection E(2) above; and
 - (b) The use is reasonably related to the primary use and serves to promote the primary use and its products beyond merely bringing in additional revenue; and
 - (c) The use is not detrimental to the primary use of the land; and
 - (d) Total annual projected sales from the accessory use when fully operational do not exceed total sales derived from agriculture, horticulture, floriculture, or viticulture; and
 - (e) Facilities and structures constructed for the accessory use are compatible with other agricultural facilities on the property in function, visually, and in scale such that the total footprint of all accessory facilities does not exceed 50% of the footprint of all agricultural facilities on the property; and
 - (f) The accessory use:
 - [1] Is appropriate to the site;
 - [2] Meets all of the requirements of § 250-7B of this bylaw;
 - [3] Does not substantially adversely affect the surrounding residential properties as compared with the primary use as to sound, light, odor, noise, and other disturbances;
 - [4] Does not pose a threat to traffic safety; and
 - [5] Does not adversely affect the Town's ability to provide municipal and public safety services to the premises by way of existing roads and with the use of existing Town equipment.
- (5) Wireless communication agricultural/business use. An agricultural/business use special permit to construct a wireless communication facility(s) pursuant to this bylaw may be issued if, in addition to the above, the owner and the parcel(s) on which the wireless communication facility(s) is (are) located have complied with the following:
- (a) A special permit issued under § 250-25, Wireless communications, has previously been or is contemporaneously granted; and
 - (b) The property has (i) an agricultural preservation restriction with the Commonwealth of Massachusetts in perpetuity pursuant to Massachusetts General Laws, or (ii) an Agricultural Development

Restriction with the Town of Bolton, or (iii) an application for such a restriction pending before the appropriate approving authority.

[1] An agricultural development restriction is a restriction granted to the Town of Bolton that is administered by the Select Board and recorded with the Worcester Registry of Deeds or with the Land Court that prohibits the subdivision, development or other nonagricultural use of any part of the restricted property. The agricultural development restriction must contain wording that specifies that the Select Board will not release any of the restricted property until it has determined that the property has been restored to substantially the same condition as it was in prior to the construction of the wireless communication facility. The agricultural development restriction must further convey to the Town of Bolton in perpetuity a right of first refusal to acquire the restricted property. **[Amended 5-3-2021 ATM by Art. 10]**

[2] Any special permit granted which is the subject of a pending restriction will be issued conditionally upon approval of the restriction. The executed restriction must be recorded with the Worcester Registry of Deeds; and

- (c) For each wireless communication facility, the agricultural preservation restriction or the agricultural development restriction must apply to a contiguous parcel(s) of at least 75 contiguous acres within the Town of Bolton and Subsection E(3)(b) does not apply. More than one wireless communications facility or tower may be situated on a contiguous parcel(s). For each additional tower after the first tower on a contiguous parcel(s), the contiguous property under either an agricultural preservation restriction or the agricultural development restriction must be increased by a multiple equal to at least the number of additional towers times a minimum of 75 contiguous acres within the Town of Bolton; and
- (d) No portion of the property included in the area restricted pursuant to Subsection E(5)(b) may be included or considered as part of any other agricultural preservation restriction for any other allowable agricultural/business use application or special permit under Subsection E; and
- (e) All of the wireless communication facility(s) must be located wholly within the contiguous restricted property; and
- (f) The restricted property must have at least 200 feet of continuous frontage on an approved or accepted right-of-way within the Town of Bolton; and
- (g) Any wireless communication facility must be set back from:

[1] Any property line, other than a property line immediately bordering Route 495, by not less than 600 feet. From a property line bordering

Route 495, the setback shall be at least one time the height of the wireless communication facility, including any appurtenant equipment or communication device(s) attached thereto; and

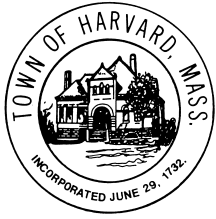
- [2] The center line of an approved or accepted right-of-way, other than Route 495, by not less than 800 feet. Adjacent to Route 495, the property line setback will apply; and
- [3] The required findings for a special permit in § 250-25F(8)(a) and (b) do not apply; and
- [4] At the time of the special permit application, from any residence which has been built or for which a building permit has been granted or from the site of any residence shown on a plan of land approved by the Town of Bolton or under consideration for approval by the Town of Bolton by not less than 1,000 feet.

- (h) The requirements of Subsection E(4)(b) and (e) shall not apply.
 - (i) Sufficient grounds for the immediate revocation of the agricultural/business use special permit for a wireless communication agricultural/business use shall include the discontinuation of the agricultural use of the restricted property.
 - (j) Administration. Such permit may also impose conditions, safeguards and limitations on time and use. Changes to the accessory use and/or increases to and/or size of agricultural facilities which result in increases in the number or size of accessory facilities require submission of a new special permit application to the special permit granting authority.
- (6) Enforcement. The special permit granting authority shall monitor conduct of agricultural/business accessory uses for compliance with the terms of the special permit and any conditions attached thereto. The special permit granting authority shall impose as a condition that the permit holder must provide, if requested, annual sales information for the accessory agricultural/business and primary agricultural use of land. If the special permit granting authority determines that the permit conditions have been violated, the permit may be revoked following notice and public hearing.

F. Bed-and-breakfast establishments and homes. The Planning Board, acting as the special permit granting authority (SPGA), may grant a special permit for the renting of rooms as a bed-and-breakfast establishment or bed-and-breakfast home in the Residential District. An owner-occupied and -operated dwelling of residential character may be used as a bed-and-breakfast for the lodging of overnight guests, provided such dwelling and the operation thereof meets all of the following conditions: **[Added 6-22-2020 ATM by Art. 10]**

- (1) The bed-and-breakfast use shall appear incidental to the primary residential use of the dwelling.

- (2) The bed-and-breakfast use shall not be substantially detrimental or offensive to the neighborhood or destructive of property values therein.
- (3) Guest rooms shall contain no individual cooking facilities.
- (4) Breakfasts shall be made available to guests from a central kitchen and shall be limited to those who are permanent residents and paying overnight guests.
- (5) Visibility of parking and service areas from public streets shall be minimized through site arrangement, and such areas shall be screened from abutting properties.
- (6) Domestic scale shall be maintained in the building's architectural design through massing devices, such as breaks in wall and roof planes and through the design of architectural features.
- (7) Pedestrian and vehicular movement to, from and within the site shall be safe and convenient and arranged so as not to disturb abutting properties.
- (8) The bed-and-breakfast shall meet all building code requirements and shall have properly installed and maintained fire safety devices for the protection of all occupants. The bed-and-breakfast shall be subject to compliance with state and local Board of Health requirements and state and local wetland bylaws and regulations.
- (9) Any other conditions, safeguards and limitations on time or use as may be imposed by the SPGA according to MGL c. 40A or regulations pursuant thereto.



Agricultural Advisory Commission

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October 29, 2022

Chairman Cabelus and Planning Board Members:

The Agricultural Commission held our meeting on October 27, 2022 and discussed the proposed bylaw amendment to §125-7 Agricultural uses. After speaking with Chairman Cabelus the day before, our discussion was focused on the acreage criteria to allow the proposed uses, as well as definitional language. I have included a summary of members' comments, questions, as well as the language examples we reviewed as a commission. Should any PB member prefer to view our meeting it is available on HCTV. Language examples reviewed were:

- Rutland's Agricultural Accessory Use Zoning Bylaw
- Town of Bolton, MA - § 250-21. Accessory uses - E. Agricultural/Business Use
- State of New Jersey's AMP On-Farm Direct Marketing Facilities, Activities, & Events

Members liked elements and language within these three documents and recommend the Planning Board also review the language within if/when you make amendments to the current proposed amendment.

Please let me know if our Commission can provide any additional input, insight or if you would like us to review any language as you move forward.

Sincerely,

Kerri Green, Chair

ACREAGE THRESHOLD & APPLICABILITY REQUIREMENTS

Acreege threshold should remain in-line with what the state, which is a parcel of 5 acres or more

- What is the thought process behind this - is it to limit the number of parcels that could qualify or is it to provide buffers?
- If it is to provide buffers it should be noted that a commercial farm might have a 20 acre parcel and a barn that is right on the road in which they are seeking the opportunity to have entertainment and events take place in/around - so in these types of circumstances a larger parcel isn't going to achieve buffer goals.
- Increasing the acreage threshold will create an exclusive opportunity not an inclusive opportunity for all of Harvard's farms/farmers. Under MGL - 5 acres is what constitutes a farm.
- The Agricultural Climate Action Plan advises against this - see attached

Suggestions to support acreage threshold applicability but also ensure use isn't exploited/abused by non-farmers that may just want to add a commercial opportunity to a 5+ acre parcel

- Language that ensures the proportion of accessory entertainment & events is subordinate to the primary agricultural use under G.L. c. 40A, § 3 and defined in c 128, § 1A
 - Total annual projected sales from the accessory entertainment & events do not exceed total sales derived from the agricultural output of the commercial farm - this will ensure that any such uses remain incidental and subordinate to the primary agricultural use
 - Proposed non-agricultural entertainment and events must be connected to the primary agricultural output of a commercial farm.
- Require a set amount of time the property must be in active primary agricultural use by the farmer
- Seasonal Use vs Annual Use
- Town could set a gross agricultural income threshold
 - Chapter 61A land designation currently requires a minimum of \$500 revenue - There are definitely those with more substantial acreage (for example 20+ acres) qualifying for 61A that make far less in gross income than someone else with less acreage - say in the range of 5-10 acres.
 - An appropriate threshold value could be determined by referring to the last published Worcester County Ag Census - 27% of all farms (1,568) make more than \$10,000 in sales and 35% have less than 10 acres (info attached)
 - Farms file a Schedule F (form 1040) This could be something that would need to be submitted upon applying.
 - Follow up comment from Commission member Christiane Turnheim on 10/28/22 via email in respect to her suggestion regarding gross agricultural income. "if they want to limit number of permits, we could say that eligibility for such a permit requires annual sales of \$500/per acre in 61 A. Or a lower number if this seems too high but for a 5 acre farm this would be \$2500 as in the New Jersey example and for 200 acres sales of \$100,000 (sales/ NOT net income. Again, number could be lower but should be high enough to make it difficult for those, who only want the permit to start a business but not actually be involved with agriculture

DEFINITIONAL LANGUAGE

Members discussed at length how the uses should be related to the agricultural output of the commercial farm, questions, areas that need clarification, and reviewed language examples that we wanted to pass along to be starting points for the PB to work off and tweak to fit Harvard. See suggested language pulled from other sources below.

[Rutland, MA Accessory Agricultural Uses](#) (pg. 107-110) - Purpose, Applicability & Agri-Entertainment

[Town of Bolton, MA - § 250-21. Accessory uses - E. Agricultural/Business Use](#)

[State of NJ Agricultural Management Practices for On-Farm Direct Marketing Facilities, Activities, and Events](#)

- "Commercial farm"
- "Ancillary entertainment-based activities"
- "On-farm direct marketing event" or "event"
- "Agriculture-related educational activities" (would provide language that could be included under events as some farms offer events with educational demonstrations, classes, tours, etc.)

Relevant Mass. General Laws

- Commercial farm language under to [MGL c. 40A, § 3](#) - includes 5 acre threshold
- Farming, agriculture, farmer; definitions [MGL c. 128, § 1A](#) - includes shall include farming in all of its branches

Accessory Entertainment Activities

- What is the purpose & intent?
- How will Entertainment uses be tied to the agricultural output of the commercial farm?
- How will Entertainment be subordinate to the primary agricultural use? Frequency?
- Definition
 - Include permitted use examples
 - Language could also prohibit other types of "Entertainment" (bumper boats, mechanical amusements, etc) that might not fit with an Ag/Res zone
 - Also provide language as to what types of entertainment would require a farm to obtain an Entertainment License from the Select Board pursuant to MGL Chapter 136 § 4, Chapter 140 § 181, Chapter 140 § 183A

Accessory Events

- What is the purpose & intent?
- How will Events be tied to the agricultural output of the commercial farm?
- How will Events remain subordinate to the primary agricultural use?
- Definition
 - Will events be required to be open/offered to the public or will private events be permitted? This should be clearly clarified in the bylaw/definition to remove any ambiguity in the term "events" based on Town Council's statement that weddings do not require an entertainment license because they are not open to the public. Weddings = an "event"
 - Including reference to educational activities under events would also make sense as comments referenced on farm events that involve demonstrations, or educational opportunities

These specific excerpts were referenced in our meeting, and members liked the ones below

[Town of Rutland, MA - Agricultural Accessory Use \(page 107-110\)](#)

Agri-entertainment means entertainment, such as a seasonal event, festival, contest, music, party, or other time-specific event, designed specifically to bring the public to a Farm Enterprise for a farm-related educational experience by displaying a combination of the farm setting and products of the agricultural operations with the ultimate goal to encourage the purchase of agricultural products. Agri-entertainment is designed to enhance the agricultural viability of farm operations.

[State of NJ Agricultural Management Practices for On-Farm Direct Marketing Facilities, Activities, and Events](#)

"Commercial farm" means: A five acres or more, producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, P.L. 1964, c. 48 (N.J.S.A. 54:4-23.1 et seq.).

"Ancillary entertainment-based activities" means non-agricultural offerings, commonly used as incidental components of on-farm direct marketing activities, that are accessory to, and serve to increase, the direct-market sales of the agricultural output of a commercial farm. Such activities are designed to attract customers to a commercial farm by enhancing the experience of purchasing agricultural products. Examples of ancillary entertainment-based activities include, but are not limited to: background live or recorded music, face painting, story-telling, sandbox area, small swing set or playground equipment, pedal carts for children, and picnic tables. Such activities may have a fee associated with them, but such fees shall be *de minimis* compared to the income generated from the sale of the agricultural output of the commercial farm.

"On-farm direct marketing event" or "event" means an agriculture-related function offered by a commercial farm that is accessory to, and serves to increase, the direct-market sales of the agricultural output of the commercial farm. Such events are designed to attract customers to a commercial farm by enhancing the experience of purchasing agricultural products; may include on-farm direct marketing activities as components; are either product-based or farm-based; and occur seasonally or periodically. Product-based events, provided they demonstrate the required relationship to marketing the output of the commercial farm, may include, but are not limited to: an apple, peach, strawberry, pumpkin, wine, or other agricultural or horticultural product festival held at a commercial farm that produces that particular product. Farm-based events provided they demonstrate the required relationship to marketing the output of the commercial farm, may include, but are not limited to: seasonal harvest festivals held at a commercial farm that produces such seasonal farm products, farm open house events, CSA membership meetings, and farm-to-table events that showcase the agricultural output of the commercial farm.

"Agriculture-related educational activities" means on-farm educational offerings that have an agricultural focus and are related to marketing the agricultural or horticultural output of the commercial farm. Such activities are accessory to, and serve to increase, the direct-market sales of the agricultural output of a commercial farm by enhancing the experience of purchasing agricultural products for the purpose of attracting customers to the commercial farm. Examples of agriculture-related educational activities may include, but are not limited to: school trips, hands-on farming activities, educational displays, farm tours, farm task experiences, wine tastings, agriculture-related lectures for clubs, farm open house days, and agriculture-related classes on topics, such as, but not limited to: canning, freezing, cooking with fresh produce, pie making, pruning, beekeeping, animal care, and gardening.

Massachusetts General Laws

[G.L. c. 40A, § 3 - Subjects which zoning may not regulate; exemptions; public hearings; temporary manufactured home residences](#)

No zoning ordinance or by-law shall regulate or restrict the use of materials, or methods of construction of structures regulated by the state building code, nor shall any such ordinance or by-law prohibit, unreasonably regulate, or require a special permit for the use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, nor prohibit, unreasonably regulate or require a special permit for the use, expansion, reconstruction or construction of structures thereon for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, including those facilities for the sale of produce, wine and dairy products, provided that either during the months of June, July, August and September of each year or during the harvest season of the primary crop raised on land of the owner or lessee, 25 per cent of such products for sale, based on either gross sales dollars or volume, have been produced by the owner or lessee of the land on which the facility is located, or at least 25 per cent of such products for sale, based on either gross annual sales or annual volume, have been produced by the owner or lessee of the land on which the facility is located and at least an additional 50 per cent of such products for sale, based upon either gross annual sales or annual volume, have been produced in Massachusetts on land other than that on which the facility is located, used for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, whether by the owner or lessee of the land on which the facility is located or by another, except that all such activities may be limited to parcels of 5 acres or more or to parcels 2 acres or more if the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars in area not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture. For such purposes, land divided by a public or private way or a waterway shall be construed as 1 parcel. No zoning ordinance or by-law shall exempt land or structures from flood plain or wetlands regulations established pursuant to the General Laws. For the purposes of this section, the term "agriculture" shall be as defined in section 1A of chapter 128, and the term horticulture shall include the growing and keeping of nursery stock and the sale thereof; provided, however, that the terms agriculture, aquaculture, floriculture and horticulture shall not include the growing, cultivation, distribution or dispensation of marijuana as defined in section 2 of chapter 369 of the acts of 2012, marihuana as defined in section 1 of chapter 94C or marijuana or marihuana as defined in section 1 of chapter 94G; and provided further, that nothing in this section shall preclude a municipality from establishing zoning by-laws or ordinances which allow commercial marijuana growing and cultivation on land used for commercial agriculture, aquaculture, floriculture, or horticulture. Said nursery stock shall be considered to be produced by the owner or lessee of the land if it is nourished, maintained and managed while on the premises.

[G.L. c. 128, § 1A - Farming, agriculture, farmer; definitions](#)

"Farming" or "agriculture" shall include farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.

Copied from:

<https://www.nj.gov/agriculture/sadc/rtfprogram/amps/adoptedamps/onfarmdirectmarketing.html>

This is a courtesy copy of the AMP text. Should there be any discrepancies between this text and the official version to be published in the next update of the New Jersey Administrative Code, the official version will govern.

(a) This section, which is an agricultural management practice, sets forth the standards for on-farm direct marketing facilities, activities, and events that commercial farms must comply with to receive the protections of the Right to Farm Act (Act), N.J.S.A. 4:1C- 1 et seq. This section is designed to support and protect on-farm direct marketing operations by identifying safe, effective, and economically viable agricultural management practices for commercial farms seeking the protections of the Act.

(b) As used in this section, the following words and terms shall have the following meanings:

"Agricultural output of a commercial farm" means the items specified in N.J.S.A. 4:1C- 9.a that a commercial farm produces and the value-added or processed products produced from those items, provided that the primary and predominant ingredients used to produce such products are grown or raised by the commercial farm. Examples of unprocessed agricultural output include, but are not limited to: fruits, vegetables, nursery stock, bedding plants, cut flowers, Christmas trees, and forest and livestock products. Examples of value-added or processed agricultural output include, but are not limited to: meat products, dairy products, cider, canned goods, baked goods, prepared foods, cut firewood, and wreaths.

"Agriculture-related educational activities" means on-farm educational offerings that have an agricultural focus and are related to marketing the agricultural or horticultural output of the commercial farm. Such activities are accessory to, and serve to increase, the direct-market sales of the agricultural output of a commercial farm by enhancing the experience of purchasing agricultural products for the purpose of attracting customers to the commercial farm. Examples of agriculture-related educational activities may include, but are not limited to: school trips, hands-on farming activities, educational displays, farm tours, farm task experiences, wine tastings, agriculture-related lectures for clubs, farm open house days, and agriculture-related classes on topics, such as, but not limited to: canning, freezing, cooking with fresh produce, pie making, pruning, beekeeping, animal care, and gardening.

"Ancillary entertainment-based activities" means non-agricultural offerings, commonly used as incidental components of on-farm direct marketing activities, that are accessory to, and serve to increase, the direct-market sales of the agricultural output of a commercial farm. Such activities are designed to attract customers to a commercial farm by enhancing the experience of purchasing agricultural products. Examples of ancillary entertainment-based activities include, but are not limited to: background live or recorded music, face painting, story-telling, sandbox area, small swing set or playground equipment, pedal carts for children, and picnic tables. Such activities may have a fee associated with them, but such fees shall be *de minimis* compared to the income generated from the sale of the agricultural output of the commercial farm.

"Board" means a county agriculture development board established pursuant to N.J.S.A. 4:1C-14 or a subregional agricultural retention board established pursuant to N.J.S.A. 4:1C-17.

"Buffer" means a setback distance and/or screening utilized by a commercial farm in conjunction with its on-farm direct marketing facilities, activities, or events.

"Commercial farm" means: 1. A farm management unit of no less than five acres producing agricultural or horticultural products worth \$2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, P.L. 1964, c. 48 (N.J.S.A. 54:4-23.1 et seq.); or 2. A farm management unit less than five acres, producing

agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, P.L. 1964, c. 48 (N.J.S.A. 54:4-23.1 et seq.).

"Committee" means the State Agriculture Development Committee established pursuant to N.J.S.A. 4:1C-4.

"Community supported agriculture (CSA) operation" means an on-farm direct marketing method in which the retail sale of the agricultural output of a commercial farm is provided through a paid subscription.

"Complementary products" means items commonly used to facilitate the use or consumption of the agricultural output of the commercial farm and promotional items that help market the commercial farm. Examples of promotional items include, but are not limited to, souvenir items such as commercial farm-branded shirts, hats, and bags.

"CSA market and distribution area" means an on-farm direct marketing facility used by a CSA operation to organize and dispense CSA operation members' farm product shares and to market products that contribute to farm income.

"Farm-based recreational activities" means recreational offerings that are uniquely suited to occurring on a farm and also may include common outdoor recreation activities that are compatible with the agricultural use of the farm, where such offerings and activities are related to marketing the agricultural or horticultural output of the commercial farm. Such activities are accessory to, and serve to increase, the direct-market sales of the agricultural output of the commercial farm by enhancing the experience of purchasing agriculture products for the purpose of attracting customers to the commercial farm. Examples of farm-based recreational activities uniquely suited to occurring on a farm may include, but are not limited to: corn, sunflower, and other crop mazes; hayrides and wagon rides; agricultural animal display or petting areas; farm tours; horseback riding; pony rides; and tractor pulls. Examples of farm-based recreational activities considered common outdoor recreation activities that are compatible with the agricultural use of the farm include, but are not limited to: hiking; bird watching; sleigh rides; hunting and fishing; and bonfires. Activities and related infrastructure not considered farm-based recreational activities include, but are not limited to: athletic fields; paintball; go-karting and other similar racetracks; carnival-type amusement rides; and the flying of hobby, private, or commercial aircraft.

"Farm management unit" means a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise.

"Farm market" means a facility used for the wholesale or retail marketing of the agricultural output of a commercial farm and products that contribute to farm income, except that if a farm market is used for retail marketing at least 51 percent of the annual gross sales of the retail farm market shall be generated from sales of agricultural output of the commercial farm, or at least 51 percent of the sales area shall be devoted to the sale of agricultural output of the commercial farm, and except that if a retail farm market is located on land less than five acres in area, the land on which the farm market is located shall produce annually agricultural or horticultural products worth at least \$2,500.

"Hours of operation" means the time during which an on-farm direct marketing facility, activity, or event is open or offered to the public.

"On-farm direct marketing" means the on-farm facilities, activities, and events that are used to facilitate and provide for direct, farmer-to-consumer sales of the agricultural output of the commercial farm and products that contribute to farm income.

"On-farm direct marketing activity" or "activity" means an agriculture-related happening made available by a commercial farm that is accessory to, and serves to increase, the direct-market sales of the agricultural output of the commercial farm. Such activities are designed to attract customers to a commercial farm by enhancing the experience of purchasing agricultural products and include, but are

not limited to: agriculture-related educational activities; farm-based recreational activities; and ancillary entertainment-based activities.

“On-farm direct marketing event” or “event” means an agriculture-related function offered by a commercial farm that is accessory to, and serves to increase, the direct-market sales of the agricultural output of the commercial farm. Such events are designed to attract customers to a commercial farm by enhancing the experience of purchasing agricultural products; may include on-farm direct marketing activities as components; are either product-based or farm-based; and occur seasonally or periodically. Product-based events, provided they demonstrate the required relationship to marketing the output of the commercial farm, may include, but are not limited to: an apple, peach, strawberry, pumpkin, wine, or other agricultural or horticultural product festival held at a commercial farm that produces that particular product. Farm-based events provided they demonstrate the required relationship to marketing the output of the commercial farm, may include, but are not limited to: seasonal harvest festivals held at a commercial farm that produces such seasonal farm products, farm open house events, CSA membership meetings, and farm-to-table events that showcase the agricultural output of the commercial farm.

“On-farm direct marketing facility” or “facility” means a type of farm market including the permanent, temporary, and/or moveable structures, improvements, equipment, vehicles, and apparatuses necessary to facilitate and provide for direct, farmer-to-consumer sales of the agricultural output of the commercial farm and products that contribute to farm income. Such facilities include various types and sizes of direct marketing operations, including, but not limited to: farm stands; farm stores; CSA market and distribution areas; and pick-your-own (PYO) market areas. A facility may include one or more structures or a portion of a structure, and a facility may utilize new or existing structures. A facility’s structures may also be used for the commercial farm’s other farm purposes, for instance: equipment storage, equipment maintenance, and the production, processing, packaging, storage, or wholesale marketing of the agricultural output of the commercial farm.

“Pick-your-own (PYO) operation” means an on-farm direct marketing method wherein retail or wholesale customers are invited onto a commercial farm in order to harvest and pay for agricultural or horticultural products. Examples of PYO operation crops include, but are not limited to, fruits, vegetables, flowers, and Christmas trees.

“Products that contribute to farm income” means complementary or supplementary products that are sold to help attract customers to the farm market through a broadening of the range of products available and an enhancement of the experience of purchasing the agricultural output of the commercial farm.

“PYO market area” means an on-farm direct marketing facility used by a PYO operation to set up PYO activities and collect money for PYO crops harvested by customers. PYO market areas may be stand-alone facilities or part of other on-farm direct-marketing facilities. In some cases, such as when a commercial farm has a CSA operation or component, PYO operations may not necessarily involve the collection of money following harvesting, as PYO crops may be one of the benefits of a CSA membership.

“Sales area” means the indoor, outdoor, covered, and uncovered areas of an on-farm direct marketing facility whose primary and predominant use is the display, marketing, and selling of the agricultural output of a commercial farm and products that contribute to farm income. Sales areas do not include: PYO and other production fields; pastures and other areas occupied by livestock on a regular basis; non-public areas, such as areas used for the storage of equipment and other items; and areas dedicated to farm-based recreational activities. Covered sales areas include sales areas inside structures and sales areas underneath tents, awnings, and other canopies.

“Sanitary facilities” means restrooms or portable toilets.

“Supplementary products” means the agricultural output of other farms, and additional customary food and drink items.

(c) The hours of operation allowed for on-farm direct marketing facilities, activities, and events on commercial farms shall be as follows:

1. On-farm direct marketing facilities and activities may be open or offered on weekdays, weekends, holidays, seasonally, for part of the year, or year-round.
2. On-farm direct marketing events may be offered on weekdays, weekends, holidays, seasonally, or for part of the year.
3. Hours of operation may be between 6:00 A.M. and 10:00 P.M. These hours may be temporarily extended to 11:00 P.M. in conjunction with seasonal on-farm direct marketing sales, activities, or events.

(d) The standards for lighting of on-farm direct marketing facilities, activities, and events on commercial farms shall be as follows:

1. When an on-farm direct marketing facility, activity, or event is open or offered after dark, a commercial farm shall provide, unless specified otherwise in this section, lighting for areas used by customers, such as: walkways, parking areas, sales areas, activity areas, and event areas. This lighting shall provide, at a minimum, the amount of light necessary for customer safety.
2. All lighting shall be provided with lights focused either downward or with an orientation designed to minimize light spilling off the site and to minimize impacts on adjacent off-farm residential buildings and streets. Lights shall not be focused directly onto public roads.
3. Any temporary lighting shall be removed within 30 days after the activity or event has ended.
4. Lighting for on-farm direct marketing purposes shall be turned off within half an hour of the close of business.
5. In addition to lighting referenced in (d)1 through 4 above for on-farm direct marketing purposes, a commercial farm may use lighting for other farm management purposes, for example, for security. Security lighting may be used to help protect a farm's products or other physical or natural resources and to discourage trespassing and vandalism and is subject to the provisions in (d)2 above.

(e) The requirements for sanitary facilities at on-farm direct marketing facilities, activities, and events on commercial farms shall be as follows:

1. A commercial farm shall provide sanitary facilities in the following cases:
 - i. If indoor seating space, outdoor picnic tables, or other areas are made available to enable customers to consume food on-site;
 - ii. If an on-farm direct marketing activity or event promotes customers staying on-site for more than 90 minutes; and
 - iii. When required pursuant to N.J.A.C. 8:24, the Sanitation in Retail Food Establishments and Food and Beverage Vending Machines, or N.J.A.C. 5:23, the New Jersey Uniform Construction Code.
2. The number of sanitary facilities provided shall be sufficient to accommodate, without causing long queues, the volume of visitors expected in conjunction with on-farm direct marketing facilities, activities, or events.
3. A commercial farm shall provide hand-sanitizing facilities for visitors to utilize after the use of the sanitary facilities. Hand-sanitizing facilities include running water with soap, antibacterial hand wipes, waterless hand sanitizers, and/or other hand-washing stations.
4. Sanitary facilities shall be located and managed with an appropriate cleaning schedule, so as to prevent adverse impacts on adjacent properties, such as odors.

(f) The requirements for safety for on-farm direct marketing facilities, activities, and events on commercial farms shall be as follows:

1. A commercial farm shall provide visitors with any rules or safety procedures associated with the on-farm direct marketing facilities, activities, and events that are provided, offered, or held. This

information may be conveyed by farm staff, through posted signs or written handouts, or through other appropriate means, and may include notice that visitors share in the responsibility for their own safety, such as being aware of inherent risks, using common sense, and wearing farm-appropriate attire.

2. Hazardous materials shall be safely stored in a secure location and in compliance with relevant State and Federal laws, rules, and regulations.

(g) The standards for the use of signs for on-farm direct marketing facilities, activities, and events on commercial farms shall be as follows:

1. A commercial farm may use permanent and temporary signs to promote its on-farm direct marketing facilities, activities, and events.

i. Examples of signs include, but are not limited to, directional signs; advance signs; signs promoting the products available for sale; and facility, activity, and event signs.

2. The following general standards shall apply to all signs used for on-farm direct marketing facilities:

i. Signs shall be installed and maintained in a manner that does not pose a direct threat to public health and safety. Signs shall not interfere with sight distances at street intersections, ingress and egress points to or from parking areas, and other locations;

ii. Signs may be attached to farm buildings, fences, or other structures or be freestanding;

iii. Signs may have information on both sides.

iv. The use and location of signs shall comply with relevant Federal and State laws, rules, and regulations;

v. Along the approach to the farm on the road on which the on-farm direct marketing facility, activity, or event is located, a commercial farm may install advance signs up to one-half mile away from the farm's entrance. Advance signs are designed to alert drivers of an approaching on-farm direct marketing facility, activity, or event and are generally located in close proximity to one another along the road approaching, and leaving, the site upon which the facility, activity, or event is located;

vi. Directional and other signs may be installed at key intersections or other important locations;

vii. A commercial farm shall obtain the permission of the appropriate landowner or easement holder when locating signs at off-farm locations;

viii. Temporary signs promoting a seasonal on-farm direct marketing facility, activity, or event may be installed up to one month prior to the facility, activity, or event's seasonal opening and shall be removed within 15 days of seasonal closing; and

ix. Internally-lit and neon-type signs are not eligible for Right to Farm protection.

3. A commercial farm's primary on-site farm business sign shall comply with the following standards (if the commercial farm has frontage on multiple roads, one primary on-site farm business sign may be placed on each frontage):

i. The sign is set back at least 10 feet from the paved portion of the street right of way;

ii. The maximum size (meaning the physical size of the sign and not the combined square footage of both sides) is 32 square feet; and

iii. The maximum height to the top of the sign does not exceed 15 feet from the ground.

4. The provisions of this subsection shall not apply to a commercial farm's primary on-site farm business sign(s), commercial billboards, New Jersey Department of Transportation Tourist Oriented Directional Signage (TODS), Farmland Preservation signs, signs whose sole purpose is to facilitate and provide for safe traffic movement directly onto or from the farm site, and signs within the interior of

the farm that are not intended to be visible from a public right of way. A commercial farm's on-farm direct marketing facility, activity, and event signs shall meet the following criteria:

- i. The maximum size of any one sign (meaning the physical size of the sign and not the combined square footage of both sides) is 16 square feet;
- ii. The total combined square footage of the signs does not exceed 160 square feet (this is calculated by summing the physical sizes of the signs and not the square footage of the signs' front and back sides); and
- iii. If a commercial farm has multiple distinct and separate on-farm direct marketing locations, such as two on-farm direct marketing facilities located on two different properties within the farm management unit, each on-farm direct marketing location may utilize a total combined square footage of signs of 160 square feet, as specified in (g)4ii above.

(h) In the absence of municipal standards for the construction of parking areas applicable to on-farm direct marketing facilities, the standards in this subsection shall apply to facilities' parking areas.

1. A commercial farm's parking areas for on-farm direct marketing facilities, activities, and events may include areas permanently devoted to parking, areas temporarily devoted to parking, or a combination of such areas. Areas permanently devoted to parking means areas utilized by the facility on a daily basis when the facility is open. Areas temporarily devoted to parking means areas utilized by the facility when additional parking capacity is needed on a short-term, temporary basis, such as in conjunction with seasonal on-farm direct marketing sales, activities, or events.

2. The following standards shall apply to all parking areas:

- i. Safe, off-road parking shall be provided. Parking shall not be located in a road right of way, and the number of spaces provided shall be sufficient to accommodate the normal or anticipated traffic volume for the commercial farm's on-farm direct marketing facilities, activities, and events;
- ii. Ingress and egress points, driveway areas, and parking areas shall be arranged, so as to provide for safe traffic circulation. This arrangement shall allow customers to safely pull off of and onto adjacent roadways, and to safely maneuver to and from parking areas and into and out of parking spaces. On-farm direct marketing facilities need adequate driveway access to enable customers to reach the facility from the adjacent roadway; and
- iii. Where applicable, on farms that allow buses, parking areas shall accommodate bus traffic and allow for the safe unloading and loading of bus passengers.

3. The types of surfaces and any physical improvements associated with areas permanently devoted to parking, such as curbing or landscaping, need not involve greater than the minimum level of improvements necessary to protect public health and safety.

4. The following standards shall apply to areas temporarily devoted to parking:

- i. Areas temporarily devoted to parking shall require few or no improvements, so that they can easily be converted back to productive agricultural use once a farm's need for short-term additional parking ceases;
- ii. Areas temporarily devoted to parking may include, but are not limited to, hay fields, grass fields, pastures, and other crop fields, provided they have vegetative or organic mulch cover, such that bare ground is not parked on;
- iii. The slope of the land shall be considered to address issues related to drainage, puddles and pockets of standing water, and safety;
- iv. During dry conditions, areas temporarily devoted to parking shall be mowed, so as to minimize fire hazards related to vegetation coming in contact with the underside of customer vehicles;

v. During wet conditions, areas temporarily devoted to parking shall be managed to provide vehicles and pedestrians with safe and sufficient traction; and

vi. A commercial farm shall mark, sign, or indicate through staff direction or other means where vehicles should be parked.

(i) The standards for buffers for on-farm direct marketing facilities, activities, and events on commercial farms shall be as follows:

1. The general standards are as follows:

i. A commercial farm may utilize buffers as an effective tool to mitigate the impacts that on-farm direct marketing facilities, activities, or events may pose on adjacent properties, such as noise, dust, and light spillage.

ii. Buffers need not involve greater than the minimum setbacks and/or screening necessary to protect public health and safety and to mitigate unreasonably adverse impacts on adjacent properties.

iii. When making determinations regarding the necessity or extent of buffers, consideration shall be given to the following:

(1) The nature of the existing adjacent property uses;

(2) The nature and scale of the commercial farm's on-farm direct marketing facilities, activities, and events;

(3) The frequency of the commercial farm's activities and events;

(4) The physical features and constraints of the commercial farm property;

(5) The presence or absence of existing on- or off-farm buffers; and

(6) The economic feasibility of using buffers.

2. The setback requirements are as follows:

i. The standards in this paragraph shall apply to the location of building and parking areas for on-farm direct marketing facilities.

ii. The following standards shall apply to new or expanded facilities' permanent structures:

(1) A 50-foot front-yard setback from the paved portion of the road right of way;

(2) A 50-foot side-yard setback from the property line; and

(3) A 50-foot rear-yard setback from the property line;

iii. The following standards shall apply to new or expanded activities and events:

(1) A 25-foot front-yard setback from the paved portion of the road right of way;

(2) A 50-foot side-yard setback from the property line;

(3) A 50-foot rear-yard setback from the property line; and

(4) A 100-foot setback from an existing, occupied residence not located on the farm.

iv. The following standards shall apply to new or expanded areas permanently devoted to parking:

(1) A 25-foot front-yard setback from the paved portion of the road right of way;

(2) A 50-foot side-yard setback from the property line; and

(3) A 50-foot rear-yard setback from the property line.

v. Setbacks of a lesser distance than those specified in (i)2ii through iv above may be permissible provided the following is met:

(1) Screening is considered and, if appropriate, installed;

(2) The combined setback distance and screening arrangement receives approval as a site-specific agricultural management practice pursuant to N.J.A.C. 2:76-2.3 and 2.4;

(3) The site-specific agricultural management practice determination takes, at a minimum, the following into consideration:

(A) Adjacent property uses and buffers;

(B) The scale of the facility and intensity of its use;

(C) The nature, scale, and frequency of the activities and events;

(D) The physical features and constraints of the commercial farm property; and

(E) The economic feasibility of using buffers; and

(4) For a board or the Committee to make a site-specific agricultural management practice determination departing from the provisions in (i)2ii through iv above, a commercial farm must provide a legitimate farm-based reason for the departure and address the considerations listed in this subparagraph.

vi. Existing on-farm direct marketing facilities, activities, or events, including existing areas permanently devoted to parking, are not subject in their current layout and configuration to the provisions of (i)2ii through iv above. If such facilities, activities, events, or parking areas are situated at lesser distances than the standards specified in (i)2ii through iv above, the use of screening for buffer purposes shall be considered.

vii. Existing on-farm direct marketing activities or events that are offered and located in different fields over time shall not be considered new activities or events under this paragraph.

3. The screening requirements for on-farm direct marketing facilities, activities, and events on commercial farms shall be as follows:

i. Screening, when used for buffer purposes, shall consist of vegetation or structures, such as, but not limited to, trees, bushes, fences, or walls;

ii. If the screening is comprised of vegetation and if used in conjunction with a facility, the existing or newly planted materials shall be grown in such a manner that there is 75 percent screening of the facility within five years;

iii. If the screening is comprised of vegetation and if used in conjunction with an activity or event offered in two or more consecutive years, the existing or newly planted materials shall be grown in such a manner that there is 75 percent screening of the activity or event within five years;

iv. If the screening is comprised of a fence, wall, or another existing farm structure, then the fence, wall, or other existing farm structure shall be of sufficient height or construction to provide 75 percent screening of the facility, activity, or event; and

v. If the distance between a new or expanded facility and an existing, occupied residence not located on the farm is less than 100 feet, screening shall be installed.

4. For the purposes of this section, existing on-farm direct marketing facilities, activities, or events are those facilities, activities or events that are in operation as of April 7, 2014, the effective date of the AMP.

(j) Outdoor sales areas shall be arranged, so as to not interfere with safe pedestrian and vehicular traffic circulation.

(k) The use of structures or improvements in conjunction with on-farm direct marketing activities and events shall be as follows:

1. Existing agricultural structures or improvements may be used in conjunction with the offering of on-farm direct marketing activities and events, provided this use does not adversely affect the continued use of the structures or improvements for agricultural production purposes.

2. New structures or improvements may be constructed and used in conjunction with the offering of on-farm direct marketing activities and events, provided this construction and use has a negligible impact on the farm's continued use of the land for agricultural production purposes.

i. If such structures or improvements are temporary and used in conjunction with a temporary or seasonal activity, the structures or improvements shall be removed within 30 days of cessation of the activity or event.

3. The use and construction of structures or improvements shall comply with relevant Federal and State laws, rules, and regulations.

(l) On-farm direct marketing activities and events shall have a negligible impact on the farm's continued use of the land for agricultural production purposes.

(m) Standards for certain on-farm direct marketing activities shall be as follows:

1. For pick-your-own activities, the following standards shall apply:

i. Visitors shall be informed of any rules to follow and instructed as to which fields they are permitted to harvest;

ii. Fields open for pick-your-own activities shall be clearly marked;

iii. Parking areas may be adjacent to or near pick-your-own fields, particularly if such fields are far from the farm's pick-your-own market area; and

iv. Pick-your-own market areas shall comply with applicable standards for on-farm direct marketing facilities.

2. For choose-and-cut Christmas tree activities, the following standards shall apply:

i. Visitors shall be informed of any activity and equipment rules and where Christmas trees may be selected and cut;

ii. Customers may be allowed to cut their own Christmas trees;

iii. Customers shall not be supplied with power equipment or be permitted to use motorized tree baling equipment; and

iv. Choose-and-cut Christmas tree market areas shall comply with applicable standards for on-farm direct marketing facilities.

3. For corn, sunflower, and other crop mazes, the following standards shall apply:

i. Visitors shall be informed of any rules associated with the maze, including how to exit the maze in the event of an emergency;

ii. Farm staff shall walk through the maze periodically, or periodically observe the maze from an elevated location, to check for lost visitors. Farm staff shall similarly check for lost visitors before closing the maze;

iii. If a maze is open after dark, adequate lighting shall be provided by the commercial farm and/or used by visitors to illuminate the traveled paths. If lighting is provided, the lighting shall be turned off within half an hour of the close of business; and

iv. No smoking or any other open flames shall be permitted in or near the maze.

4. For hayrides and wagon rides, the following standards shall apply:

i. Wagons shall be in good repair and have sideboards to contain occupants;

ii. A ladder, ramp, footstool, steps, or other stable device or component shall be used to assist with safe boarding of and disembarking from wagons;

iii. When using a tractor to tow wagons, the left and right brakes of the tractor shall be locked together;

iv. No smoking or any other open flames shall be permitted on hayrides and wagon rides; and

v. Wagon operators shall:

(1) Plan routes in advance;

(2) Be familiar with and have experience operating the tractor and wagon equipment;

(3) Be familiar with and have experience using draft animals, if applicable, and the wagon equipment;

(4) Evenly distribute passengers on the wagons and instruct passengers to remain seated during the ride;

(5) Operate tractor and wagon equipment in low gears and at safe speeds; and

(6) Have a current motor vehicle operator's license.

5. For livestock and animal activities, the following standards shall apply:

i. A farm employee or activity attendant shall regularly monitor activities in which visitors may have incidental contact with agricultural animals. Incidental contact includes, but is not limited to, agricultural animal display, petting, or feeding areas;

ii. A farm employee or activity attendant shall be present at all times to monitor activities in which visitors are permitted to have direct contact with agricultural animals. Direct contact includes, but is not limited to, horseback riding, pony rides, and animal shows, competitions, or demonstrations;

iii. All agricultural animals having incidental or direct contact with the public shall be observed daily for health problems by a farm employee or activity attendant. Sick animals or animals behaving strangely shall be prevented from having contact with the public;

iv. Hand-sanitizing facilities shall be provided and readily available if an activity is offered in which visitors may have incidental or direct contact with agricultural animals. Hand-sanitizing facilities include running water with soap, antibacterial hand wipes, waterless hand sanitizers, and/or other hand-washing stations. Visitors shall be advised to sanitize their hands after contact with agricultural animals;

v. Visitors shall be advised not to feed agricultural animals unless the feed has been specifically provided by the farm;

vi. Visitors shall be advised that their pets and animals shall not be allowed in areas with agricultural animal activities unless in connection with a specific agricultural purpose, including, but not limited to, agricultural animal shows, competitions, or demonstrations; and

vii. The management of animals shall comply with the Animal Welfare Act, 7 U.S.C. § 54, and the Humane Treatment of Domestic Livestock rules, N.J.A.C. 2:8, as applicable, and any other relevant State and Federal laws, rules, or regulations.

6. For bonfires, the following standards shall apply:

i. A commercial farm conducting a bonfire shall comply with Uniform Fire Code requirements, N.J.A.C. 5:70-2.7, and any other relevant State and Federal laws, rules, or regulations.

ii. A farm employee shall be present for the duration of the bonfire to monitor and oversee the activity.

(n) The event management plan for on-farm direct marketing events shall include the following:

1. If the expected volume of traffic and visitors for an event is significantly greater than the volume regularly accommodated by a commercial farm's on-farm direct marketing facility, such that the increased volume of traffic is likely to interfere with the movement of normal traffic or emergency vehicles on- and off-site, the farm shall create and implement a written event management plan to address public health and safety issues including, but not limited to, emergency vehicle access, traffic management, and public health management.

i. A complete copy of the plan shall be provided to the clerk of the municipality in which the commercial farm is located at least 30 days in advance of the event as an advisory notice and to enable coordination between the commercial farm and municipality that may be necessary regarding emergency vehicle access, traffic, and public health management.

ii. Emergency vehicle access management includes establishing the location(s) and manner in which emergency vehicles may access the farm if necessary.

iii. Traffic management includes:

(1) Providing safe ingress and egress, vehicular traffic flow, and pedestrian traffic flow;

(2) Utilizing parking attendants, signs, or other parking-related instructions to facilitate vehicular and pedestrian traffic flow onto, off of, and within the farm. Local police officers may be hired to assist with traffic management;

(3) Establishing areas temporarily devoted to parking based on the volume of visitors expected; and

(4) Establishing overflow parking areas in the event the planned-for parking capacity is exceeded.

iv. Public health management includes:

(1) Providing sanitary facilities sufficient to accommodate, without causing long queues, the volume of visitors expected;

(2) Providing hand-sanitizing facilities for visitors to wash or sanitize their hands after the use of the sanitary facilities;

(3) Locating sanitary facilities and managing them with an appropriate cleaning schedule, so as to prevent adverse impacts on adjacent properties, such as odors;

(4) Providing trash and recycling receptacles to accommodate the volume of visitors expected in order to prevent the accumulation of trash on the ground; and

(5) Properly training and equipping commercial farm staff on how to handle an emergency situation during the event including, but not limited to, whether and how police, fire, or other entities should be contacted based on an actual emergency.

2. A commercial farm may satisfy the provisions of (n)1 above by obtaining a special events permit, or its equivalent, from the municipality in which the commercial farm is located.

3. If an event of the type described in (n)1 above occurs periodically or more than once per year and occurs under the same basic conditions, a commercial farm may satisfy the provisions of (n)1 above for the multiple events by submitting a single event management plan that notes the multiple occurrences and the future dates of the event.

(o) This section shall not be construed to extend Right to Farm protection to overnight accommodations of any kind, including, but not limited to, lodging and camping.

(p) The approval of site plan elements for new or expanded on-farm direct marketing facilities shall be as follows:

1. A commercial farm seeking approval of site plan elements to establish a new, or expand an existing, on-farm direct marketing facility may apply to the municipality and/or the county agriculture development board for such approval.

i. A commercial farm applying to a municipality for approval of site plan elements may request that the municipality consider waiving or reducing review requirements based on a consideration of relevant site-specific elements, such as the following: the farm's setting and surroundings; the scale of the facility and intensity of its use; the type and use of the public road on which the facility is located; and the minimum level of improvements necessary to protect public health and safety. Nothing in this paragraph shall be construed as authorizing a municipality to waive or reduce review requirements required by State or Federal law, rule, or regulation.

ii. A commercial farm applying to a county agriculture development board or the Committee for approval of site plan elements shall request a site-specific agricultural management practice determination pursuant to N.J.A.C. 2:76-2.3 and 2.4.

iii. If a commercial farm has previously obtained approval for an on-farm direct marketing facility, then such a facility closing seasonally and reopening the following year with the same total square footage of indoor and/or outdoor covered sales area as previously approved shall not be considered a new facility.

(q) On-farm direct marketing facilities, activities, and events shall comply with relevant Federal and State laws, rules, and regulations, including, but not limited to:

1. The Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq.;
2. The Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq.;
3. The New Jersey Uniform Construction Code, N.J.A.C. 5:23;
4. The New Jersey Uniform Fire Code, N.J.A.C. 5:70;
5. The Stormwater Management rules, N.J.A.C. 7:8;
6. The State Highway Access Management Code, N.J.A.C. 16:47;
7. The Sanitation in Retail Food Establishments and Food and Beverage Vending Machines rules, N.J.A.C. 8:24; and
8. The Pinelands Comprehensive Management Plan, N.J.A.C. 7:50.

(r) Additional miscellaneous provisions for on-farm direct marketing facilities, activities, and events on commercial farms shall be as follows:

1. This agricultural management practice does not preclude a commercial farm from requesting a site-specific agricultural management practice determination for on-farm direct marketing facilities, activities, and events pursuant to N.J.A.C. 2:76-2.3 and 2.4. A board or the Committee, pursuant to N.J.A.C. 2:76-2.3 and 2.4, may make site-specific agricultural management practice determinations for facilities, activities, and events, provided such sites-specific agricultural management practice determinations are consistent with the practices set forth in this section.

2. If a commercial farm believes a municipality's standards for the construction of building and parking areas applicable to on-farm direct marketing facilities are unduly restrictive, or believes a municipality is unreasonably withholding local zoning approval related to a facility, the commercial farm may request that the appropriate board, or the Committee in counties where no board exists, make a determination in the matter by requesting a site-specific agricultural management practice pursuant to N.J.A.C. 2:76- 2.3 and 2.4.

FUNDING RESOURCES

Are there grants or other funding resources that can help support this action?

Depending on the scale and scope of zoning changes, this action can be completed by volunteers, Town staff, or outside consultants.

Technical Assistance

- Local Technical Assistance and/or District Local Technical Assistance Grant from The Montachusett Regional Planning Commission
- [Conservation Law Foundation's Legal Food Hub](#) is "a free legal services clearinghouse for farmers, food entrepreneurs, and related organizations."

Grant funding

- EEA Planning Assistance Grant

TECHNICAL RESOURCES

Are there case studies, reports, or organizations that could be a resource for implementing this action?

Overview of Issues

- [Community Guidance to Maintain Working Farms and Forests](#) discusses business uses to support farms and forests. Includes discussion of issues, case studies, model bylaw.
- ["Agritourism Zoning Down on the Farm"](#) an issue of the American Planning Association's *Zoning Practice* magazine (March 2004) and provides an overview of zoning issues. Includes sample definitions and a matrix comparing a sample of bylaws from across the country.

Example Bylaws

- [Accessory Businesses at Active Farms Bylaw, Littleton MA](#)
- [Farm Accessory Uses, Gloucester RI \(Chapter 350-58.2 and various other changes\)](#)
- [Agricultural exemption from site plan approval, Hadley MA \(Zoning Bylaw, §8.3\)](#)
- [Farm Stand Special Rule, Grafton MA \(Zoning Bylaw Section 3.2.2.5\)](#)
- [Accessory On Farm Businesses, Vermont Act 143](#)

Legal Background

- ["Agri-tourism and Agriculture," MDAR Agricultural Law Memo](#) provides a set of tests for determining whether an activity should be considered agri-tourism under current state law.
- ["Agricultural Activity-Incidental Uses, MDAR Agricultural Law Memo](#) gives examples of allowed incidental uses associated with agriculture under current state law.

MEASURING SUCCESS*

How can we measure the progress and success of this action?

Outputs*:

- Example agricultural zoning bylaws
- Revised zoning bylaw for Harvard

Outcomes*:

- Decline in acres of farmland converted to other uses
- Increase in the number of people employed in agriculture-related activities in Harvard
- Increased revenue for farm operators
- Increase in diversity of goods and services sold on Harvard's farms

* An output is a measure of what has been created. An outcome is the level of performance or achievement that occurred based on what was created.

EQUITY AND ENGAGEMENT

How can we engage the populations that are likely to be part of or benefit from implementation of this action?

Farmers in Harvard are the primary population that will benefit from this action. Because of the seasonality of farming, engagement of farmers should take place during the winter. Asynchronous opportunities for input—like surveys and phone calls may be more effective than community meetings. However, because of the diversity of farms in Harvard, opportunities for farmers to hear from each other and engage in discussions is also essential.

How do we ensure that risks and benefits associated with this action are shared equitably across Harvard's diverse agricultural community?

To ensure that bylaw changes are developed equitably, the town can:

- Clearly articulate the policy objectives of bylaw changes. Evaluate how farms of different types and sizes are impacted by those policy objectives.
- Ensure meaningful participation by farmers of all types, sizes, and business models in community discussions and drafting and reviewing bylaw changes.

There may be an impulse to limit zoning changes to larger properties. The argument for this approach is that it will reduce the number of impacted abutters and larger properties can have greater buffering from neighbors. The downside is that it will exclude smaller farmers who are often less able to comply with existing zoning and who already suffer from lacking economies of scale. The town should carefully weigh the pros and cons of taking this approach.

Article XIV Agricultural Accessory Use

§ 100. Purpose

Consistent with the Town's Open Space and Recreation Plan, the Town's Right to Farm Bylaw, the Rural 11 Prioritization Project, the Southern Worcester County Comprehensive Economic Development Strategy, and General Law Chapter 40A, § 3 of the Zoning Act, the purpose of this Bylaw is to provide for innovative economic development opportunities for Rutland Farmers. This Bylaw will benefit the general health and welfare of Town residents and the region by encouraging economic development and open space preservation that fits the rural character of the Town. This Bylaw will also provide opportunities for Rutland farmers to supplement their income produced through their farm operations by diversifying their operations to include businesses that may combine agriculture, tourism, outdoor recreation, and other farm related activities. Nothing herein is intended to limit any use protected by G.L. c. 40A, § 3 as an agricultural use.

§ 101. Applicability

This Bylaw applies to allowable agricultural accessory uses where the principal use of land is commercial agricultural as that term is used in G.L. c. 128, § 1A and referred to in G.L. c. 40A, § 3. This Bylaw applies to all zoning districts within the Town. To determine applicability, the applicant may be required to provide evidence to the Building Commissioner that the principal use of the land qualifies as commercial agriculture pursuant to G.L. c. 40A, § 3 and that the proposed agricultural accessory use is customarily incidental and subordinate to the primary commercial agricultural use.

§ 102. Definitions

Accessory Farm Store - an on-site retail outlet for farm products that is subordinate to the primary commercial agriculture use of growing or harvesting of crops or the raising of livestock designed to bring the public to the farm for the purchase of agricultural products, agriculturally-related products, and/or value-added agricultural products.

Agri-commercial - means commercial activities designed to market to and bring the public to a Farm Enterprise for a farm related experience, and increase the sale of agricultural products to the public with the express purpose of enhancing the agricultural viability of a Farm Enterprise.

Agriculturally-Related Products - items sold at accessory farm stores to attract customers and promote the sale of agricultural products. Such items include, but are not limited to, all agricultural and horticultural products, animal feed, baked goods, ice cream and ice cream-based desserts and beverages, jams, honey, gift items, food stuffs, clothing and other items promoting farming and agriculture and value-added agriculture products and production on site.

Agriculture and Agricultural - shall include farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any

agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.

Agri-entertainment - means entertainment, such as a seasonal event, festival, contest, music, party, or other time-specific event, designed specifically to bring the public to a Farm Enterprise for a farm-related educational experience by displaying a combination of the farm setting and products of the agricultural operations with the ultimate goal to encourage the purchase of agricultural products. Agri-entertainment is designed to enhance the agricultural viability of farm operations.

Agri-tourism - means tourism designed specifically to bring the public to a Farm Enterprise for a farm-related educational experience by displaying a combination of the farm setting and products of agricultural operations with the ultimate goal to encourage the purchase of agricultural products. Agricultural tourism shall include Farm-Stay programs, entertainment events on the farm, fundraising activities, and community events. Agri-tourism is designed to enhance the agricultural viability of the farm operations.

Farm Enterprise - means a farming operation that is entitled to protection under G.L. c. 40A, § 3.

Value-Enhanced Agricultural Production - the enhancement or improvement of an agricultural commodity or of an animal or plant product produced on a farm to a higher value. The enhancement or improvement includes, but is not limited to marketing; processing, transforming, and/or packaging of agricultural commodities grown, raised, or otherwise created on the premises controlled by the owner of the agricultural operation into a product of higher value.

§ 103. Permit Procedures, Authority

The Planning Board shall act as the administering authority for Site Plan Review required under this Bylaw. The Site Plan Review requirements may be found in the document, titled, "Site Plan Approval Regulations, as amended." Otherwise, for new first-time agricultural accessory uses believed to be allowed as-of-right and not requiring Site Plan Review, the applicant may request review of said use and advice from the Building Commissioner in consultation with the Agricultural Commission and Planning and Community Development Office by notifying the Building Commissioner of the as-of-right use at least thirty (30) days prior to commencing said use believed to be allowed as-of-right by this Bylaw. The Applicant shall be responsible for obtaining any and all other necessary and applicable federal, state, and local permits and/or licenses as may be required prior to issuance of a building permit. The

dimensional requirements of the underlying zoning district shall apply to each accessory agricultural use allowed by this Bylaw.

§ 104. Use Provisions

A. Allowable Accessory Uses

Unless otherwise specified below, agri-entertainment, agri-commercial and agri-tourism shall be permitted as accessory uses provided that the primary use of land is Commercial Agriculture, the parcel has a minimum of five (5) acres and the sales meet the requirements of G.L. c. 40A, § 3. Examples of allowable accessory agri-entertainment, agri-commercial and agri-tourism uses include but are not limited to the following:

- (a) Fruit, pumpkin or related U-pick operations;
- (b) Corn mazes, crop art or related activities;
- (c) Educational and demonstrative tours;
- (d) Walking and bicycling tours and trails;
- (e) Petting and feeding zoos;
- (f) Hay rides;
- (g) Cut your own Christmas tree farms;
- (h) Agricultural museums;
- (i) Living history farms;
- (j) Processing demonstrations;
- (k) On-farm farmers' markets and roadside stands;
- (l) On-farm restaurants where a significant portion of products sold is prepared on site with farm crops grown or raised on site;
- (m) Winery tours and wine tasting where a significant portion of products sold is prepared on site with farm crops grown or raised on site;
- (n) Brewery tours and beer tasting where a significant portion of products sold is prepared on site with farm crops grown or raised on site;
- (o) Liquor tours and liquor tasting where a significant portion of products sold is prepared on site with farm crops grown or raised on site;
- (p) Ice cream and bakery facilities where a significant portion of products sold is prepared on site with farm crops grown or raised on site;
- (q) Outdoor recreation (fishing, hunting, bird watching, natural features);
- (r) Horseback riding;
- (s) Rural bed and breakfast;

- (t) Consuming agricultural or food products; and
- (u) Garden tours.

B. Allowable Accessory Uses Requiring Site Plan Review

- (1) The following accessory non-agriculturally exempt uses are subject to Site Plan Review by the Planning Board;
 - (a) Weddings, receptions, or private parties;
 - (b) Concerts, festivals, or special events;
 - (c) Lodging, other than rural bed and breakfast;
 - (d) Art galleries or sculpture parks;
 - (e) Nonmotorized active recreational uses including but not limited to: disc golf; zip lines; and archery.

C. Site Plan Review Requirements

Where Site Plan Review is required for an accessory non-agriculturally exempt use, the Planning Board shall be the Site Plan Review authority and the applicable site plan requirements shall apply. Further, the Planning Board shall make a finding whether each site plan element listed below has been adequately addressed by the applicant:

- (i) Noise control;
- (ii) Off street parking;
- (iii) Loading areas;
- (iv) Traffic control measures for roads leading to the facilities;
- (v) Refuse disposal
- (vi) Sanitation;
- (vii) Crowd control and security;
- (viii) Fire protection;
- (ix) Lighting.
- (x) Screening from neighboring properties.

The Planning Board may impose reasonable conditions upon any Site Plan approval issued under this Section.

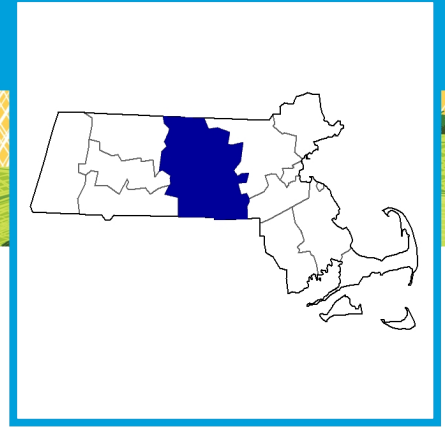
D. Prohibited Accessory Uses

The following accessory agricultural uses are prohibited:

Uses not specifically listed as accessory above, uses not customarily incidental to primary commercial farming uses, or uses otherwise prohibited in the underlying zoning district.

§ 105. Severability

If any provision of this Bylaw is held invalid by a court of competent jurisdiction, the remainder of the Bylaw shall not be affected thereby. The invalidity of any Section or Sections or parts of any Section or Sections of this Bylaw shall not affect the validity of the remainder of the Town of Rutland Zoning Bylaw.



Worcester County Massachusetts

Total and Per Farm Overview, 2017 and change since 2012

	2017	% change since 2012
Number of farms	1,568	+1
Land in farms (acres)	95,308	-6
Average size of farm (acres)	61	-7
Total (\$)		
Market value of products sold	65,196,000	+13
Government payments	1,015,000	+47
Farm-related income	17,441,000	+45
Total farm production expenses	75,509,000	+10
Net cash farm income	8,143,000	+432
Per farm average (\$)		
Market value of products sold	41,579	+13
Government payments (average per farm receiving)	7,750	+43
Farm-related income	36,718	+57
Total farm production expenses	48,156	+9
Net cash farm income	5,193	+429

14 Percent of state agriculture sales

Share of Sales by Type (%)

Crops	71
Livestock, poultry, and products	29

Land in Farms by Use (%) ^a

Cropland	36
Pastureland	10
Woodland	41
Other	13

Acres irrigated: 1,480

2% of land in farms

Land Use Practices (% of farms)

No till	12
Reduced till	4
Intensive till	10
Cover crop	11

Farms by Value of Sales

	Number	Percent of Total ^a
Less than \$2,500	807	51
\$2,500 to \$4,999	169	11
\$5,000 to \$9,999	169	11
\$10,000 to \$24,999	180	11
\$25,000 to \$49,999	72	5
\$50,000 to \$99,999	55	4
\$100,000 or more	116	7

Farms by Size

	Number	Percent of Total ^a
1 to 9 acres	543	35
10 to 49 acres	518	33
50 to 179 acres	348	22
180 to 499 acres	144	9
500 to 999 acres	13	1
1,000 + acres	2	(Z)

Market Value of Agricultural Products Sold

	Sales (\$1,000)	Rank in State ^b	Counties Producing Item	Rank in U.S. ^b	Counties Producing Item
Total	65,196	3	14	1,535	3,077
Crops	46,213	4	14	1,138	3,073
Grains, oilseeds, dry beans, dry peas	(D)	1	10	2,123	2,916
Tobacco	(D)	4	4	(D)	323
Cotton and cottonseed	-	-	-	-	647
Vegetables, melons, potatoes, sweet potatoes	9,220	4	14	233	2,821
Fruits, tree nuts, berries	14,980	2	13	131	2,748
Nursery, greenhouse, floriculture, sod	15,677	3	14	166	2,601
Cultivated Christmas trees, short rotation woody crops	745	2	11	53	1,384
Other crops and hay	(D)	1	13	540	3,040
Livestock, poultry, and products	18,983	1	14	1,682	3,073
Poultry and eggs	7,641	1	13	587	3,007
Cattle and calves	2,168	1	12	2,128	3,055
Milk from cows	6,695	3	11	532	1,892
Hogs and pigs	497	1	13	647	2,856
Sheep, goats, wool, mohair, milk	614	1	12	273	2,984
Horses, ponies, mules, burros, donkeys	(D)	4	12	584	2,970
Aquaculture	(D)	10	11	(D)	1,251
Other animals and animal products	983	3	12	184	2,878

Total Producers ^c	2,740	Percent of farms that:	Top Crops in Acres ^d	
Sex		Have internet access	83	
Male	1,452	Farm organically	2	
Female	1,288	Sell directly to consumers	26	
Age		Hire farm labor	28	
<35	220	Are family farms	98	
35 – 64	1,615			
65 and older	905			
Race			Livestock Inventory (Dec 31, 2017)	
American Indian/Alaska Native	13		Broilers and other meat-type chickens	7,887
Asian	40		Cattle and calves	6,947
Black or African American	128		Goats	2,964
Native Hawaiian/Pacific Islander	5		Hogs and pigs	2,236
White	2,537		Horses and ponies	2,677
More than one race	17		Layers	96,384
Other characteristics			Pullets	3,289
Hispanic, Latino, Spanish origin	35		Sheep and lambs	3,296
With military service	231		Turkeys	13,801
New and beginning farmers	769			

See 2017 Census of Agriculture, U.S. Summary and State Data, for complete footnotes, explanations, definitions, commodity descriptions, and methodology.

^a May not add to 100% due to rounding. ^b Among counties whose rank can be displayed. ^c Data collected for a maximum of four producers per farm.

^d Crop commodity names may be shortened; see full names at www.nass.usda.gov/go/cropnames.pdf. ^e Position below the line does not indicate rank.

(D) Withheld to avoid disclosing data for individual operations. (NA) Not available. (Z) Less than half of the unit shown. (-) Represents zero.

WARRANT ARTICLE

Article __. Amend the Protective Bylaw to Allow
Accessory Entertainment in Town Center
Overlay District.

To see if the Town will vote to amend Chapter 125
of the Code of the Town of Harvard, the Town's
Protective Bylaw, by adding thereto the following new
Section 125-59 relative to the Town Center Overlay
District, or take any vote or votes in relation
thereto.

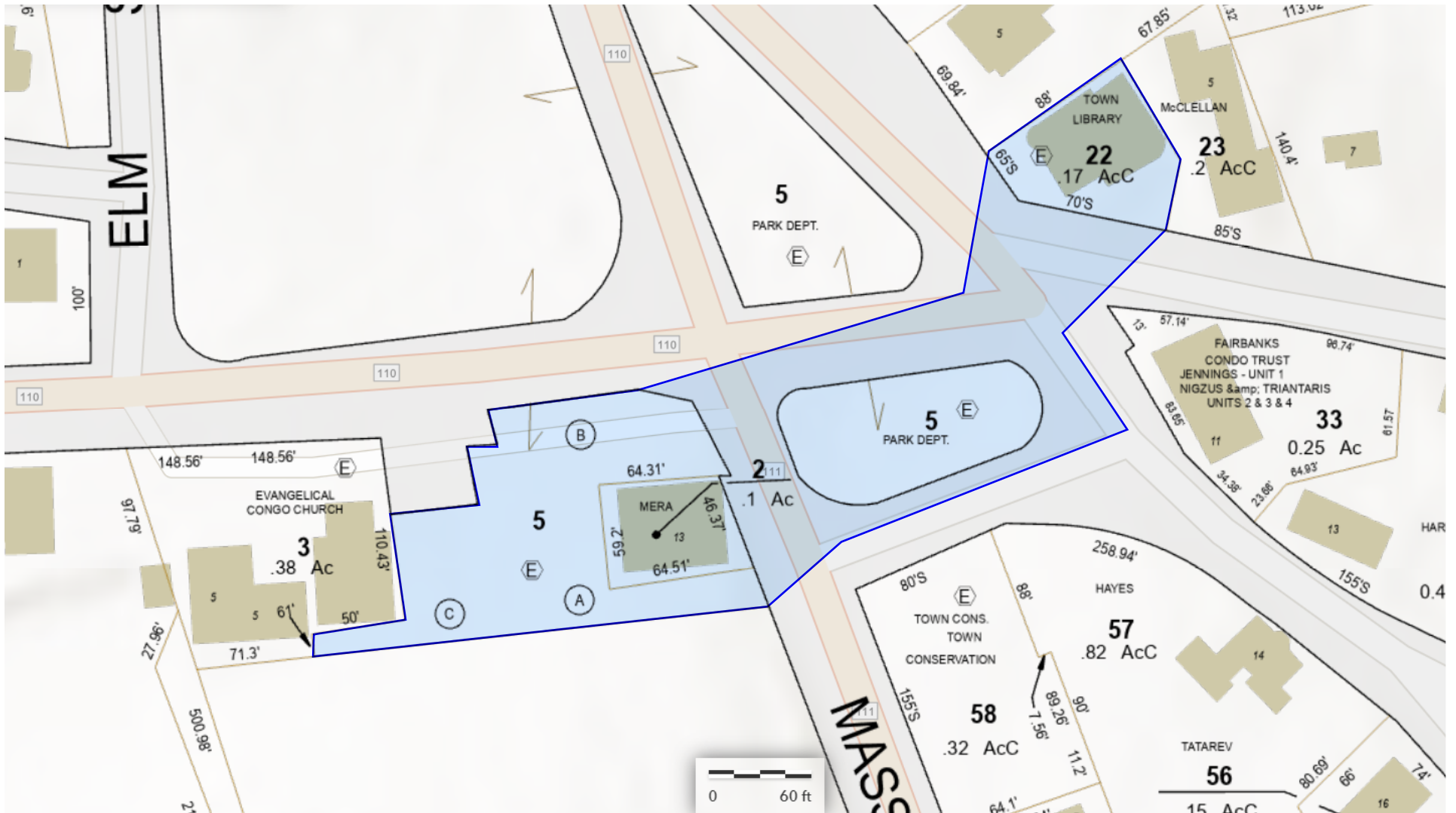
A. Purpose. The purpose of the Town Center Overlay
District (TCOD) is to allow entertainment as an
accessory use on certain properties which are primarily
used for business, institutional and cultural purposes.

B. Establishment of overlay district. The TCOD is
established as an overlay district. The TCOD consists
of certain parcels of land on Still River Road, and
Fairbank Street as shown on the Town Center Overlay
District Map on file with the Town Clerk. Within the
TCOD, all regulations of the underlying district remain
in effect.

**C. Permitted Accessory Uses in the Town Center Overlay
District.**

(1) All uses that are clearly subordinate to, and
customarily incidental to, and located on the same
premises with the main use or structure to which it is
accessory.

(2) Accessory entertainment, provided that a license
for such entertainment is obtained from the Select
Board, except on properties in the TCOD which are use
primarily for residential purposes.



TOWN of HARVARD
REVENUE FORECASTING
(COMBINATION of ART and SCIENCE)



REVENUE FORECAST for FY 2024 to FY 2027

Prepared by Jared Mullane, Marie Sobalvarro and Tim Bragan

Revenue Forecasting:

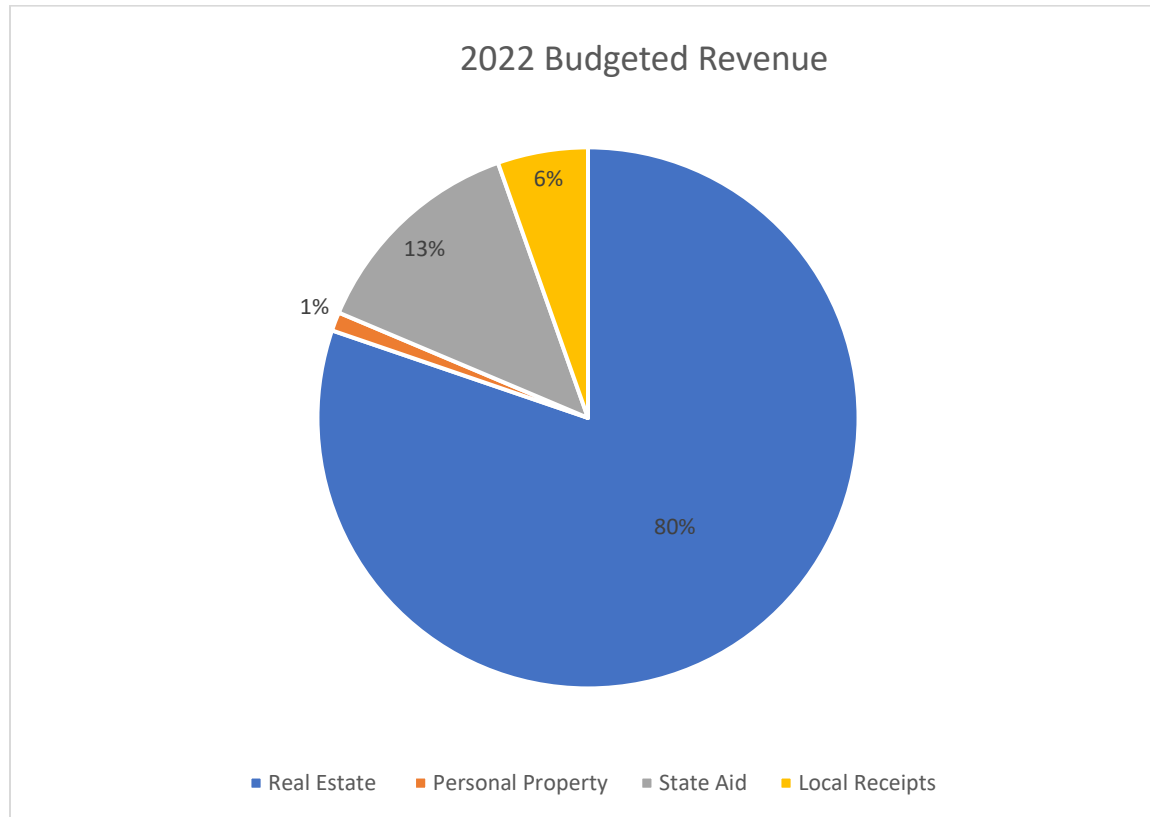
Revenue forecasting relies on historical data and educated assumptions made through an individual or group crystal ball. Predictive assumptions are generally more accurate in the short-term than longer-term, due to outside environmental factors that influence individual behaviors (e.g., whether to renovate a home, buy a new vehicle, pay tax bills on time, etc.). These decisions impact new growth, building permit income, excise taxes, and penalties/interest on taxes. These are but a few of the revenue categories a Town utilizes and the actual list will vary from community to community. You can see Harvard's Local Revenue list starting on page seven.

As expected, revenue and predicting it is a dynamic function as there are many variables that come into play depending on the revenue source you are looking at. This is also true for estimating expenses which has far more variables at play. Revenue depends largely on the economy, borrowing interest rates, local decisions, and policy changes. Some variables are in your control while others you are just an innocent bystander with little to no say. And unlike the expenses side, where you may have an option for purchasing something cheaper from another vendor, the revenue side does not have that flexibility. Revenue flexibility depends in large part on the ability and willingness of decision makers to increase fees or introduce new ones.

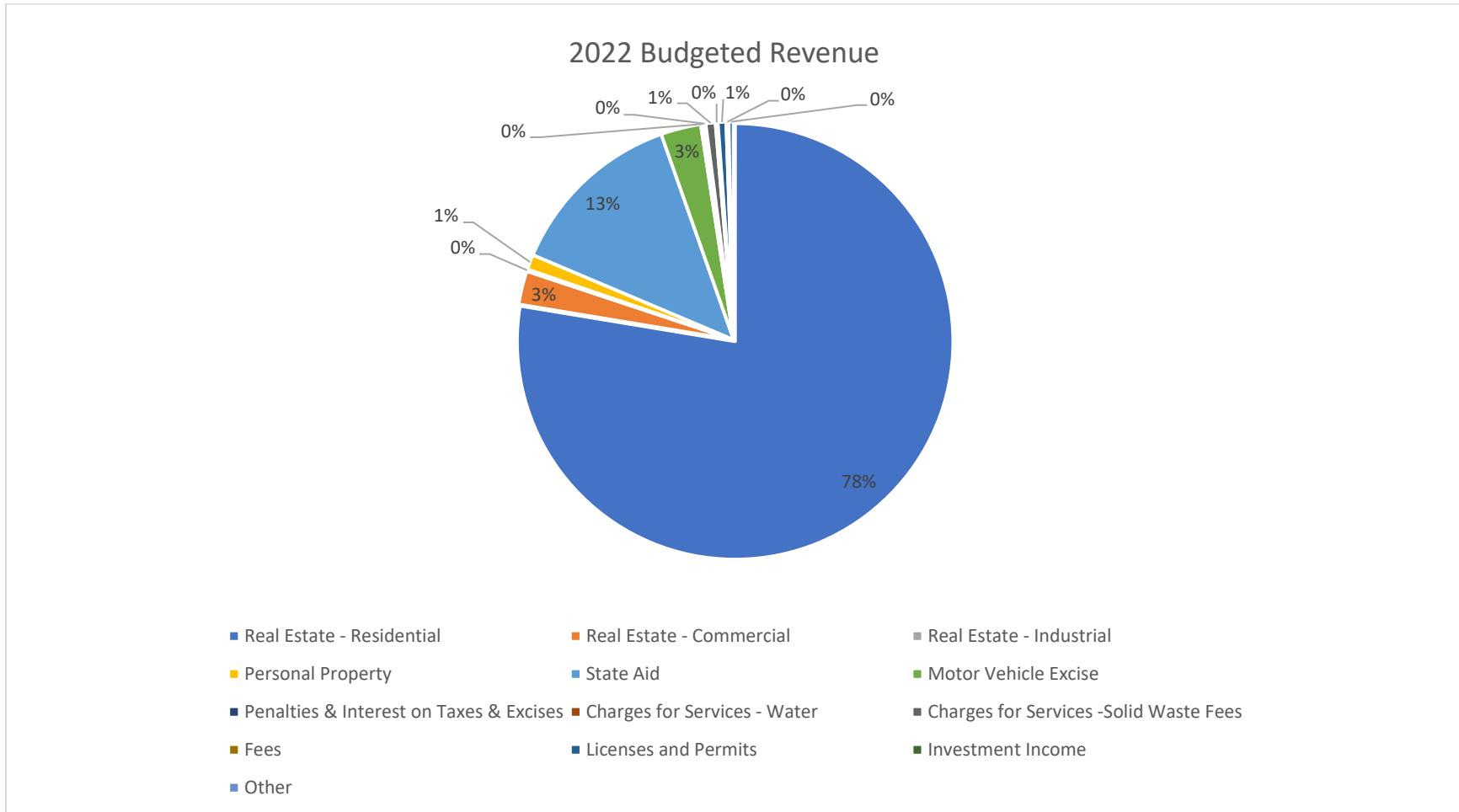
In the end, being able to predict revenue will amount to having the best information at a point in time. You must also have the willingness to amend, up or down, your estimates based on what is happening in the world around you. Remember, underestimating revenue is always better than overestimating it as in the end adjusting budgets due to not enough revenue means cuts. These cuts, which are usually made in the last quarter of a fiscal year and depending on how far off your estimates were, may mean reducing your workforce head count or cutting employee hours. Obviously, the smaller your calculation error is the easier it is to deal with and the ability to not impact your employees is greater. Not purchasing tires before the new year is always a better option than telling someone you are reducing their hours and thus their income for the next month or two. Or worse yet, telling someone their position has been eliminated.

What comprises revenue?

Revenue is comprised of local real estate taxes, followed by State Aid, and then other local revenue sources. These make up your revenue pie.



Each of these pieces of the pie can be broken down further as illustrated by these other more refined pie charts (below).



Each of these revenue pies need to be reviewed and their pieces examined as to what could impact future estimates. The best way to look at them initially is historically. I do not mean one or two or even three years. No, I mean at least five years with ten years being ideal. The reason ten years is ideal is during that period of time it is more likely for your community to have gone through

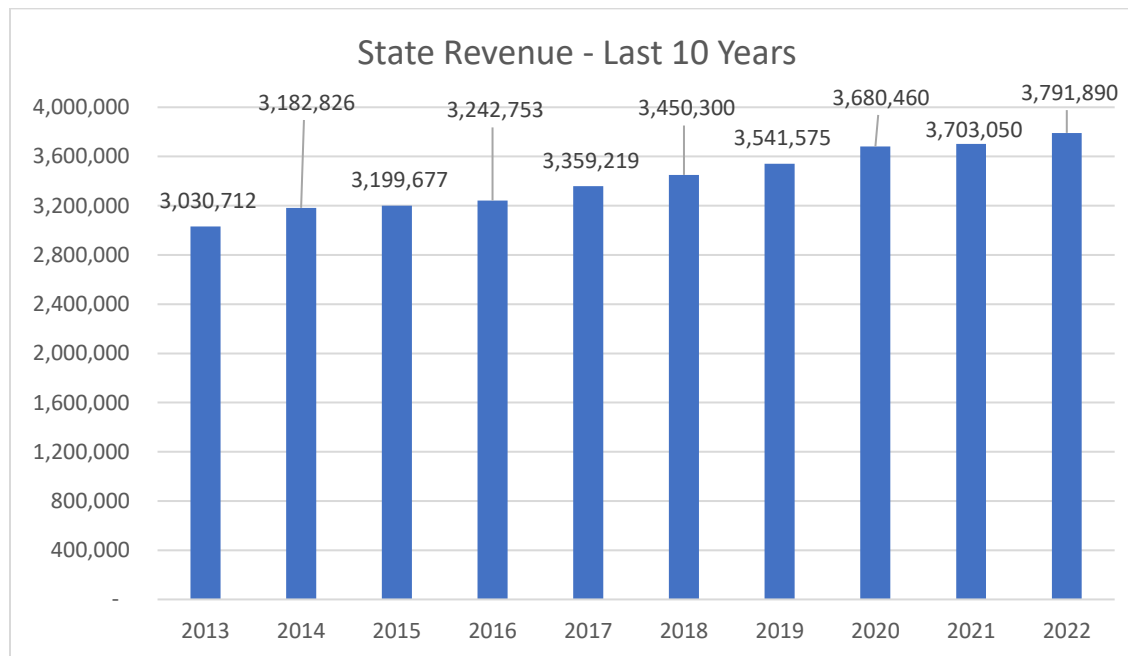
economic peaks and valleys thus given you more information on what may or may not impact your ability to make a good educated estimate. Those ten years allow you to see changes from year to year and over three-year and five-year increments. Your revenue projections should be kept to just three or five years with the most accurate being three and thus requiring fewer adjustments. Remember, adjustments are good and when they need to be made make them.

As a note, 'Other' consists of any budgeted revenue categories individually under \$30,000. This includes meals tax, fines and forfeitures, other departmental revenue, payments in lieu of taxes, library and cemetery departmental revenue and miscellaneous revenue.

Harvard's Revenue History:

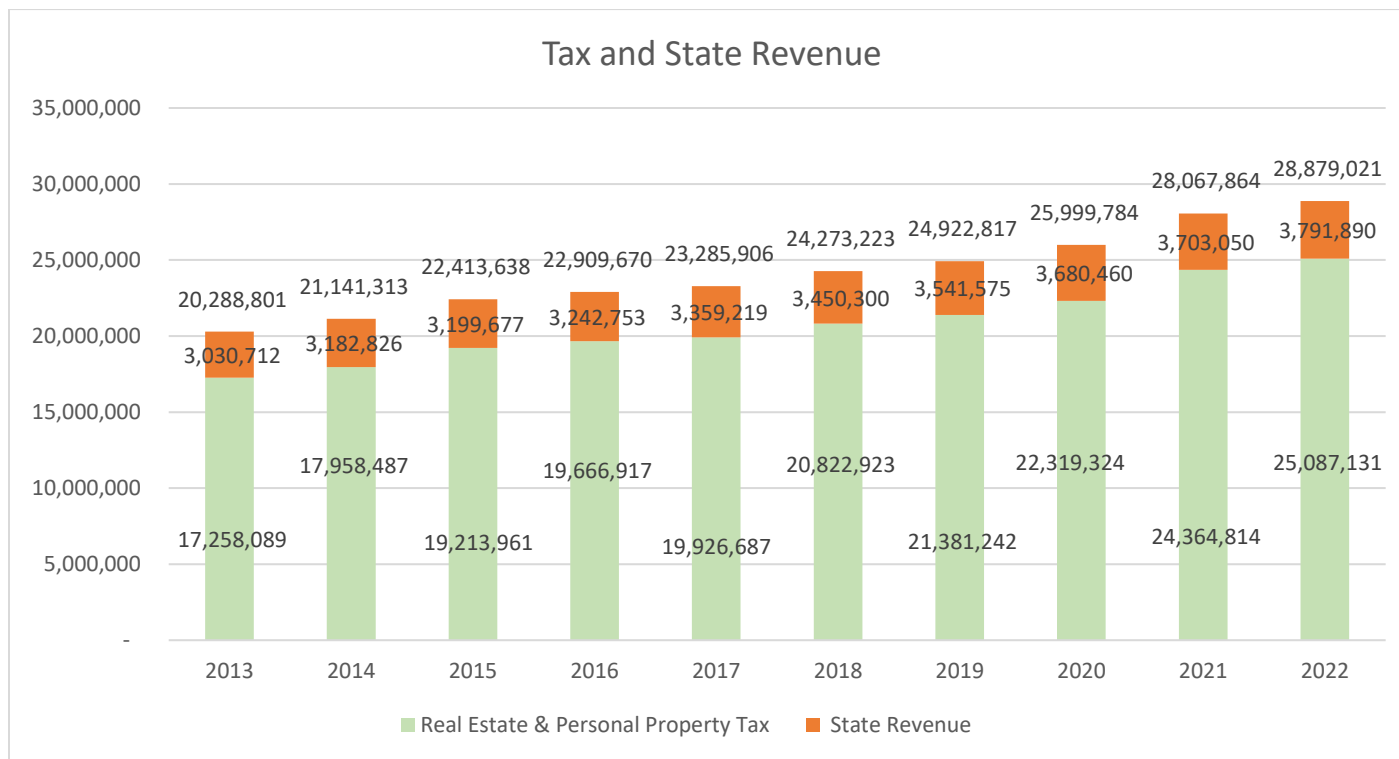
Below are graphs showing the past ten years of revenue from State, Taxes (pages 6-10), and Local Receipts (pages 10-18). Where necessary a further breakdown is made.

State Revenue:



As you can see from the chart, State revenue stays fairly constant and only has meaningful increases when the legislature is pressured to increase Education Aid or there is a large surplus of state revenue that they then distribute but not necessarily through the normal and recurring channels. You need to watch these and make sure you account for those amounts that will not recur. You do not want to add the recurring and non-recurring together as it will throw off all of your predictions in this category.

As your budget grows and state aid increases slightly you will see that more and more of your budget will be made up taxes as a percentage of all revenue. This is what the past ten years has been like here in Harvard.



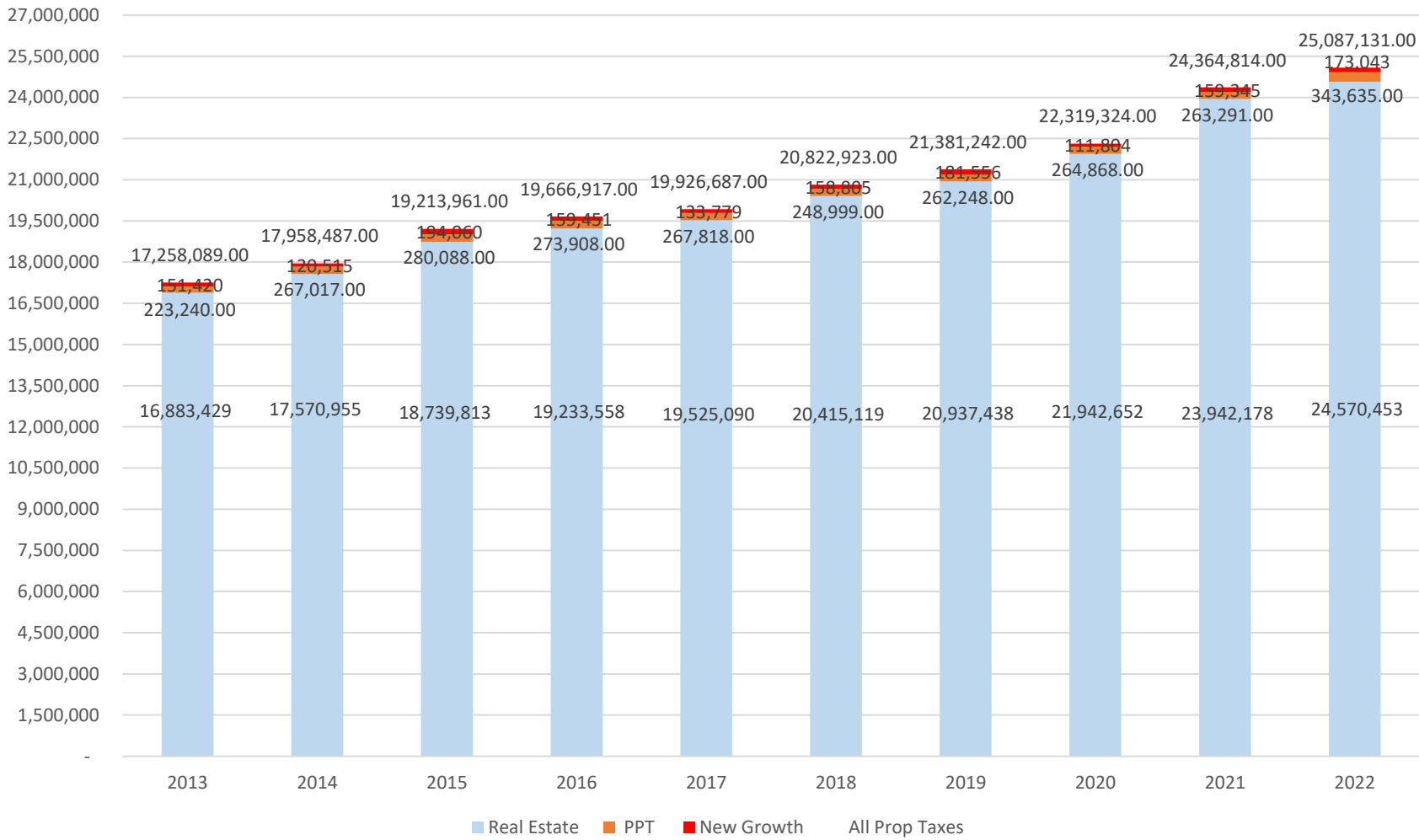
Looking at the various averages between the ten-year period and keeping up on state policy and budget discussions will be very helpful in fine tuning your estimate in this area. As you can see from the ten-year state graph the average increase over the ten-year period is 2.53% and it is best to take out the high and the low and then calculate the average as this will help even out any anomalies that may have been at work during that time period. By taking out the high and low, the average percent increase is 2.46%. This will give you a better number to work with. Being conservative is not a bad thing - just explain how and why you got to your estimate. There will be discussion on these points and remember to be flexible and if necessary, warn against the downfalls of doing something differently than you proposed. If you are the last one to make the decision then fine, if not do not be afraid to voice your opposition.

State Revenue generally has a floor set by the year prior revenue number but there have been cases when the bottom of the state revenue coffers dropped out and mid-year cuts to budgets had to be made because the State could not fulfill their obligations to the communities. This has not happened often but when it does it is devastating. Usually very hard to predict too.

Real Estate Tax Revenue:

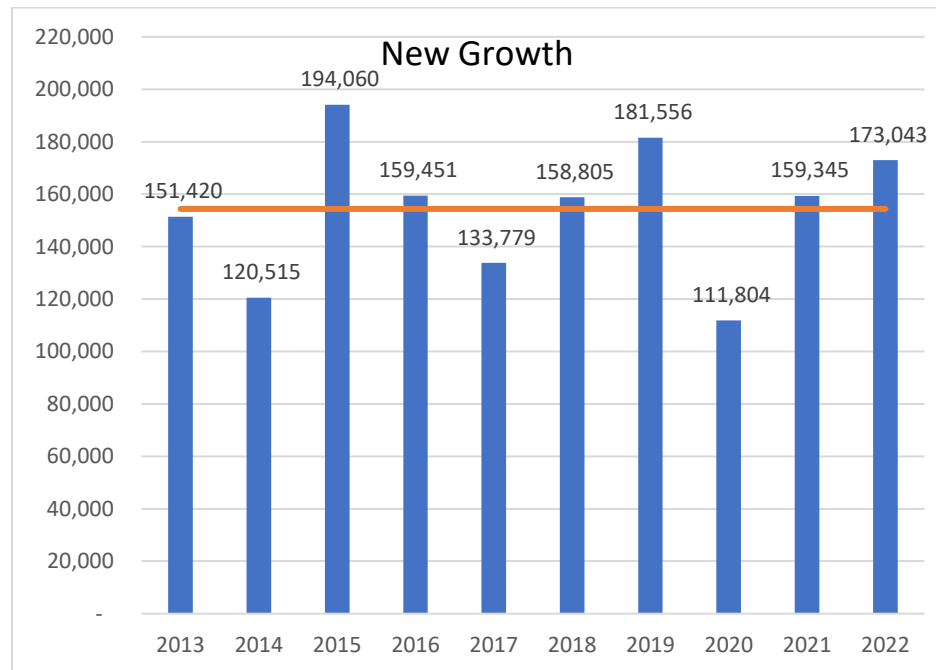
Below are graphs showing the past ten years of revenue from Real Estate Taxes, Personal Property and New growth. Where necessary a further breakdown is made.

Real Estate, Personal Property & New Growth - Last 10 Years



Here you have some control over revenue as you can increase, by law (Proposition 2 ½), 2 ½% above the prior year’s levy. This is not the prior year’s tax rate or prior year’s tax bill, this is the levy. The tax levy is the amount of revenue a community can raise through real estate and personal property taxes, net of allowance for abatement. Remember when property values go up then tax rates go down but you are still collecting more than the prior year. Likewise, when values drop tax rates go up and you are still collecting more than the prior year. There is always the ability to put forward general overrides but remember these increase taxes permanently and thus the annual 2 1/2 % increase. In general, a capital exclusion override is more palatable to the general public because it is for a tangible item and has a finite impact on overall taxes. These General Overrides will skew the data and you need to be aware of that.

The above graph shows a steady increase in revenue which lately has been enhanced by larger than normal new growth figures. Here is what new growth has looked like over the same ten-year period and knowing why one year was lower than normal and another year was higher than normal will help you understand the factors behind the numbers and will help make your predictions of this revenue even better. The orange line in the chart below represents the average, which is \$154,378 over the last ten years.

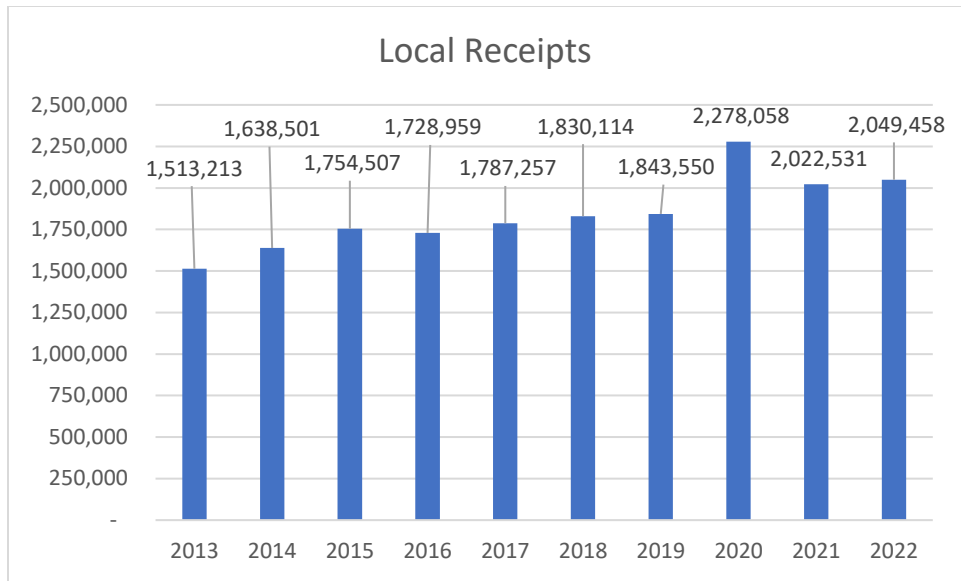


New growth is closely tied to the economy as it has to do with housing development and improvements to current housing stock. This dollar amount is predictable. You can look at the ten-year average, again throw out the high and the low numbers, and it will give you a reasonable number to use. To be more accurate, all you have to do is track building permits and if they are still running above prior year permit numbers, and the value of the permits is higher, then you can adjust the number upward. Always check with the Assessor's office to see what they have done regarding capturing the value of the project and what portion of the value was captured and when. If a new house is 25% completed then they may have already captured that percentage of the construction project in the prior year. You do not want to make a mistake here because it will get compounded in your out-year projections. New Growth gets added to the Levy Limit* and the 2 ½% increase allowed by law then gets compounded in all of the out years. Years you have the ability to make corrections in the out years but if you are using the estimates created this year for future decisions this could be problematic and negatively impact your policy decision making process for the future.

Local Receipts:

This revenue source does not account for a major portion of the overall budget but nonetheless it is still important when trying to calculate future year revenue numbers. Depending on the size of the community you can expect hundreds of thousands to millions of dollars flowing into your revenue coffers. Here in Harvard, we average approximately \$1,844,615 a year from this source and over the last ten years it has been as high as \$2,278,058. and as low as \$1,513,213 (see chart below). The high was in 2020 and was primarily partially due to better-than-expected investment income due to the market conditions, and the Town receiving interest income from borrowing for the full MSBA project upfront.

Harvard has an exception when it comes to revenue that is not state, it is not taxes, but it is revenue derived from a contractual fee arrangement. This is the School Department's Devens contract which is based on the number of students from Devens multiplied by the per student dollar amount approved by the State Education Department. The most recent amount equals \$2,410,974 and is paid to Harvard via the School Department from MassDevelopment. Since this is an anomaly, and really does not fit withing local receipts, I will deal with this in a future document.



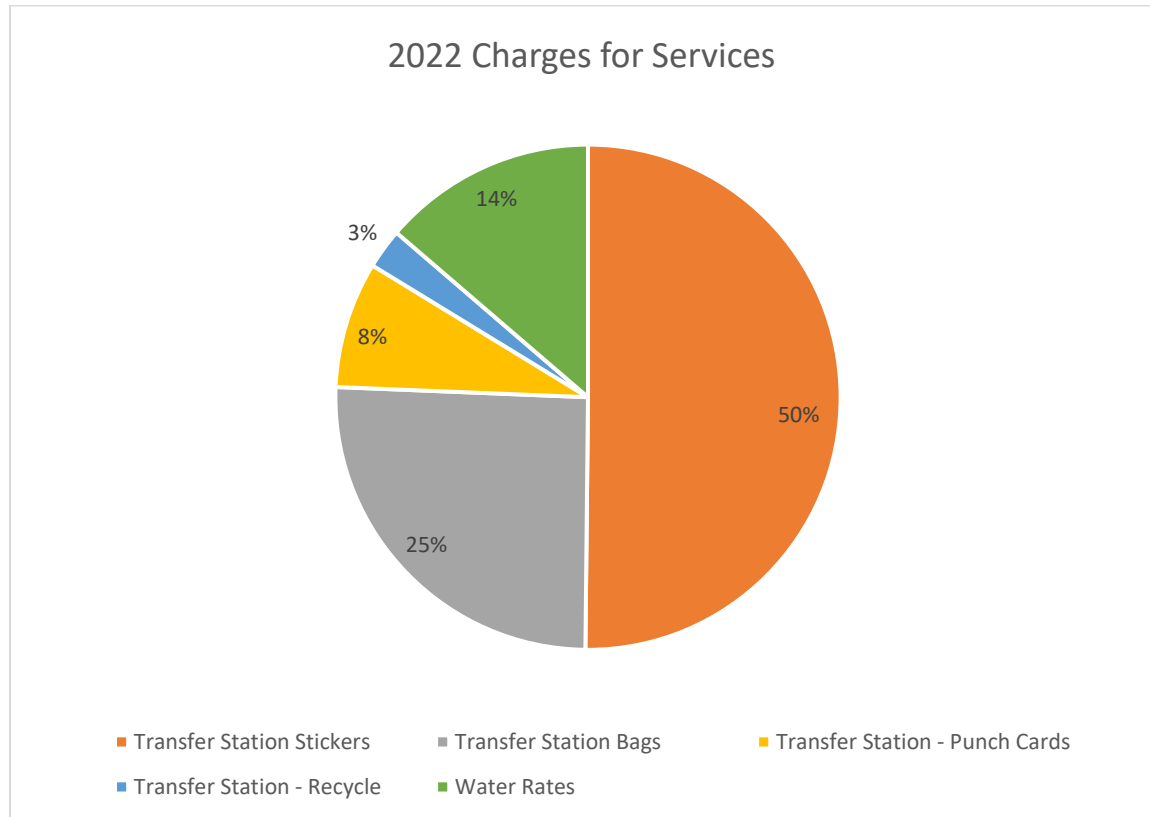
This category is made up of various revenue sources and each one has outside influences that impact the overall numbers. Excise taxes are categorized as a local receipt and in most communities, if not all, it will account for the largest overall portion of this category. Harvard is no exception. It will help to understand how the State calculates these taxes and how long it takes for a vehicle to reach its lowest taxation point and what that point is. Obviously, a new vehicle will be at its highest tax level in year one and its lowest just before it heads off to the junk yard. Knowing if people in your community are buying new vehicles or holding on to their older vehicles will help in estimating future year estimates. The excise rate is \$25 per \$1,000 of your vehicle's value. It is charged for a full calendar year and billed by the community where the vehicle is usually garaged. The minimum motor vehicle excise is \$5. If your calculated excise is less than \$5, you will be taxed \$5. Here is the excise tax calculation:

Year you bought your vehicle	Vehicle Value (% of manufacturer's list price)
Year before designated year of manufacture...	50%
Year of manufacture.....	90%
Second year.....	60%
Third year.....	40%
Fourth year.....	25%
Fifth year and onwards.....	10%

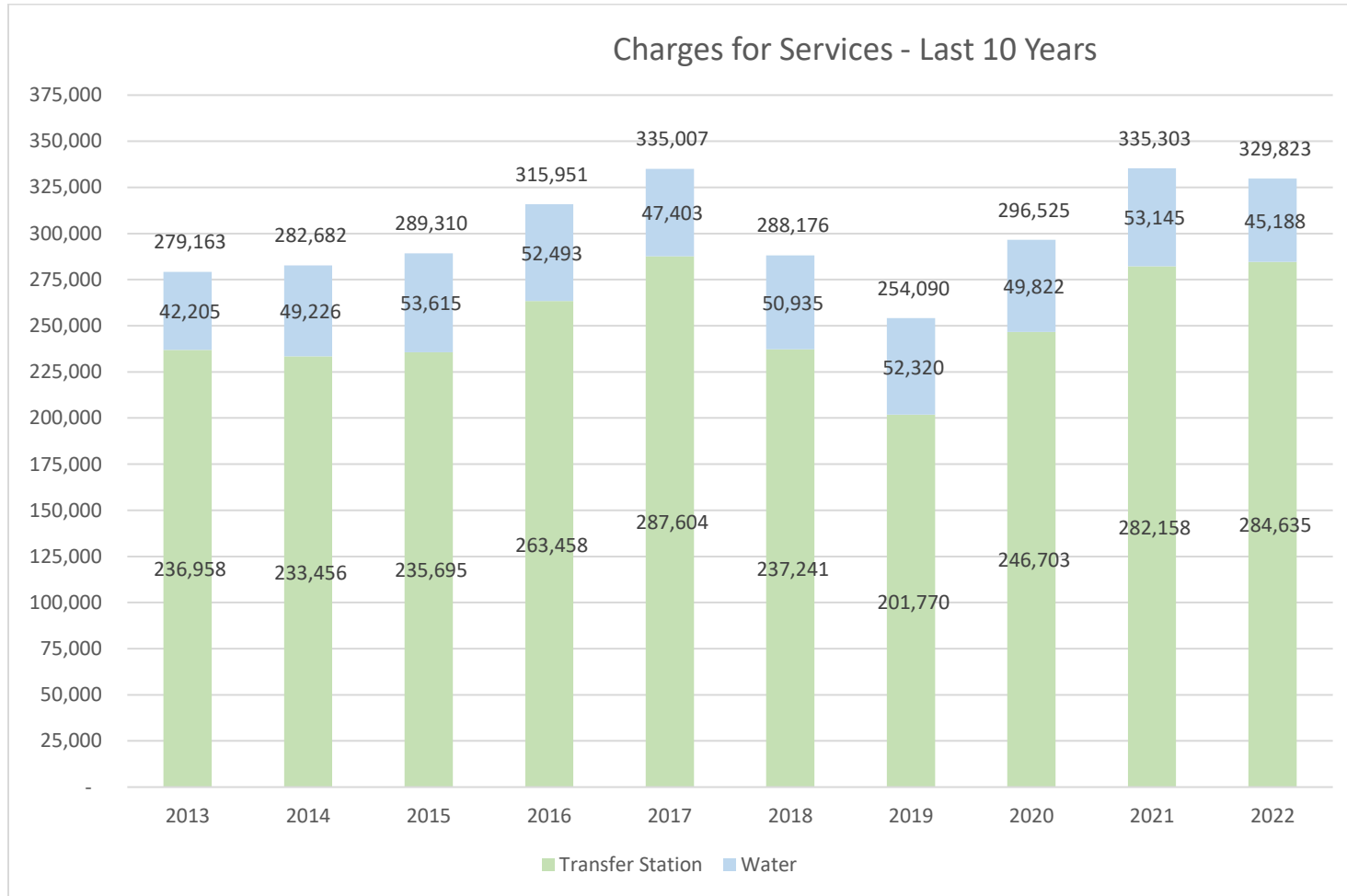
Other local revenues will need to be broken down to their smaller parts, at least the larger ones. For example, Charges for Services and Licenses and Permits are two categories which you will need to dive into the make-up of the total number in order to be able to make a better and more accurate projection.

Charges for Services

Charges for Services, here in Harvard, is two items (transfer station and water rates). Transfer station related revenues make up the majority of this category, which are sold predominantly at the end of the fiscal year. This is important because if you are off in the estimate then you have little to no time to react to the shortfall. Your only hope is that your other estimates are under thus giving you a cushion in this area. Charges of services for FY22 were \$329,823. The breakdown of these expenses is below:



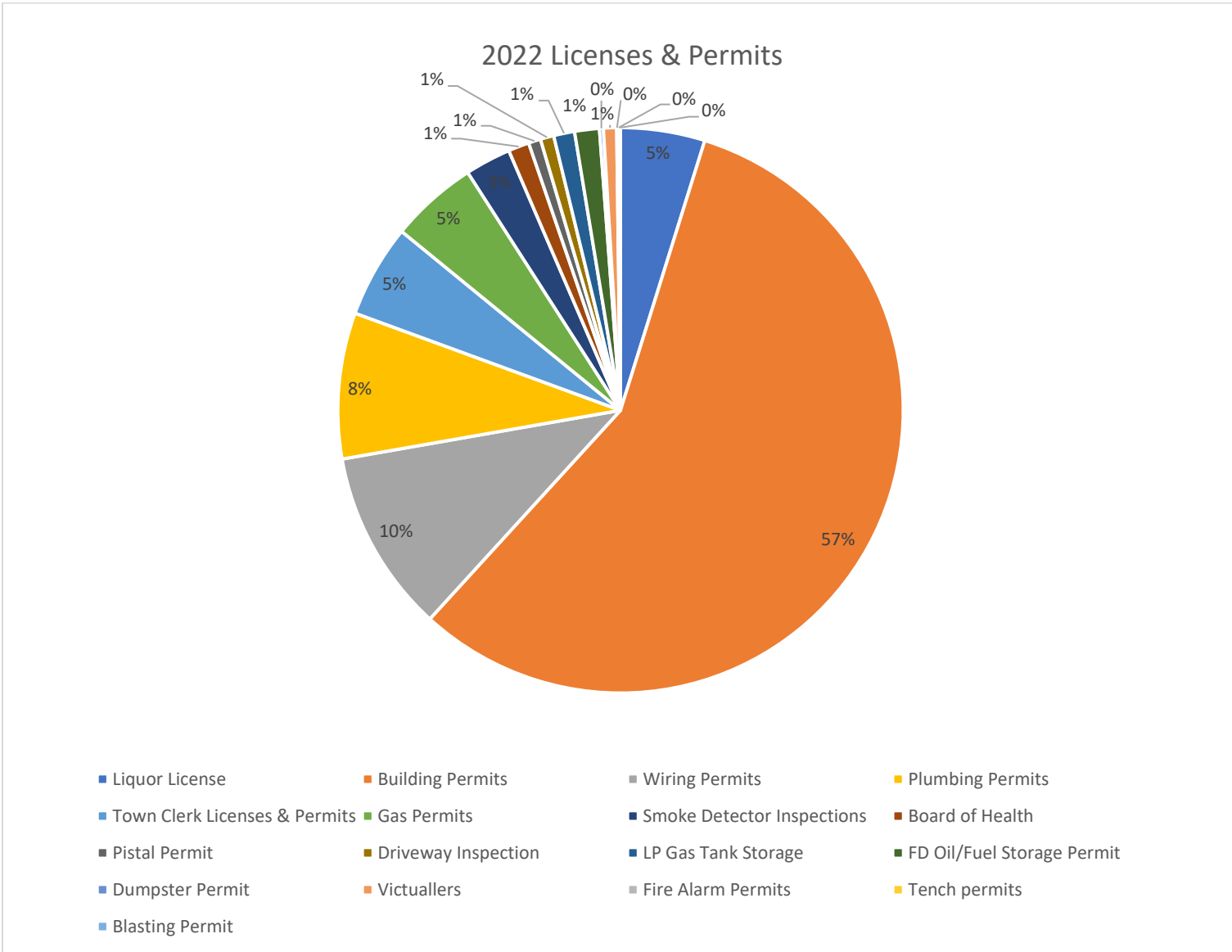
Charges for services over the last ten years are:



Transfer station includes annual stickers, bags, punch cards and recycling costs. As you can see, there are slight deviations in the collections and since this item covers the cost of trash and recycling (Transfer Station) then outside factors such as tipping fees, electricity, recycling, and labor costs all impact what you should be charging. Make sure that your estimates on the expense side are done well as they too will impact what you charge and if not enough then you will have a shortfall due to expenses. Items like this have outside influences with respect to individual decisions to purchase a sticker or contract for curbside pick-up. Private trash haulers and what they charge could impact your sales of stickers. If their cost is close to what you are charging then people may decide that packing up their trash and hauling it to the “dump” (a.k.a transfer station) is not worth it and decide to contract it out. Your expenses will play a large role in what you charge and what you charge will impact your sales.

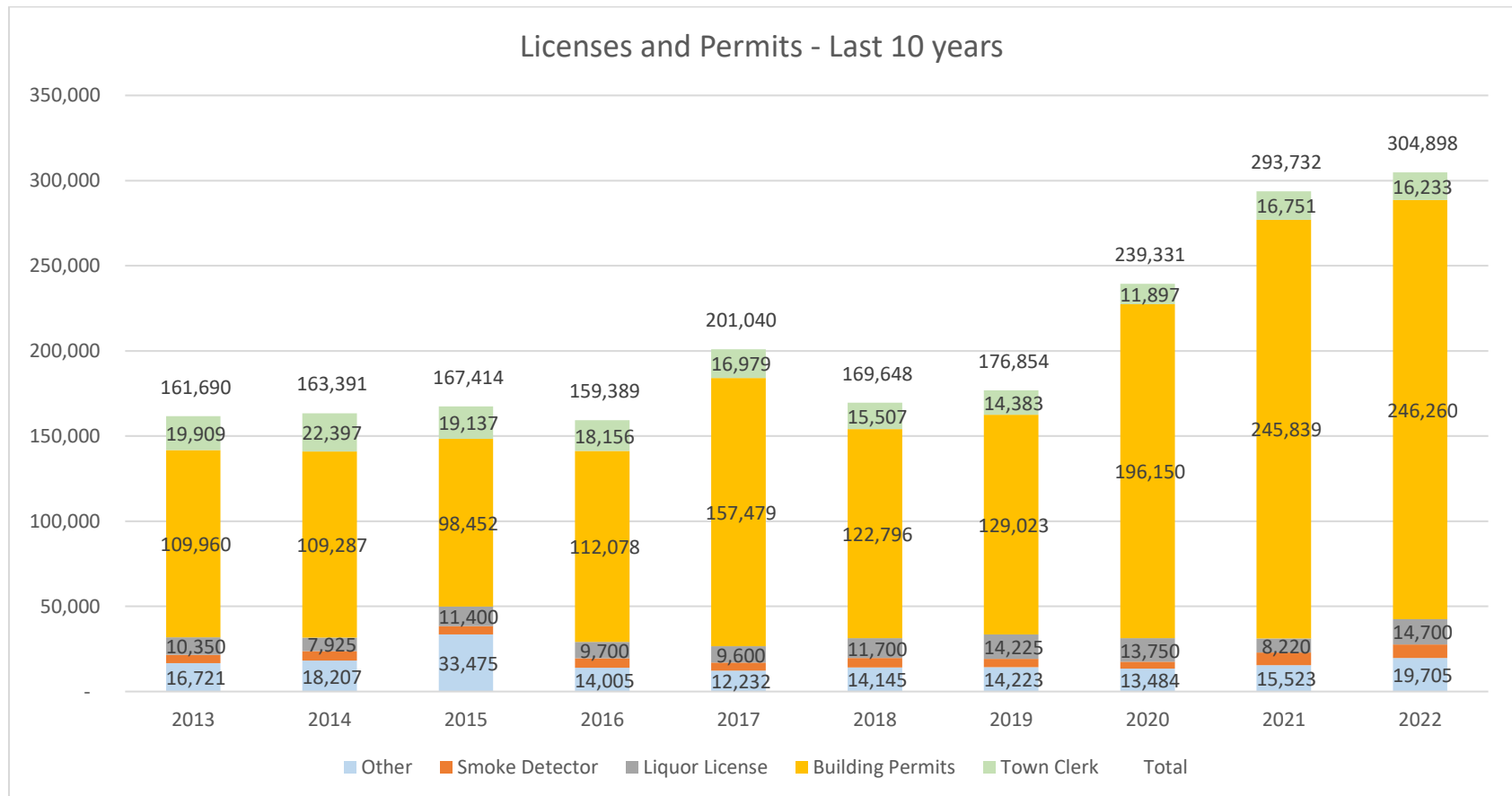
Harvard has two (transfer station & water rates) items while other communities could have multiple items in this category but they all are treated in a similar manner.

Licenses and Permit fees for FY22 were \$304,898. Various Licenses and Permit fees make up this number, as shown below.



This revenue source has multiple sources and some are tied together and others are completely on their own. This will be key in trying to determine your projections. For example, Building, Gas, Plumbing and Wiring Fees are obviously all tied together. Whereas, Liquor, Pistol, Smoke Detector, and Board of Health Licenses/Permits are not impacted by the same variables amongst each other or in relationship to the construction and renovation items previously mentioned.

Here is the ten-year chart showing Licenses and Permits.



This category, unlike Charges for Services (here in Harvard), is made up of multiple items and it is your goal to determine what impacts each in order to make a more accurate revenue estimate. Some of these items are too small to warrant anything more than just a cursory review.

Building permits consist of gas, plumbing, wiring and building permits.

Other consists of licenses and permits that are generally individually under \$4,000 in total receipts per year. This includes blasting permits, fire alarm permits, trench permits, dumpster permits, pistol permits, victualler permit, driveway inspections, Board of Health permits, LP Gas Tank Storage Permit and oil/fuel storage permit

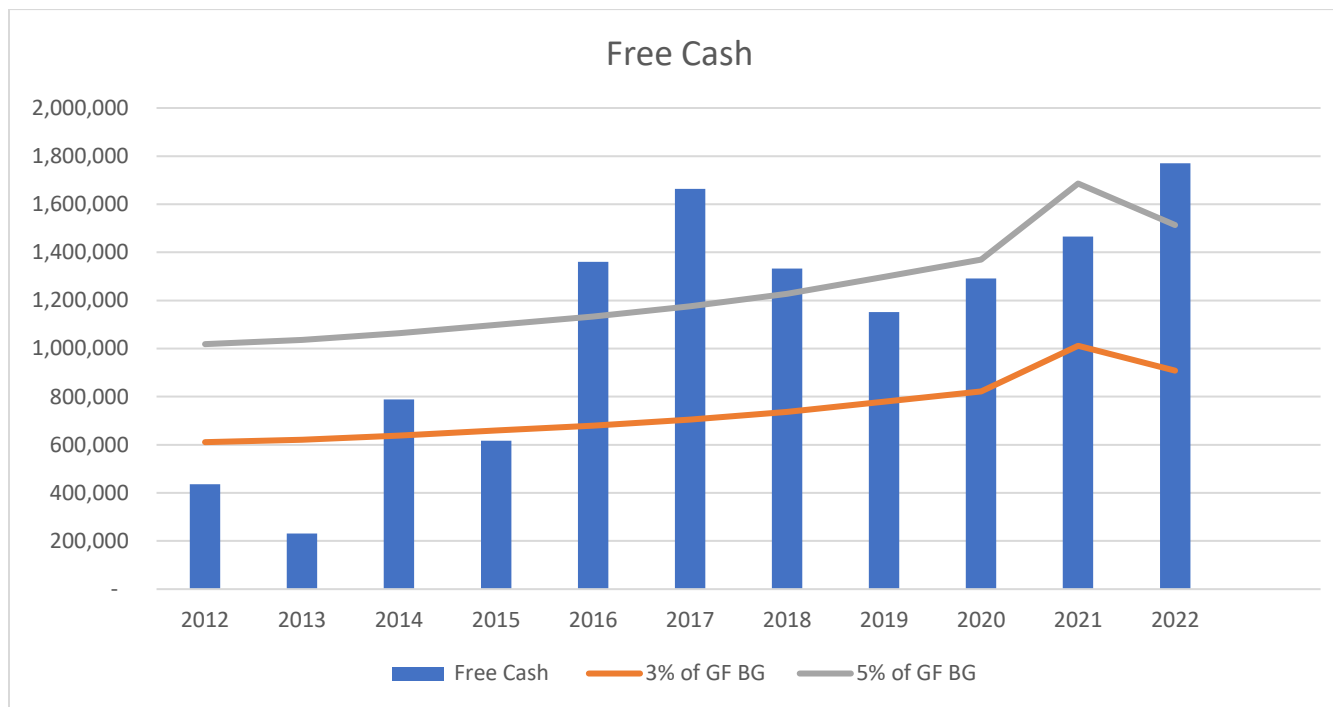
Smoke detector permits are above this threshold, but the total was too small to include in the chart above. For context, the high was in 2022 at \$8,000 and the low was \$4,050 in 2020. The average collection was \$5,543 over the last two years.

For items that are small, you should look at just the historical data and determine the past five-year average and make a judgement call on an amount for future years. To be more accurate in this respect you may wish to throw out the high year and low year and see how this average compares to the actual revenue numbers. You should be in the neighborhood and thus comfortable with your projection. If there is an anomalous year you can try to see what caused it and note why that number should not be used in calculating the average.

Free Cash

Free cash is a revenue source that results from the calculation, as of July 1, of a community's remaining, unrestricted funds from its operations of the previous fiscal year based on the balance sheet as of June 30. It typically includes actual receipts in excess of revenue estimates and unspent amounts in departmental budget line items for the year just ending, plus unexpended free cash from the previous year. Free cash is offset by property tax receivables and certain deficits, and as a result, can be a negative number.

The chart below shows free cash for the last ten years while showing where it falls within three and five percent of the omnibus budget.



Conclusion:

All revenue is impacted by something and it is your job to understand what impacts what when making your crystal ball projections. Remember too that your predictions are being made in a dynamic environment and something may have changed within the fifteen to eighteen months since you originally made your projections. All you have to be able to do is explain what happened and why and then determine if it impacts your out-year projections.

Town of Harvard Revenue Projections are on pages 21 through 34.

Revenue Projections

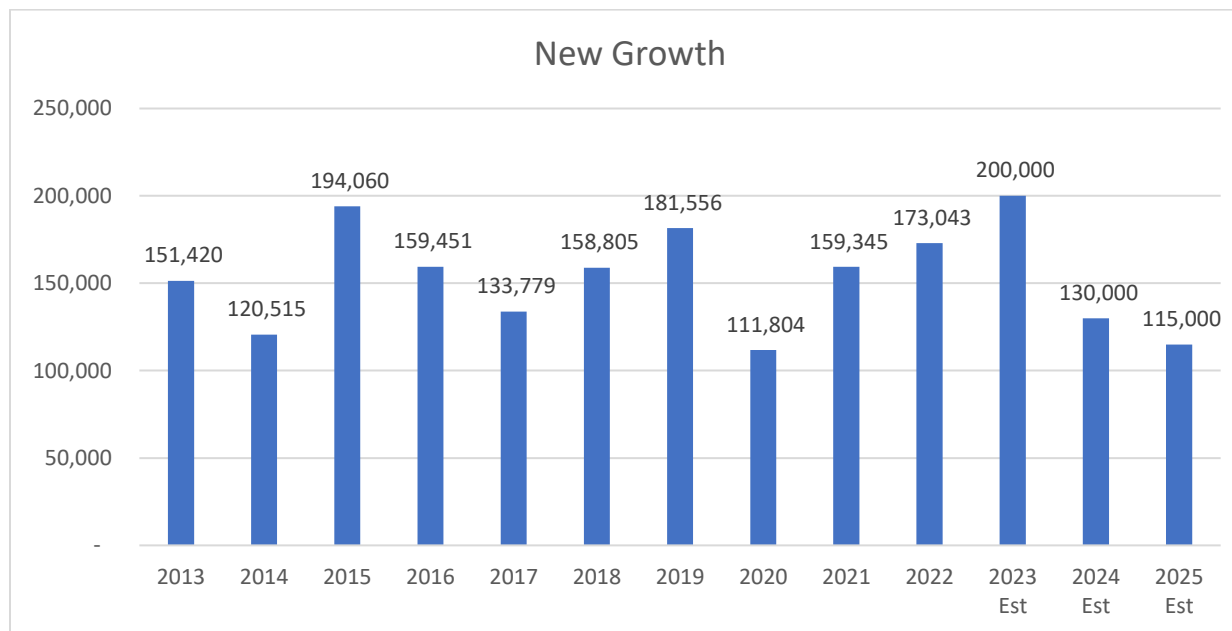
Property Tax - Projections and Assumptions

Harvard’s property tax levy increased 4.26% over the last 10 years. By taking out the high and low, the percentage increase drops to 3.96%. In order to be conservative, Harvard can anticipate their tax levy will increase 3% over the next ten years.

As provided under Proposition 2 ½, local governments are permitted to increase property taxes 2.5% over the previous years’ tax levy limit. In addition, a community may increase its property tax levy by what is known as “new growth.” New growth reflects an increase in the property tax levy resulting from new residential and commercial construction in the community.

It has been the Town’s practice to budget new growth conservatively. This number is not readily available until the fall following Town Meeting. Overestimating new growth could result in mid-year budget cuts.

New growth is estimated to be \$200,000 for FY23, primarily due to new developments located at Pine Hill Village and Craftsman Village. We expect more units to be complete in FY24 with a drop-off in FY25.



State Aid – Projections and Assumptions

State aid, which is also referred to as Cherry Sheet aid, is a function of the state budget. At this time, state aid is projected to be level funded in FY24 and out-years, while cherry sheet offset items will be estimated at a 3% increase. A new Governor and Lieutenant Governor will be elected in November 2022 which causes greater unknowns during the State’s budget process. See the chart below for a 5-year analysis.

Harvard’s first indication of state aid for FY24 will come when the newly elected Governor submits their FY24 budget to the Legislature. This typically happens at the end of January (2023). This budget is known as “House 1” and includes the Governor’s proposal on education aid (Chapter 70) and unrestricted general government aid (UGGA), two of Harvard’s largest State Aid categories.

1. **Distributions, Reimbursements and Offsets** - This category includes amounts reserved for direct expenditure for Public Libraries, as well as reimbursement for charter school tuition and veterans’ benefits paid.

2. **Chapter 70 Aid** - Chapter 70 education assistance is Harvard’s largest category of state aid. This assistance is provided through the use of a State formula. Chapter 70 plugs the gap between the DESE’s required contribution and required net school spending. Harvard routinely funds the School Department budget over the required foundation budget derived by the state and over the required net school spending (NSS). The foundation budget is the spending target imposed by the DESE for each school district as the level necessary to provide an adequate education for all students. NSS is the school budget and municipal budget amounts attributable to education, excluding long-term debt service, student transportation, school lunches, and certain other specified school expenditures. A community’s NSS funding must equal or exceed the NSS Requirement established annually by the DESE.

The DESE’s most recent data is from FY19. At that time, Harvard’s actual net school spending was 157% of the required net school spending and net school spending was 163% of the required foundation budget.

The final FY23 preliminary cherry sheet awarded Harvard \$2,061,331 of Chapter 70 funds.

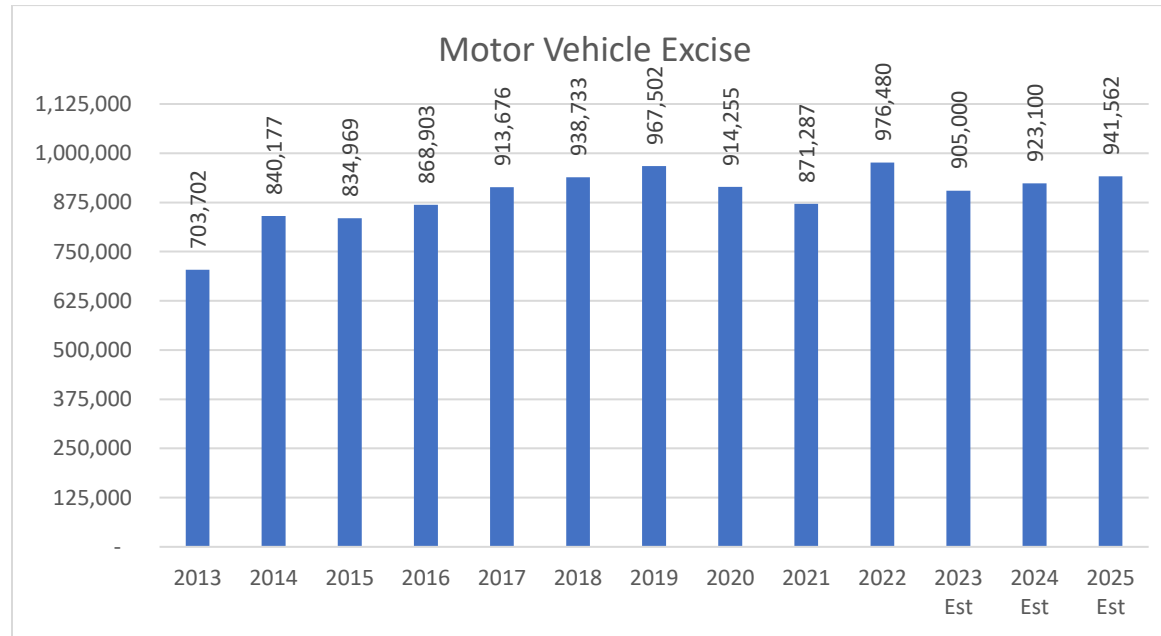
Unrestricted General Government Aid/Local Aid (UGGA). This revenue refers primarily to distributions from the Commonwealth to municipal general revenue for additional assistance and lottery aid. The final FY23 preliminary cherry sheet awarded Harvard \$1,715,498 of UGGA.

	FY22	FY23	FY24 Est	FY25 Est	FY26 Est
State - Cherry Sheet Revenue.....	4,067,321.00	4,310,611.00	4,310,611.00	4,310,611.00	4,310,611.00
Library - Cherry Sheet Offset Item.....	(11,653.00)	(14,179.00)	(14,604.00)	(15,042.00)	(15,493.00)
School Choice - Cherry Sheet Offset Item...	(295,384.00)	(326,022.00)	(335,803.00)	(345,877.00)	(356,253.00)
State - Cherry Sheet Assessments.....	(572,625.00)	(626,238.00)	(645,025.00)	(664,376.00)	(684,307.00)
Net Cherry Sheet Revenue.....	3,187,659.00	3,344,172.00	3,315,179.00	3,285,316.00	3,254,558.00

Local Receipts – Projections & Assumptions

Local receipts are those fees and charges which may be imposed by a municipality. Massachusetts General Law Chapter 40 Section 22f provides that “any municipal board or officer empowered to issue a license, permit, certificate or to render a service to perform work for a person or class of persons may, from time to time, fix reasonable fees...” This is a local acceptance statute that Town Meeting approved in May 2010.

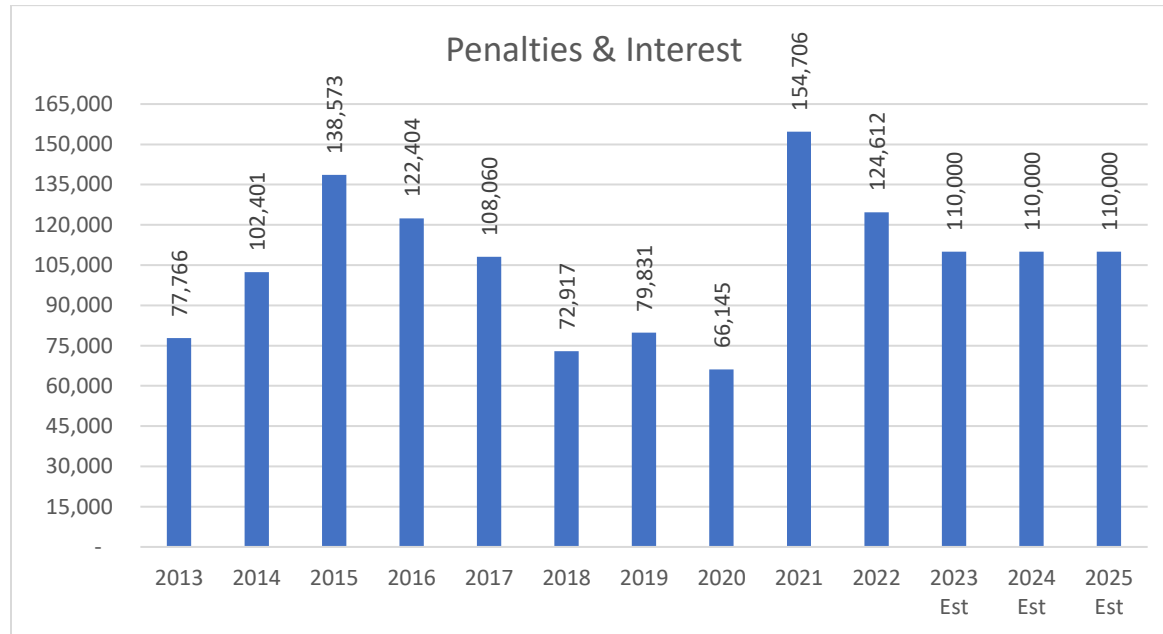
1. **Motor Vehicle Excise:** Motor vehicle excise receipts are largely dependent on the sale of new vehicles, which is generally tied to economic conditions. The timing of receipts also depends on when the Town receives the bill file from the State. The Town received the last FY21 bill file late, causing lower than anticipated collections in FY21, but higher than anticipated collections in FY22. Individuals are not purchasing new vehicles at the rate they did prior to the beginning of the pandemic. This is in part due to inflation and supply chain issues. Because of that, we are estimating excise revenues at \$905,000 in FY23, increasing 2% in the following two years. See chart below.



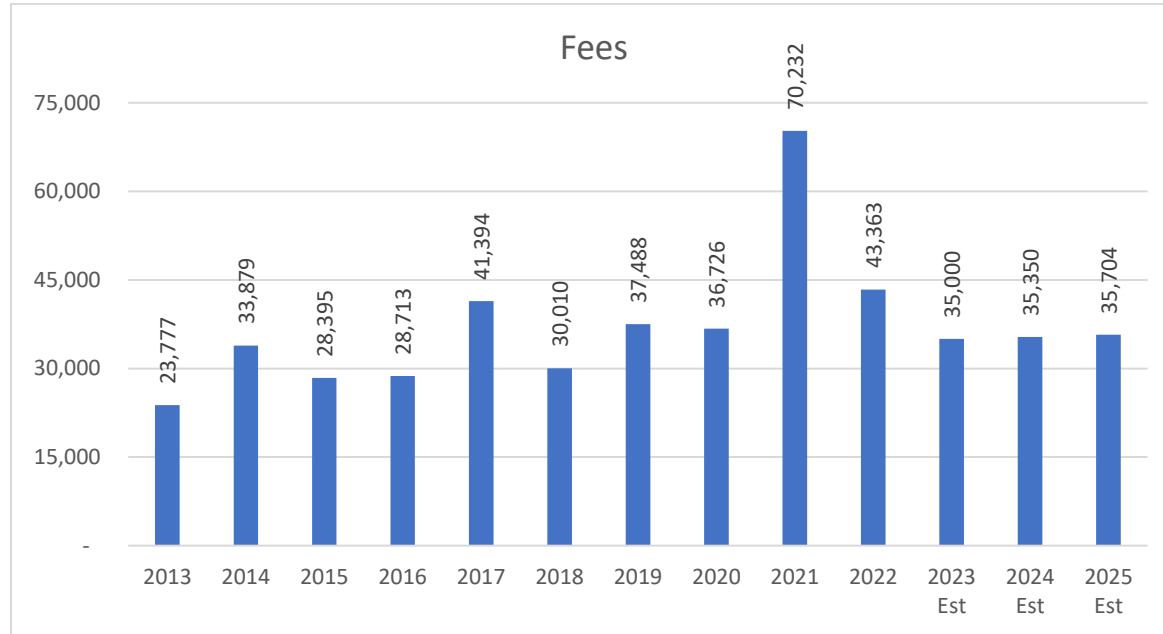
Other Excise – This consists of meal tax. Harvard adopted this local statute (MGL Chapter 64L, Section 2a) in April 2016 which allows the Town to impose a .75% tax on all meals served in Town. This revenue source has generally been between \$20,000 and \$30,000 and does not fluctuate. The number will not greatly fluctuate unless the tax is increased or there is major development in Harvard. The average since inception in FY17

is \$26,038. We will assume this revenue source will remain flat in out years. If there is increased development or an increase in tax then this number will be reviewed.

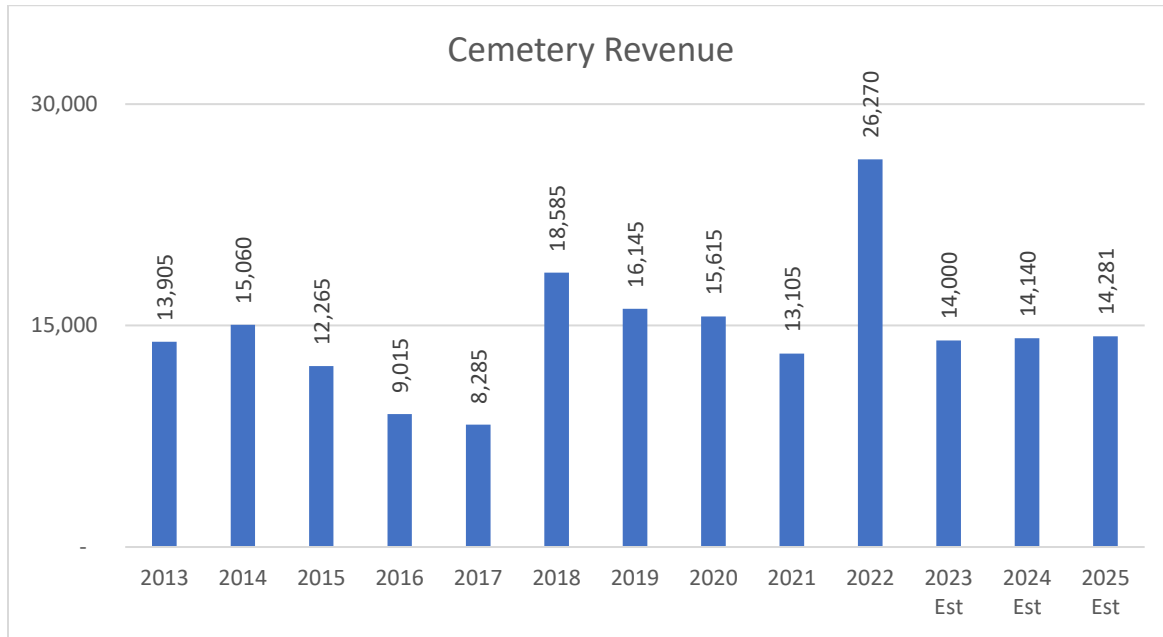
Penalties & Interest- This category includes penalties charged for the late payment of real estate, motor vehicle excise bills and tax lien redemptions. The demand fee for late payments increased from \$10 to the maximum allowable fee of \$30 in FY20, resulting in an increase in revenue. The interest rate for delinquent real estate taxes is 14%, tax title is 16% and excise is 12%. These are the maximum permitted under MGL. There are not many factors that will directly contribute to growth in future years. Because of this, we estimating revenues at \$110,000 for FY23-FY25. This is a significant jump from FY22’s estimates of \$70,000.



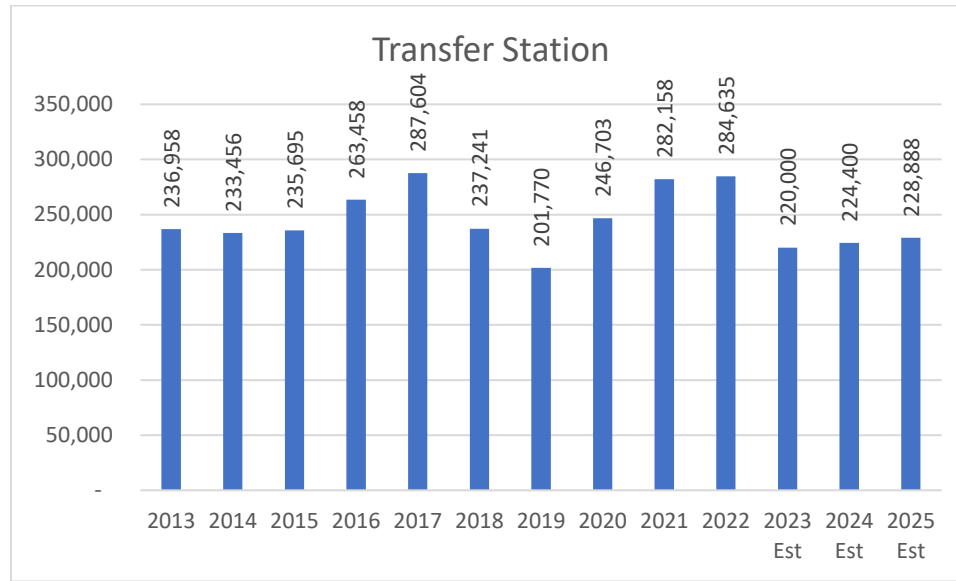
Fees – This category consists of tax collector fees, registry clear fees, NSF fees, Town Clerk fees, police detail administrative fees, waste haulers fee, Title V fees and various water fees that are not user charges. When the high and low year is removed, the average collection is \$35,000. FY21 was an outlier as that was year 1 of collecting \$25,000 from the cannabis manufacturer. It is estimated we will collect \$35,000 in FY23, increasing 1% each in FY24 and FY25.



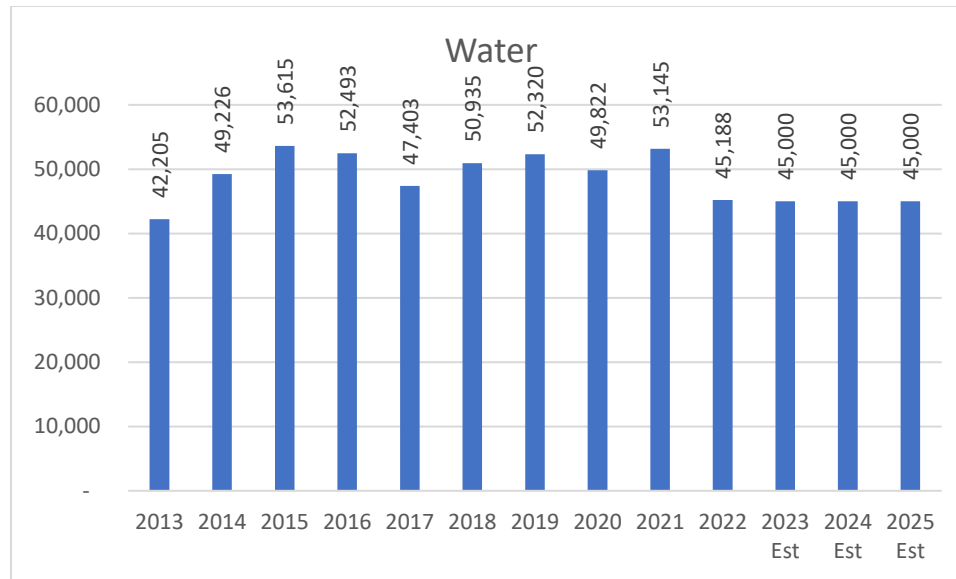
Cemetery Revenue – Cemetery revenue is made up of cemetery interment fees and deed recording fees. These fees are historically low and do not make up a significant portion of local receipts. The average receipts in this category is \$14,200 when you take out the high and low out of the last ten years. Estimated FY23 receipts will be \$14,000, increasing 1% in each of the next two fiscal years.



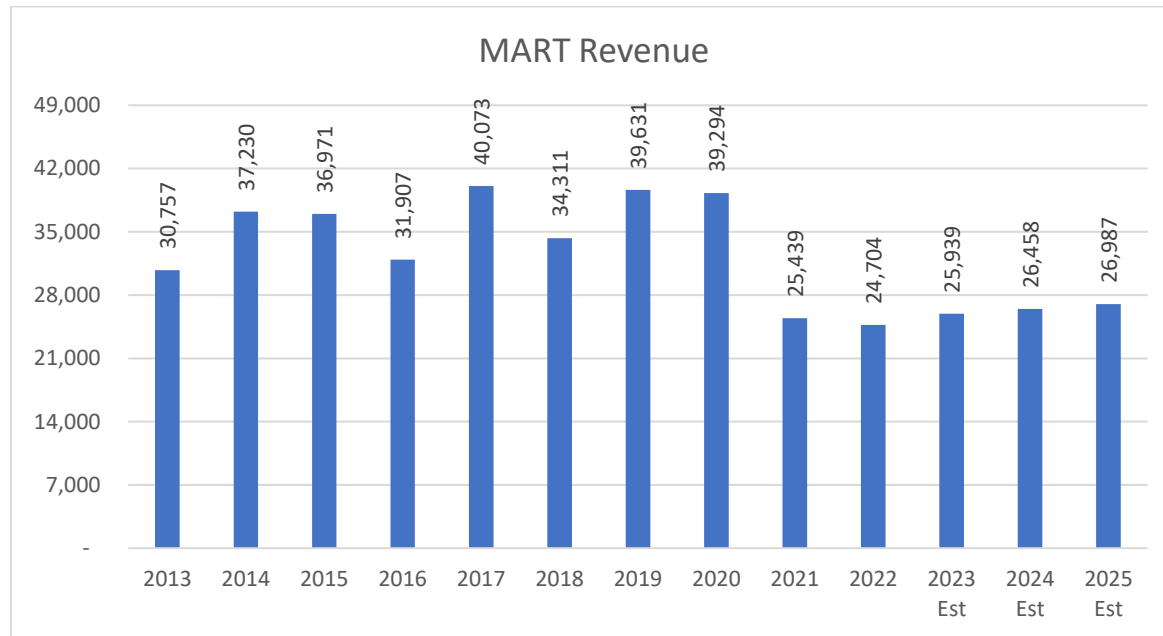
Charges for Services – As noted above, charges for services consists of transfer station fees and water rates. In theory, transfer station stickers have little room for predictable growth unless there is an increase in rates or there is significant single-family development in Town. One way to reduce the variability of this revenue source is to switch to private pick up, create an enterprise fund and assess the fees directly on the tax bill. We’re estimating \$220,000 in revenue for FY23, increasing by 2% in FY24 and FY25.



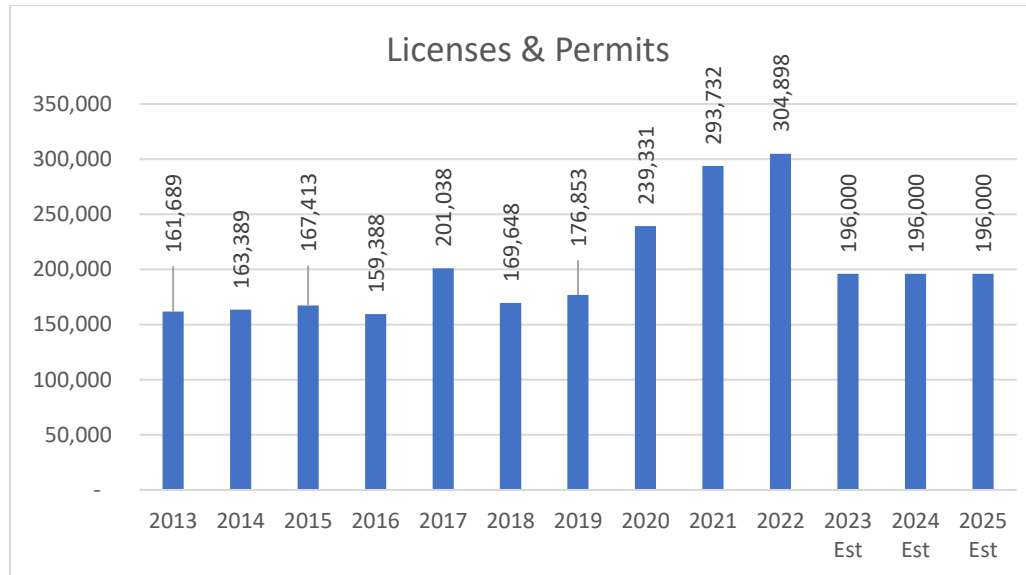
Water rates are a significantly smaller revenue source to the town as most of the Town is on well-water. FY22 estimates were \$42,000 while actual collections were \$45,188. Rates were increased approximately 20% effective 7/1/22. This is the first increase since FY18. Estimates for FY23 will be \$45,000 in FY23-25. Although rates increased, the Town is still dependent on residents paying their bills.



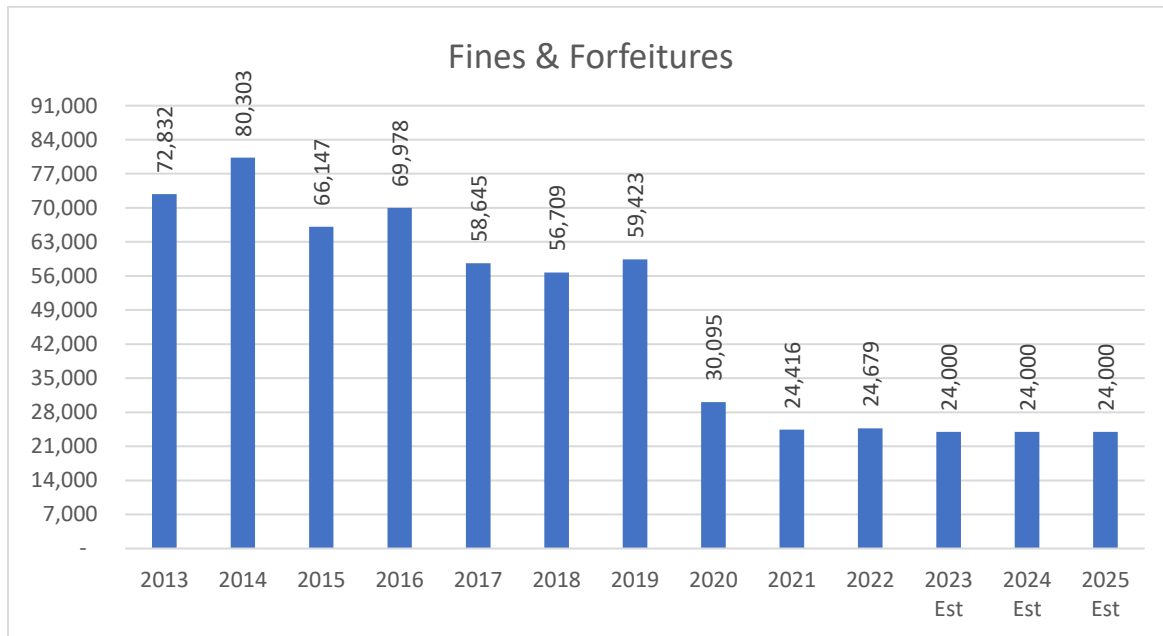
Other Departmental Revenue – This category totaled approximately \$37,000 of receipts in FY22 and is made up of about 9 revenue sources. The largest is the Council on Aging’s MART reimbursement, totaling \$24,000. Instead of showing total departmental receipts, it may be helpful to show the trend of MART receipts. MART revenue is down in the last two fiscal years primarily because the Town added a second, non-MART van due to demand. These costs are not reimbursable. The Town requested a second MART van and were denied. Reimbursement goes based on the number of rides and based on the salary of the individual scheduling the ride. We are expecting a 5% increase in FY23 due to the newly graded Assistant COA Director position graded higher than the previous position responsible for handling MART. We then anticipate a 2% increase in FY24 and FY25.



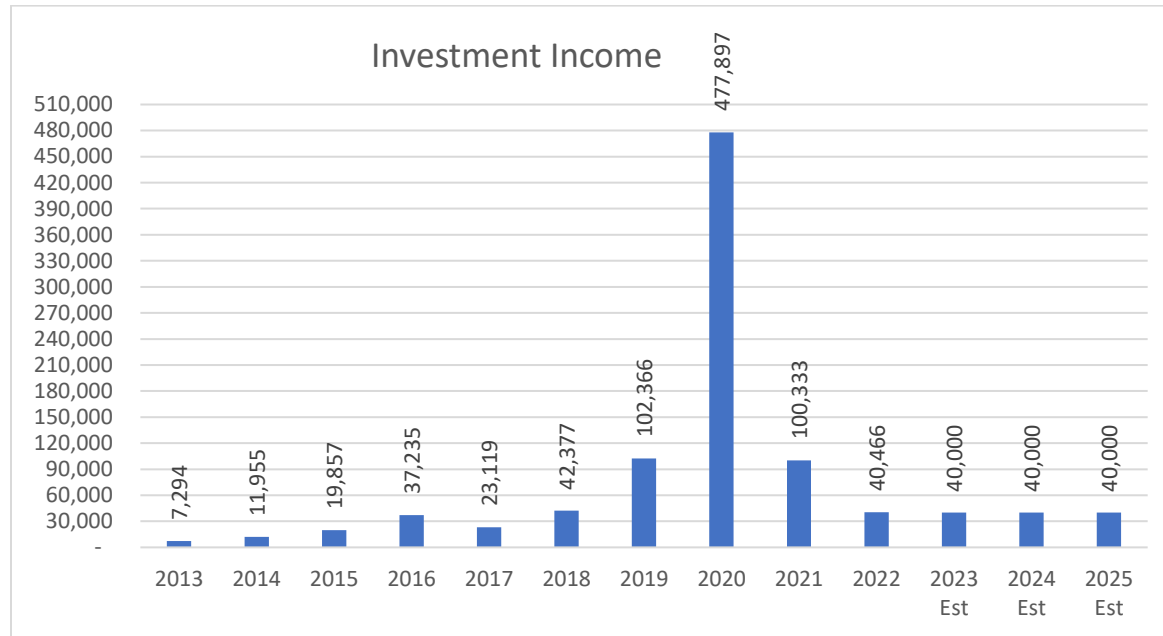
Licenses and Permits – Various revenue sources are found in this category, and can be found above. The largest is building permits, which made up approximately 57% of this revenue source. FY22 licenses and permits were estimated at \$187,000. It is important to note that in recessionary times, building permits generally decrease. There is some uncertainty regarding whether the country is in a recession or could be entering a recession. When the low and high year are removed, the average licenses and permits are \$196,000. We will use this as the estimated receipts in FY23-FY25.



Fines and Forfeitures – Fines and forfeitures consist of court fines, motor vehicle infractions and library fines. This has historically been a small revenue source for the Town. The largest piece of this revenue is motor vehicle infractions. This revenue has been consistently decreasing over the years for a number of reasons. A large drop-off occurred in after FY2019. This is primarily due to three reasons – the department was not fully staffed, COVID reduced the number of stops and infractions, and the department has not received a traffic enforcement grant since 2019 which helps fund overtime. The Department’s mentality is to partner and work with the community, rather than generating revenue through this source. We expect this revenue to be flat in FY23-FY25.



Investment Income – Investment income includes interest earned in the Town’s checking and savings accounts as well as gains and losses in our investment accounts. 2020 is a clear outlier in the chart below. This is due to receiving the full bond proceeds from the borrowing related to the Hildreth Elementary School. Interest rates remain low, although late in FY2022 the Town began actively inquiring with banks to ensure we were receiving the highest interest rate available. Due to the current market conditions, we estimate interest will remain flat at \$40,000 from FY23-FY25.



A complete revenue projection is included below:

Town of Harvard - General Fund - 5 Year Budgeted Revenue Projection							
	<i>Actual</i>	<i>Actual</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>
	<i>Budget</i>	<i>Budget</i>	<i>Budget</i>	<i>Budget</i>	<i>Budget</i>	<i>Budget</i>	<i>Budget</i>
	2021	2022	2023	2024	2025	2026	2027
<u>Budgeted Revenues - Tax Levy (actual \$)</u>							
R.E. Tax Levy Limit from Prior Year	20,906,887	21,588,905	22,301,670	23,059,212	23,765,692	24,474,835	25,186,705
2.5% Increase	522,672	539,723	557,542	576,480	594,142	611,871	629,668
New Growth	159,345	173,043	200,000	130,000	115,000	100,000	100,000
Total Tax Levy (Debt Exclusions not included)	21,588,905	22,301,670	23,059,212	23,765,692	24,474,835	25,186,705	25,916,373
<u>Budgeted Revenue-State Aid, Local Rec & Transf</u>							
State - Cherry Sheet Revenue	3,996,416	4,067,321	4,310,611	4,310,611	4,310,611	4,310,611	4,310,611
Local Receipts:							
Motor Vehicle Excise			905,000	923,100	941,562	960,393	979,601
Meals			27,000	27,000	27,000	27,000	27,000
Penalties & Interest on Taxes & Excises			110,000	110,000	110,000	110,000	110,000
Payments in Lieu of Taxes			7,637	7,637	7,637	7,637	7,637
Charges for Services - Water			45,000	45,000	45,000	45,900	46,818
Charges for Services -Solid Waste Fees			220,000	224,400	228,888	233,466	238,135
Fees			35,000	35,350	35,704	36,061	36,422
Departmental Revenue - Libraries			1,225	1,225	1,225	1,225	1,225
Departmental Revenue - Cemeteries			14,000	14,140	14,281	14,424	14,568
Other Departmental Revenue			27,000	27,520	28,000	28,500	29,000
Licenses and Permits			196,000	196,000	196,000	200,000	200,000
Fines and Forfeits			24,000	24,000	24,000	24,000	24,000
Investment Income			40,000	40,000	40,000	40,000	40,000
Miscellaneous Non-Recurring			10,000	-	-	-	-
Total Local Receipts	1,608,130	1,648,333	1,661,862	1,675,372	1,699,297	1,728,606	1,754,406
Other Revenue Sources							
Estimated Local Receipts - Library HPLT Offset	10,000	10,000	-	-	-	-	-
Community Preservation for Debt	48,738	48,038	46,988	45,938	44,888	43,838	43,838
Sewer Betterments for Debt	91,947	92,070	92,195	92,324	92,455	92,589	92,589
Ambulance Enterprise Fund (shared employee)	32,000	32,000	-	-	-	-	-
Capital Stabilization for Debt	372,106	270,794	269,388	263,088	161,738	60,288	60,288
School Devens Fund for Debt	300,000	200,000	200,000	200,000	100,000	-	-
Stabilization Fund to Reserve Fund 10/3/20 STM	200,000	-	-	-	-	-	-
Free Cash	-	45,981	-	-	-	-	-
Title V Septic Betterment for Debt	11,529	11,529	11,529	11,529	11,529	11,529	11,529
HCTV Fund	91,941	85,400	83,700	85,400	85,400	85,400	85,400
Library Trust Fund	5,000	5,000	5,000	5,000	5,000	5,000	5,000
Wetlands Protection Fund	13,500	-	-	-	-	-	-
Total Other Revenue Sources	1,176,760	800,811	708,799	703,277	501,009	298,643	298,643
Total Revenue Sources	28,370,211	28,818,135	29,740,484	30,454,952	30,985,751	31,524,565	32,280,033
		34					

§ 125-35. Open Space and Conservation - Planned Residential Development (OSC-PRD). [Added 3-29-2003 ATM by Art. 32¹]

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

- A. **Purpose and intent.** The purpose and intent of the OSC-PRD provision is to permit high-quality residential development that preserves open space, water resources, wetlands, habitat, prime agricultural land, scenic landscapes and natural features, reduces infrastructure and site development cost, and promotes a diversity of housing opportunities within the Town, while respecting and enhancing neighborhoods, and promoting attractive standards of appearance and aesthetics consistent with Town character.
- (1) A further purpose of the OSC-PRD provision is to reduce the anticipated negative fiscal impact on the Town associated with conventional residential development.
 - (2) The OSC-PRD provision is designed to encourage the siting of homes in a manner that clusters units together in well-designed village settings, on buildable portions of the site, as a distinct alternative to the more arbitrary siting associated with lot by lot development typically reflected in plans submitted pursuant to Massachusetts General Laws Chapter 41, Sections 81K through 81GG, the Subdivision Control Law.
- B. **Applicability.** The Planning Board may grant a special permit for an OSC-PRD on an Agricultural-Residential (AR) zoned tract of land that is at least 4.5 acres of land area, with definite boundaries ascertainable from a recorded or registered deed(s) or recorded or registered plan(s). Existing public and private ways need not constitute boundaries of the tract, but the area within such ways shall not be counted in determining tract size.
- (1) **Permitted uses in Open Space and Conservation Planned Residential Development.** Permitted uses include the following:
 - (a) Single-family detached dwellings.
 - (b) Attached units, not to exceed 6 or more units in any single building.
 - (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 recreation.

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.

- (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).
- C. **Requirements and process for approval.** An applicant who is the owner (or with the permission of the owner) of a 4.5 acre or larger tract 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.²
- (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,

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

reflecting the existing, natural features to be preserved and proposed landscape features and details.

- (2) **Submittal of preliminary plan.** In order to assist the Planning Board in making a determination, pursuant to § 125-35C(3)(d), that an OSC-PRD is superior to a conventional subdivision development, 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 the "Rules and Regulations of the Harvard Planning Board Relative to Subdivision Control." 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 delineated by a wetlands specialist, 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, and without extraordinary engineering techniques. Further, the applicant must demonstrate and provide sufficient evidence, to the satisfaction of the Planning Board, that each of the lots reflected on the "Preliminary Plan" submitted are capable of being served by an individual sewage system that would comply with the regulations of the Board of Health.
 - (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 is superior to a conventional subdivision plan in preserving open space for conservation and recreation; that it preserves natural features of the land, and 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 best possible 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 large 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 access to open spaces for the physically handicapped, elderly, and children.
 - (7) Use of open spaces for preserving, enhancing, or providing scenic vistas; preservation and protection of historic resources.
 - (8) Adequacy of provisions for public safety, protection from fire and flood, and maintenance of public facilities, streets, utilities, and open space.
- E. **Design quality.** Project design for an OSC-PRD shall be reviewed by the Planning Board with input from Town officials, any review consultant(s), and others as appropriate. This section is to be interpreted as guidelines to be applied flexibly by the Planning Board as appropriate to the situation under review, including factors such as foundation and soil characteristics and other extraordinary site constraints. While these guidelines apply to all site improvements and buildings and structures, it is not the intent of this section to prescribe or proscribe use of materials or methods of construction regulated by the state building code, but rather to enhance the appearance of the built environment within an OSC-PRD.
- (1) **Building and structure placement.** The placement of buildings and structures in an OSC-PRD should:
 - (a) Provide for maximum buffering of buildings and structures to adjoining properties either within the proposed OSC-PRD or to adjacent land uses. Such buffering includes, but is not limited to: landscaping, screening materials, natural barriers, fencing, and related measures.
 - (b) Preserve attractive views from major vantage points, especially from major thoroughfares and residential neighborhoods.
 - (c) Avoid regular spacings and building placements that will be viewed as continuous walls from important vantage points, which may be identified in an OSC-PRD pre-application conference.

- (d) Avoid the placement of structures, common area facilities, and private space related to individual units in a manner that eclipses views or access to open space areas described in § 125-35K.
 - (e) Ensure that 10% of all units are fully accessible to the disabled and that a majority of units have at least one accessible entrance and bathroom on a first floor.
- (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 attractive paving materials and outdoor furniture.
 - (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. Appropriate methods (such as cutoff

shields) should be used to avoid glare, light spillover onto abutting property.

- (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.
- (6) **Pedestrian amenities and recreation.** In this category, the design should include the following components/characteristics, appropriate to the land under consideration.
- (a) Accessible pedestrian-oriented features such as walkways, pergolas, outdoor sitting plazas, landscaped open space, drop-off areas, and recreational facilities should be emphasized.
 - (b) Tree-lined or otherwise appropriately landscaped pedestrian paths and walkways should link together areas designated as open space within the site, and wherever possible, to adjoining public areas.
 - (c) Passive and active recreational facilities should be of a size and scale appropriate for the number of units proposed.
- F. **Utilities.** To the maximum extent feasible, all utilities should be located underground.
- G. **Signage.** At each principal entrance to the site, one sign only shall be permitted; it should be of a maximum signboard area of three square feet, with content limited to identifying the name and address of the development.
- (1) 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 one unit per 1.50 acres 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 25% above that allowed under § 125-35H of this Bylaw, provided the following conditions are met:

(a) The applicant proposes a significant increase in open space above 50%, and preserves significant natural resources, in the opinion of Planning Board.

(b) There is permanent preservation of land devoted or set aside for agricultural use or other unique preservation strategy, including preservation of historic structures or barns, or other special features of the built environment.

(If (a) and (b) above are found to be satisfied, in the opinion of Planning Board, it may authorize a 5% increase in applicable base density.)

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

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

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

(If (c) above is found to be satisfied, in the opinion of Planning Board, it may authorize a 5% increase in applicable base density.)

(d) The applicant proposes attached dwellings that include a maximum of two bedrooms per unit, and are developed in the character of a New England Village style of architecture.

(If (d) above is found to be satisfied, in the opinion of Planning Board, it may authorize a 5% increase in applicable base density.)

(e) Housing units for senior citizens and persons aged 55 years and over housing is provided.

(If (e) above is found to be satisfied, in the opinion of Planning Board, it may authorize a 5% increase in applicable base density.)

(f) The applicant sets aside 10% 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 (f) above is found to be satisfied, in the opinion of Planning Board, it may authorize a 20% increase in applicable base density.)

- (2) **Standards for on-site affordable units.** Housing units set aside as affordable housing, as described in § 125-35I(1)(f), shall have a gross floor area comparable to market-rate units and shall be integrated into the development and not grouped together. When viewed from the exterior, the affordable units shall be indistinguishable from the market-rate units in the same development. The developer shall provide adequate guarantee, acceptable to the Planning Board, to ensure the continued availability and affordability of the units in perpetuity; such guarantee must include recorded deed restrictions, recorded restrictive covenants relative to equity limitation, or other acceptable forms of guarantees. No more than 80% of the building permits for the market-rate units shall be issued within an OSC-PRD until construction has commenced on all the affordable units; no more than 80% of the certificates of occupancy for the market-rate units shall be issued until all of the certificates of occupancy for the affordable units have been issued.

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, except 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) Attached units shall contain no more than six units in a single building.
- (4) The minimum distance between clusters of multiple unit dwellings, shall be 50 feet.
- (5) 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]**
- (6) The minimum setback from internal roads shall be 25 feet.
- (7) The maximum height of proposed buildings shall be 35 feet, and shall not exceed 2 1/2 stories.
- (8) 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, accessways 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 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 open space shall not be more than 300 feet in distance from the nearest point of any building that it is proposed to serve.
 - (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 OSC-PRD 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 OSC-PRD, 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 and maximum of 1.5 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.
- 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 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.

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

- (b) Snow-plowing.
- (c) Maintenance of street lighting and on-site improvements and utilities.

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