

OFFICE OF THE
PLANNING BOARD

13 AYER ROAD HARVARD, MA 01451 978-456-4100



To: Ms. Lynn Kelly, Town Clerk
Harvard Town Hall
13 Ayer Road
Harvard, MA 01451

JUNE 5, 2023

HARVARD PLANNING BOARD

**NOTICE OF DECISION ON APPLICATION OF
WHEELER REALTY TRUST &
YVONNE CHERN**

For an Ayer Road Village Special Permit (ARV-SP) §125-52, Large-scale Commercial Use §125-23B(2), §125-14(D), Major Buildings Special Permit §125-37, Mixed Use Village Development Special Permit §125-23B(1), §125-13Z(1), §125-46 Special Permit and Site Plan Review §125-38

At

**203 Ayer Road
Map 8 Parcel 62.2
Harvard, MA 01451**

The applicant proposes the construction of three (3) buildings; the first (A) with a gross floor area of **29,998** sq. feet, consisting of 16 badminton courts, the second (B), a commercial building consisting of approximately **8,000** square feet of commercial and office space with three (3) apartments on upper level, and the third building (C) with approximately 8,000 sq. feet of office and retail space. The subject site consists of a single lot, containing approximately 11.03 acres with *704 feet of frontage on the West side of Ayer Road and 200 feet of frontage on Gebo Lane* in the C-District.

PLANS AND DOCUMENTS SUBMITTED IN SUPPORT OF THE APPLICATION

I. Applications:

- a. Application for a Large-Scale Commercial Use Special Permit, an Ayer Road Village Special Permit (ARV-SP), and Site Plan Review signed by the applicant on March 2022, with cover letter dated March 2022, received and stamped by the Harvard Town Clerk on March 14, 2022, with accompanying documents as required, certified abutters list, assessor's map, letters of agent authorization, corresponding filing fees paid and also including:
 - i. Ayer Road Village Special Permit Plans prepared by Goldsmith, Prest & Ringwall, Inc.

- 1) Title Sheet C1.1 Job 211009 dated March 11, 2022
 - 2) Existing Conditions Plan, Sheet C2.1 dated March 11, 2022
 - 3) Site Utilities Plan, Sheet C3.1 dated March 11, 2022
 - 4) Site Layout Plan, Sheets C3.2 dated March 11, 2022
 - 5) Grading and Paving Plan, Sheets C4.1 dated March 11, 2022
 - 6) Drainage Plan, Sheet C4.2 dated March 11, 2022
 - 7) Erosion & Sediment Control Plan, Sheets C5.1, dated March 11, 2022
 - 8) Construction Details, Sheet C6.1, C6.2 & C6.3 dated March 11, 2022
 - 9) Planting Plan, Sheet L-1.01 prepared by Fisher Design Group dated March 10, 2022
- ii. Architectural Drawings for Badminton Facility prepared by Choo & Company, Inc.
 - 1) Cover Sheet, Sheet A-0 revision 0 dated January 3, 2022
 - 2) First Floor Plan, Sheet A-1.1 revision 0 dated January 3, 2022
 - 3) Second Floor Plan, Sheet A-1.2 revision 0 dated January 3, 2022
 - 4) Elevations Plan, Sheet A-2.1 revision 0 dated January 3, 2022
 - 5) Perspective Views, Sheet A-2.2 revision 0 dated January 3, 2022
 - iii. Subsurface Sewage Disposal System Plan prepared by Goldsmith, Prest & Ringwall, Inc.
 - 1) Site Plan, page 1 of 3 dated February 18, 2022
 - 2) Flow Profile and Soil Logs, page 2 of 3 dated February 18, 2022
 - 3) Construction Details & Specifications, page 3 of 3 dated February 18, 2022
 - iv. Wetland Replication Plan, page 1 of 1 dated March 11, 2022
 - v. Stormwater Management Report, dated March 11, 2022
 - vi. Stormwater System Operation and Maintenance Plan, dated March 2022
- b. **Subsequent plans and documents issued include:**
- i. Architectural Drawings for Badminton Facility prepared by Choo & company, Inc.
 1. Cover Sheet, Sheet A-0 revision April 25, 2022
 2. First Floor Plan, Sheet A-1.1 revision April 25, 2022
 3. Second Floor Plan, Sheet A-1.2 revision April 25, 2022
 4. Elevations Plan, Sheet A-2.1 revision April 25, 2022
 5. Elevations Plan, Sheet A-2.2 revision April 25, 2022
 6. Perspective Views, Sheet A-2.3 revision April 25, 2022
 - ii. Planting Plan, Sheet L-1.01 prepared by Fisher Design Group revision April 25, 2022.
 - iii. Cover Letter Narrative dated April 25, 2022

- iv. Revised Application, dated April 25, 2022 adding §125-37 Major Buildings
- v. Response to Director's Update dated April 25, 2022.
- vi. Letter from applicants dated April 26, 2022
- vii. Response to Beals and Thomas peer review from June 23, 2022.
- viii. Revised Ayer Road Village Special Permit Plans prepared by Goldsmith, Prest & Ringwall, Inc.
 - 1. Title Sheet C1.1 Job 211009 revision 1 July 25, 2022
 - 2. Existing Conditions Plan, Sheet C2.1 revision 1 July 25, 2022
 - 3. Site Utilities Plan, Sheet C3.1 revision 1 July 25, 2022
 - 4. Site Layout Plan, Sheets C3.2 revision 1 July 25, 2022
 - 5. Grading and Paving Plan, Sheets C4.1 revision 1 July 25, 2022
 - 6. Drainage Plan, Sheet C4.2 revision 1 July 25, 2022
 - 7. Erosion & Sediment Control Plan, Sheets C5.1, revision 1 July 25, 2022
 - 8. Construction Details, Sheets C6.1, C6.2 & C6.3 revision 1 July 25, 2022
 - 9. Planting Plan, Sheet L-1.01 prepared by Fisher Design Group revision 1 April 25, 2022
- ix. Revised Stormwater Management Report, Revision 1 dated July 25, 2022
- x. Revised Architectural Drawings for Proposed Badminton Facility Elevations A_2.1 & A-2.2 revision July 2, 2022 but still dated April 25, 2022
- xi. Application for legal ad for Board changes? BELOW**
- xii. Traffic Impact Study, by Bayside Engineering dated July 29, 2022. Received and stamped by Town Clerk on August 9, 2022.
- xiii. Revised Cover letter Narrative dated November 3, 2022
- xiv. Electronic Copy for Review three sheet set prepared by Goldsmith, Prest & Ringwall Inc.
 - 1. Title Sheet C1.1 Job 211009 revision November 3, 2022
 - 2. Development Locus Plan October 2022, November 3, 2022
 - 3. Site utilities Plan, C3.1 revision November 3, 2022
- xv. Architectural Drawings prepared by Mangel DeStefano Architects Building B & C – Rendering dated November 3, 2022
- xvi. Architectural Drawings prepared by Mangel DeStefano Elevations
 - 1. Building C East and North Elevations dated November 3, 2022
 - 2. Building C West & South Elevations dated November 3, 2022
 - 3. Building B South & East Elevations dated November 3, 2022
 - 4. Building B North & West Elevations dated November 3, 2022
- xvii. Lighting Photometric Plan with light fixture cut sheets dated December 12, 2022
- xviii. From April 2023 meeting: Revised Site plans dated March 2, 2023

- xix. Revised Response to Beals and Thomas peer review from June 23, 2022 dated xxx?.
- xx. Any official response letter or comments from Design Review Board?

From JAN. 17, 2023 Design Review Board members completed the categories regarding the proposal to build three mixed-use commercial / residential buildings at 203 Ayer Road. They were instructed to utilize the design guideline through the lens of Bylaw §125-38(F) as the DRB's controlling document. Primary areas of concern were parking, the roof, "massing" and energy use. More than one DRB member explained that they separated Building A from the other two buildings when preparing their comments.

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

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

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

Concerns were expressed by DRB members that the building would outlive the proposed business, and that the main building lacked longevity of design to avoid it becoming a de facto warehouse. Some DRB

members wanted more trees in the parking areas and restructured parking areas. The other smaller buildings were acceptable to DRB but it was suggested a focal point was needed among all the buildings other than the parking lot. Further discussion may be needed about screening along the road.

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

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

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

II. Comments from Other Town Boards:

- a. Memo dated March 30, 2022 from the Harvard Board of Health to the Harvard Planning Board stating the following comments: The project narrative states that the project will consist of three (3) buildings: one to be used as the Harvard Badminton Center and two other conceptual buildings proposed to be "...subject to final layout design and review when an actual end user is ready to proceed." This statement is inconsistent with the application and plans submitted to the Board of Health for review and permitting. Plans submitted to the Board of Health for permitting of the Subsurface Sewage Disposal system (SDS) list the buildings as: 1. Warehouse; 2. Retail Store & 3. Office building. The project narrative submitted to the Planning Board continues with a description of the badminton center as having 16 courts. The SDS plan submitted to the Board of Health is for the building as a warehouse. The difference in SDS design flow for a warehouse versus a sports court is significant. In the architectural drawings, the badminton building has a second-floor area showing offices and a living area which includes a bedroom.

This has not been reflected in the SDS design plan submitted to the Board. The architectural drawings appear to have an area where food service may be contemplated. Kitchen cabinets, a sink and other indications for food, such as three tables with 4 seats are depicted. No mention of concessions or food prep is included in either the narrative or SDS design. If food preparation or service were being considered, it will be important to make accommodations for this in the SDS design. With the discrepancies between the plans submitted to the Planning Board and those to the Board of Health, it is possible that the SDS design will require a much larger system than currently proposed. It may require secondary treatment for flows in excess of 2,000 gallons per day in a Public Water Supply, Interim Well Protection Area (IWPA).

- b. Memo dated June 1, 2022 from the Harvard Board of Health to Harvard Planning Board, stating the applicant has not demonstrated the availability or appropriateness of sufficient subsurface sewage disposal (SDS) capacity for the three proposed buildings. It stated the plan submitted to the Board of Health represents the badminton building as a warehouse, and that the Board of Health expects that to be corrected by the applicant in any future revisions. In addition, the Board of Health stated that the other two buildings have not been adequately defined. Therefore, the Board of Health does not have the means to permit the use(s). A Board of Health permit could not be issued without demonstrating that there are suitable areas to accommodate appropriately sized sewage disposal for all three buildings.
- c. E-mail correspondence from Harvard Fire Department Chief Rick Sicard dated April 24, 2023 addressing the driveway as designed / proposed will meet the needs of the fire department for entrance and turning radius. In addition, the HFD are unable to comment on fire suppression plans without the Applicant providing Tier 1 drawings and a fire protection narrative. The chief's eMail mentioned these items are usually submitted during the building permit application and review process.

III. Comments from Other Interested Parties:

- a. E-mail dated April 4, 2022 from Town Resident who had received an abutters' notice. The resident inquired about 1.) septic system for 203 Ayer Road being in the undeveloped space in the middle of the Harvard Green townhouses, and; 2.) mitigation efforts to address construction noise and site run-off, and 3.) if the site's future owner / tenant intended to commit to a privacy divider (i.e. a fence) between Harvard Green and the site that would be maintained by the site owner / tenant in a long-term arrangement and; 4.) Per Massachusetts General Law, if the process of disturbing wetlands on the site were to be replicated along Ayer Road.
- b. E-mail dated April 16, 2022 from Town Resident on Old Mill Road addressing no variation of roof line according to Harvard's Commercial Design criteria (i.e. no gables) and the proposed project clearly lacked character consistent with Harvard's historic nature.
- c. Letter dated April 26, 2022 from Yvonne Chern and Lou Russo expressing concern about the on-going review of their application. They requested action be taken to ensure the independence of the conclusions of the Design Review Board and consultants.

- d. E-mail dated April 28, 2022 from abutting condominium association expressing concern about the proposed project failing to meet the criteria for mixed-use. In addition, the group inquired about efforts to minimize the visibility of the project, where the mechanical systems (AC / heat compressor) would be placed, and the negative impact of lighting and cars coming and going.

IV. Consultant Reviews:

- a. Letter dated June 3, 2022 from Matthew Cote of Beals + Thomas Inc., engineering consultant for the Planning Board, provided the following comments:
- b. §125-20.D of the Bylaw requires the development to provide water supply and sewage disposal approved by the Board of Health (BOH). B+T acknowledged the proposed connections to the previously installed on-site systems. It was noted for the benefit of the Board. B+T deferred review and approval of the adequacy of these connections to the Board of Health Review process.
- c. §125-29.I of the Bylaw requires a building factor calculation to confirm the lot shape. The referenced calculation did not appear to have been provided by the Applicant. B+T request that the Applicant provide the referenced calculation in accordance with the referenced section of the Bylaw.
- d. §125-30.B of the Bylaw requires a total building floor area calculation for all levels of all buildings. Understanding that buildings B & C are not fully designed, as proposed, the Project does not appear to comply with the 10% maximum coverage area. B+T requested that the Applicant clarify the design intent and document compliance with the referenced section of the Bylaw.
- e. §125-30.D of the Bylaw requires that the area within 20-ft of the street line be clear of signage, fences, plantings, etc., to provide adequate visibility for oncoming traffic. As proposed, the landscape plan did not appear to comply with this requirement. B+T requested that the Applicant clarify the design intent and document compliance with the referenced section of the Bylaw.
- f. §125-31.B(2) of the Bylaw requires each branch of a shared driveway shall include a turnaround for vehicles, especially emergency vehicles. B+T acknowledged the swept path analysis provided for a SU-30, or a typical delivery truck. Based on this analysis, the required turnarounds did not appear to be provided. B+T requested that the Applicant clarify the design intent and document compliance with the noted section of the Bylaw for vehicles larger than a SU-30 and more typical of a fire engine. B+T deferred ultimate review and approval of the driveway geometry and adequacy of the emergency access provided to Harvard Fire Department personnel.
- g. §125-38.D(2) of the Bylaw requires that site plans include provisions for lighting. A lighting design did not appear to be included in the current submission. B+T requested that the Applicant clarify the design intent for lighting and provide a photometric plan as may be applicable.
- h. §125-38.D(3) of the Bylaw requires site plans include provisions for water supply to be provided. A layout of the proposed water distribution network was provided. However, the specific length, size and material of water main is designated as “to be determined.” Additionally, a fire suppression system is also proposed, but again, designated to be

- “designed by others”. B+T requested that the Applicant clarify the design intent for the water system to the satisfaction of the Board and the overarching BOH review process.
- i. §125-38.D(3) of the Bylaw requires site plans include provisions for waste water collection to be provided. B+T acknowledged the Subsurface Sewage Disposal System Upgrade plan provided. B+T note the plan included the use of 4” collection pipe, which appears to be smaller than industry standard for buildings of this size. B+T request that the Applicant clarify the design intent for the sewage collection system to the satisfaction of the Board and the overarching BOH review process.
 - j. §125-38.F(1) of the Bylaw requires that renderings for the front, rear and side elevations of the proposed development be provided including external HVAC equipment, generators, etc. A comprehensive package of the required renderings did not appear to have been provided by the Applicant. The renderings provided appear to be inconsistent with the site plans relative to the layout and orientation of Building “C”. B+T requested that the Applicant document compliance with the noted section of the Bylaw.
 - k. §125-38.G of the Bylaw requires a landscape plan, prepared by a Registered Landscape Architect (RLA). B+T acknowledged the landscape plan provided. However, there appeared to be an inconsistency with the plan scale. B+T requested that the Applicant clarify the noted inconsistency and revise the plan as applicable.
 - l. §125-39.B(5)(a)(2) of the Bylaw requires trip generation analysis for average daily traffic. The Applicant did not appear to reference what trip generation is being assumed for Building A, and without known uses for Buildings B and C, it is unclear how this analysis can be conducted accurately. B+T requested that the Applicant clarify what assumptions are being made of trip generation and document compliance with the noted section of the Bylaw.
 - m. §125-39.B(5)(e)[1] of the Bylaw requires specific turning radii for the proposed driveway. The radii for the driveway as proposed do not appear to meet the minimum requirements. B+T requested that the Applicant document compliance with the noted section of the Bylaw and revise the design accordingly.
 - n. §125-39.B(5)(a) of the Bylaw requires shared entrance and exit access driveways be separated by a traffic island. B+T acknowledge the concrete rubble island proposed by the Applicant. However, its location would appear to intercept the referenced location of the future Town installed shared use walkway. It is unclear if the concrete rubble strip would be an acceptable or compatible material in this location or if further design coordination will be required. B+T noted this for the benefit of the Board.
 - o. §125-39.E of the Bylaw requires provision be made for fire protection. As noted herein, the fire suppression system is designated to be “designed by others”. B+T requested, to the satisfaction of Harvard Fire Department personnel, that the Applicant document compliance with the noted section of the Bylaw.
 - p. §125-39.G(1) of the Bylaw requires projects subject to the site standards within the Commercial District provide curbs and sidewalks. As proposed, the Project does not propose either. Understanding that sidewalks and curbs do not exist on this portion of the Ayer Road, it is unclear if the referenced Bylaw is applicable to this specific Site. The Applicant also made reference to a future Town installed shared use walkway parallel to Ayer Road. B+T defer to the Board to determine the applicability of the noted Bylaw

relative to the Project location.

- q. §125-41.B(3) of the Bylaw stipulates setback requirements for signage. The sign location proposed did not appear to comply. B+T requested that the Applicant clarify the design intent of the sign (dimensions and size) and document compliance with the noted section of the Bylaw relative to its proposed location.
- r. §125-52.D.(4)(a) of the Bylaw stipulates that no more than 25% of the parking should be located in the building “front yard.” Building A proposes front yard parking and when considering the potential contribution for “front yard” parking spaces from Building C, it did not appear that the Project complies with the noted Bylaw. Furthermore, without known uses for Buildings B and C, it is unclear how the proposed total number of parking spaces was derived. B+T requested that the Applicant clarify their interpretation of noted Bylaw to the satisfaction of the Board and document the assumptions made relative to the number of parking spaces provided.
- s. The Applicant has proposed accessible parking spaces at the entries to each of the proposed buildings. However, the van accessible spaces at the front of Building A are shown as 9’ wide with a 6’ wide access aisle. The aisle should be revised to 8’ wide with 8’ wide spaces in accordance with Section 23.4.7.e of the Massachusetts Architectural Access Board (MAAB) regulations (521 CMR).
- t. B+T requested that the Applicant confirm that the proposed site lights are full cutoff fixtures, and Applicant submit a lighting plan that demonstrates that the proposed site lighting complies with §125-40 Lighting.
- u. §125-52.D.(4)(c) of the Bylaw requires facilities to provide a means for solid waste collection. Building A is proposed with a trash enclosure. However, Buildings B and C are not. B+T requested that the Applicant document compliance with the referenced section of the Bylaw.
- v. §125-52.E of the Bylaw requires approvals for the privately owned and maintained sewage disposal systems be provided by the BOH. B+T noted this for the benefit of the Board and defer to overarching BOH review and approval process.
- w. The Project proposes a gravel driveway to future parcel “A” beyond Building B. It is unclear what the future intent is for parcel “A” and if this access will be gated or monitored in any way. B+T requested that the Applicant clarify the need for future access to parcel “A”.
- x. The architectural plans provided appear to include a residence on the second floor of proposed Building A (badminton facility). It is unclear if this seemingly residential use within the Commercial Zoning District would require additional permitting. B+T requested that the Applicant clarify the residential component of the Project as proposed.
- y. Though a numbered route, it does not appear that Ayer Road is under the jurisdiction of MassDOT at the Project location. A large gore and street markings exist that create two lanes of southbound traffic approaching the interchange of Rt 2. The proposed Project driveway will impact the existing markings and would appear to require a reconfiguration of the existing traffic pattern. B+T requested that the Applicant clarify the future design

intent for the intersection of the Project driveway at Ayer Road.

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

V. Stormwater Management Comments:

§125-39.F of the Bylaws requires that provision for drainage be provided. In accordance with this section of the Bylaw, B+T noted the following:

- a. Standard 2 of the MassDEP Regulations requires that the Applicant demonstrate peak discharge rate attenuation. The Bylaws further require peak rate and runoff volume attenuation with a reduction of 5% from pre- to post-development analysis for the 2-yr and 10-yr storm events. As modeled, the Project meets all of these criteria. However, the modeling utilizes times of concentration (Tc) less than 6 minutes (0.1 hrs.) within the analysis. B+T requested that the Applicant revise the modeling to utilize a minimum 6 minute Tc in accordance with TR-55 methodology and confirm the Project continues to comply with Standard 2 of the MassDEP Regulations.
- b. Standard 3 of the MassDEP Regulations requires that Applicants prepare recharge calculations. B+T acknowledged the recharge calculation provided. However, B+T requested that the Applicant clarify the values used. The storage volumes provided of each infiltrative best management practices (BMPs) were not represented in the modeling outputs provided. B+T further noted that these values also impact the infiltrative BMP drawdown calculations and water quality calculations provided under Standard 4 of the MassDEP Regulations. B+T requested that the Applicant clarify the calculations and document compliance with the referenced regulation.
- c. Standard 3 of the MassDEP Regulations requires a determination of the estimated seasonal high groundwater elevation and required 2-ft minimum separation to this elevation from the bottom of infiltrative BMPs. The Applicant did not appear to demonstrate a 2-ft vertical separation to groundwater from the bottom of infiltrative BMPs Pond IB-1, Pond IC-1 and IC-2. If the BMP bottom were within 4-ft of the estimated season high groundwater elevation then a mounding analysis will be required. B+T acknowledged the mounding analysis provided by the Applicant. However, considering the required separation to groundwater was not provided, B+T requested that the Applicant clarify the calculations provided. B+T requested the Applicant clarify the design intent of the noted BMPs and demonstrate compliance with the noted regulation.
- d. *Standard 8 of the MassDEP Regulations requires documentation relative to Construction Period Pollution Prevention and Erosion and Sedimentation Control. Disturbing over 1-acre of land, the Project will be subject to the NPDES Construction General Permit and a Stormwater Pollution Prevention Plan (SWPPP) will be required. This is acknowledged by the Applicant. However, the Applicant commits to submitting a SWPPP under separate cover prior to construction. B+T noted this for the benefit of the Board when considering possible conditions of approval.*
- e. Standard 10 of the MassDEP Regulations requires a prohibition of illicit discharges. B+T requested that the Applicant provide an executed Illicit Discharge Statement to

document compliance with the referenced regulation.

- f. Section 147-14C of the Bylaw stipulates that no resource areas shall be filled for the impoundment, detention, or retention of stormwater. Pond IC-2 is proposed within the limits of the isolated vegetated wetland to be filled. B+T noted that this area is not being filled for the express purpose of stormwater management and that Building A and the associated parking are also proposed within the area to be filled. B+T requested the Applicant provide a narrative response to whether a waiver needs to be requested for the noted section of the Bylaw and defer to the Board on the applicability of this section of the Bylaw to this Project.
- g. Section 147-14C(1) of the Bylaw prescribes rainfall event data for the 2-yr, 10-yr, 50-yr and 100-yr storm events. The Applicant did not utilize the prescribed events. However, used values more conservative than prescribed. B+T takes no exception to the rainfall values used. However, B+T noted the inconsistency relative to the referenced section of the Bylaw.
- h. B+T is in receipt of the DEP Central Regional Office (CERO) comments dated May 16, 2022. The CERO comments noted that the location of Stormwater Basin #2 does not provide the required 50-ft buffer to the proposed wetland replication area. Accordingly, B+T requested that the Applicant clarify the design intent for the noted stormwater infrastructure and revise the location as required.
- i. The modeling provided by the Applicant is unclear. B+T noted the following inconsistencies relative to the modeling and site plans provided:
 - a. The length and slope of the discharge pipes for Ponds CB-10, CB-9 and DMH-9
 - b. The invert of the 8" pipe discharge from Pond IC-2 is inconsistent
 - c. The rim and invert table appear to incorrectly label the outlet for IC-2 as DMH-7 and not DMH-8.B+T requested that the Applicant clarify the modeling provided and address the inconsistencies as noted herein.
- j. The Handbook requires that stormwater basins be designed to maintain 1-ft of freeboard during the 100-yr storm event. Both IB-1 and IB-2 appear to provide less vertical freeboard than the 1-ft recommended by the Handbook. B+T requested that the Applicant clarify the design intent and revise the design as applicable.
- k. The limits of the proposed sedimentation control barrier (SCB) are unclear. B+T recommend that the SCB be extended south along Ayer Road to the northern property and the limit of clearing. B+T further recommend that a limit of clearing be added to the erosion control plan.

VI.

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

- b. B+T requested that the Applicant confirm that the proposed site lights are full cutoff fixtures, and they submit a lighting plan that demonstrates that the proposed site lighting complies with §125-40 Lighting.

VII. Legal Notices, Advertised and to Abutters:

- a. A copy of the Legal Notice dated March 14, 2022, advertising the Public Hearings to be held on this application on April 4, 2022; such advertisement appeared in "The Harvard Press" on March 18, 2022 and March 25, 2022. Another copy of the Legal Notice for the Public Hearing dated July 20, 2022, readvertising the Public Hearings to be held on this application on August 15, 2022; such advertisement appeared in "The Harvard Press" on July 29, 2022 and August 5, 2022. A copy of the Legal Notice dated February 6, 2023, readvertising the Public Hearings to be held on this application on February 27, 2023; such advertisement appeared in "The Harvard Press" on February 10, 2023 and February 17, 2023.
- b. An Affidavit of Mailing to Abutters dated February 6, 2023 and endorsed by Town Clerk.

VIII. Public input as reflected in the minutes of the hearings held regarding this application.

As duly noticed, the public hearing on the application was opened on April 4, 2022, continued to April 25, 2022, continued to May 2, 2022, continued to May 16, 2022, continued to June 6, 2022, opened and continued to June 27, 2022, continued to July 18, 2022, continued to August 15, 2022, continued to September 12, 2022, continued to September 19, 2022, continued to October 17, 2022, continued to November 7, 2022, continued to November 21, 2022, continued to December 5, 2022, continued to December 19, 2022, continued to January 9, 2023, continued to January 23, 2023, continued to February 27, 2023, continued to March 6, 2023, continued to March 20, 2023, continued to April 24, 2023, continued to May 15, 2023, **continued to June 5, 2023, continued to June 12, 2023 on which date there being no new evidence submitted by the applicant, the hearing was closed.**

FINDINGS

The Harvard Planning Board makes the following findings with respect to the application as submitted:

- I. That the development on lot 62.2 (203 Ayer Road) for the construction of three buildings: an **8,000** square foot retail/office **(commercial?)** building with at least **(3) units of** housing and an additional 8,000 square foot **retail/office (commercial)** building and a **29,998 sq ft** badminton facility **with (1) unit of housing** meets the objectives as defined in Section 125-52 for promoting mixed use development for commercial and multi-family housing properties located on Ayer Road. **Square footages for all 3 building are not aligned between the submissions – needs to be reviewed and confirmed by all parties.**
- II. That the lot 62.2 meets the frontage requirement of 300 feet **on Ayer Road as set forth in §125-52B and the submittal requirements of §125-52C have been met.**
- III. That the Planning Board has considered the Review criteria and considerations as set forth in**

§125-52D and finds that the development as proposed meets the criteria. (added by applicant – is this true? Discussion needed)

- IV. Application did not identify the specific uses of the residential/retail/office building (referenced as building B on the application) or the retail/office building (referenced as building C on the application).
- V. The retail/multifamily housing structure (referenced as building B on the application) has a building size limit of 8,000 square feet and meets set forth in Section 125-52G(2) and 125-52G(3)(c). The Planning Board is concerned with compliance of 125-52E. However, the location of the structure on a grade level approximately ten feet below the adjacent buildings, a design that addresses this size and mass concern by incorporating jogs in the building footprint and an architectural glass façade, aesthetically reducing the mass of the structure, and providing an appearance not unlike that of two buildings from Ayer Road. This needs to be broken into Building A and Building B language as it currently seems to be both and is confusing.
- VI. That the development will connect to the Town Shared Use Path along West side of Ayer Road, when constructed by the State thru the TIP 2026.
- VII. That the Traffic Impact and Access Study for the proposed project was prepared by Bayside Engineering on July 29, 2022. The results of the assessment determined that the direct impact of the proposed project compared to existing traffic conditions did not warrant the installation of a traffic signal due to the proposed development. A mitigation analysis further determined that the addition of dedicate left and right exit lanes, upgraded pavement striping, tree removal and the installation of advanced warning signs on Ayer Road would be sufficient to reduce traffic delay times, queue lengths and approach delays.
- VIII. That the proposed project is expected to generate minimal additional exiting traffic during the current weekday AM peak hour and that the exiting traffic from the proposed project would be the highest during weekend PM hour when exiting traffic from existing uses are generating far less traffic.
- ~~IX. That the addition of three dedicated lanes, one for entering and two for exiting Left or Right turns only to the drive would improve safety conditions at the site entrance decreasing the approach delay currently experienced at this location.~~ (was this for the old Dunkin' permit? – or is this from this applications' traffic study?)
- X. Applicant requests the addition of (5) more items here – need to be reviewed line by line for compliance before being added.

CONDITIONS AND LIMITATIONS OF EXERCISE OF SPECIAL PERMIT

- Refer to applicants suggestions for what they would like to see here. Will need to be reviewed line by line.
- Also need to review conditions from Beals & Thomas, ConsCom, BoH, Fire Dept and others.

ACTION OF THE PLANNING BOARD

~~Therefore, the Planning Board, upon a vote taken on XX June 20XX, grants the Applicant's request for an Ayer Road Village Special Permit (ARV-SP) to construct three (3) buildings, one being a badminton facility, the second a mixed use building that will have three (3) units of rental housing above office / retail space and the third a commercial structure consisting of retail and office space as described in the application, with conditions as referenced above, by a vote of...~~

Signed by members:

Richard Cabelus, Chairman

Stacia Donahue

Arielle Jennings

Brian Cook

Doug Thornton

Members of a 5 Member Planning Board

TO WHOM IT MAY CONCERN:

I, hereby certify the twenty (20) day appeal period on this decision has expired, and no appeals have been filed with this office.

Lynn Kelly, Town Clerk

Date