

SPECIAL TOWN MEETING

October 28, 2019

The meeting was called to order in Bromfield's Cronin Auditorium at 7:00 p.m. by Moderator, William Barton. The call of the meeting and the return of service were found to be in order by Town Clerk Marlene Kenney.

Moderator William Barton requested that the town allow the following non-voters to speak to the meeting if necessary:

Timothy Bragan	Town Administrator
Mark Lanza	Town Counsel
Lori Bolasevich	Finance Director
Christopher Ryan	Economic Development Director
Liz Allard	Land Use Admin/Conservation Agent
Debbie Thompson	Council on Aging Director
Timothy Kilhart	Department of Public Works Director
Richard Sicard	Fire Chief
Edward Denmark	Police Chief
Captain Scott Amati	Massachusetts Environmental Police
Lt. Mark Brighenti	Massachusetts Environmental Police
Dr. Sam Telford	Epidemiologist -Tufts/Harvard University
David Stainbrook	Deer & Moose Project Leader, Massachusetts Division of Fisheries & Wildlife

ARTICLE 1: PAY BILL OF PRIOR FISCAL YEAR

To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a sum of money to pay bills of Fiscal Year 2019, or pass any vote or votes in relation thereto.
(Inserted by Select Board)

On a motion by Kara Minar, 204 Still River Road, Select Board and seconded,

Voted unanimously yes that the Town authorize the payment of two Fiscal Year 2019 bills, \$70.00 from the Planning Board and \$6,923.77 from the Sewer Enterprise, and use funds in each of said department's respective Fiscal Year 2020 budget to pay said bills.

ARTICLE 2: AMEND FISCAL YEAR 2020 OMNIBUS BUDGET

To see if the Town will vote to raise and appropriate, borrow, or transfer the sum of \$13,252 to correct the amount voted in error for Land Use Boards Personnel under line #13 on page 35 of the May, 2019 Warrant and Finance Committee Report for the 2019 Annual Town Meeting, or pass any vote or votes in relation thereto.
(Inserted by Select Board)

On a motion by Kara Minar, 204 Still River Road, Select Board and seconded,

Voted unanimously yes that the Town raise and appropriate the sum of \$13,252 and add it to the appropriation made under line#13 on page 35 of the May, 2019 Annual Town Meeting Warrant
Special Town Meeting
October 28, 2019

to correct the appropriation amount voted in error for Land Use Boards Personnel.

ARTICLE 3: RESCIND BORROWING AUTHORITY

To see if the Town will vote to rescind its approval of \$119,000 worth of borrowing authorized by its vote under Article 15 of the Warrant for the April 6, 2013 Annual Town Meeting for the Pond Road Parking Lot Project, or pass any vote or votes in relation thereto.
(Inserted by the Select Board)

On a motion by Kara Minar, 204 Still River Road, Select Board and seconded,

Voted unanimously yes that the Town rescind its authorization of \$119,000 borrowing authorized by its vote under Article 15 of the Warrant for the April 6, 2013 Annual Town Meeting for the Pond Road Parking Lot Project.

ARTICLE 4: SEWER ENTERPRISE RETAINED EARNINGS

To see if the Town will vote to transfer \$56,823 from the Certified Sewer Enterprise Retained Earnings Fund to the Fiscal Year 2020 Sewer Enterprise Expense Account, or pass any vote or votes in relation thereto.
(Inserted by Water and Sewer Commission)

On a motion by Cindy Russo, 35 Lancaster County Road, Water and Sewer Commission and seconded,

Voted unanimously yes that the Town transfer \$56,823 from the Certified Sewer Enterprise Retained Earnings Fund to the Fiscal Year 2020 Sewer Enterprise Expense Account

ARTICLE 5: AMEND ARTICLE #11 LINE #19 POLICE DEPARTMENT PERSONNEL

To see if the Town will vote to amend its vote under Article #11 of the Warrant for the May, 2019 Annual Town Meeting, by raising and appropriating, borrowing, or transferring from available funds the sum of \$38,117 and adding it to the appropriation under Line #19 of said Warrant Police Department Personnel, to cover the salary increases due to the Department in accordance with the recently settled collective bargaining agreement, or pass any vote or votes in relation thereto.
(Inserted by Select Board)

On a motion by Stuart Sklar, 39 Scott Road, Select Board and seconded,

Voted unanimously yes that the Town amend its vote under Article #11 of the Warrant for the May, 2019 Annual Town Meeting, by raising and appropriating the sum of \$38,117 and adding it to the appropriation under Line #19 of said Warrant, Police Department Personnel, to cover the salary increases due to the Department in accordance with the recently settled collective bargaining agreement.

ARTICLE 6: AMEND ARTICLE #11 LINE #34 DEPARTMENT OF PUBLIC WORKS PERSONNEL TO INCREASE TRANSFER STATION HOURS

To see if the Town will vote to amend its vote under Article #11 of the Warrant for the May, 2019 Annual Town Meeting, by raising and appropriating, borrowing, or transferring from available funds the sum of \$4,368 and adding it to the appropriation under Line #34 of said Warrant Department of Public Works Personnel, to cover increasing the hours of the transfer station, or pass any vote or votes in relation thereto.
(Inserted by Select Board)

On a motion by Stuart Sklar, 39 Scott Road, Select Board and seconded,

Voted majority yes that the Town amend its vote under Article #11 of the Warrant for the May, 2019 Annual Town Meeting, by raising and appropriating the sum of \$4,368 and adding it to the appropriation under Line #34 of said Warrant, Department of Public Works Personnel, to cover increasing the hours of the transfer station.

ARTICLE 7: ARTICLE SUNSET BY-LAW

To see if the Town will vote to amend the Code of the Town of Harvard, Chapter 14 Budget Process, by adding thereto the following new section: §14-2 Expiration of Appropriations. "Following the conclusion of the October 28, 2019 Special Town Meeting, any warrant article approved by any subsequent town meeting and authorizing funding for any purpose, shall, after a period of three (3) years has elapsed from the effective date of the original authorization, automatically terminate the funding authorization for further expenditure, and any remaining balance in the appropriation shall be returned to the original funding source without further action by town meeting. The provisions of this section shall not apply to any town meeting vote involving - an Enterprise Fund, - an authorization for borrowing, any appropriation authorized under a vote which clearly specifies an exemption from this section or a different timetable, a vote granting an extension of time to expend the authorized fund or an exemption to any previously voted funding authorization.", or pass any vote or votes in relation thereto.
(Inserted by Select Board)

On a motion by Lucy Wallace, 18 Orchard Hill, Select Board and seconded,

Voted unanimously yes that the Town amend the Code of the Town of Harvard, Chapter 14 Budget Process, by adding thereto the following new section: §14-2 Expiration of Appropriations. "Following the conclusion of the October 28, 2019 Special Town Meeting, any warrant article approved by any subsequent town meeting and authorizing funding for any purpose, shall, after a period of three (3) years has elapsed from the effective date of the original authorization, automatically terminate the funding authorization for further expenditure, and any remaining balance in the appropriation shall be returned to the original funding source without further action by town meeting. The provisions of this section shall not apply to any town meeting vote involving - an Enterprise Fund, an authorization for borrowing, any appropriation authorized under a vote which clearly specifies an exemption from this section or a different timetable, a vote granting an extension of time to expend the authorized fund or an exemption to any previously voted funding authorization."

ARTICLE 8: BOND PREMIUMS

To see if the Town will vote to (i) appropriate the premium paid to the Town upon the sale of bonds and bond anticipation notes (as applicable) issued on June 23, 2017, August 24, 2018, and August 22, 2019 to pay costs of capital projects and to reduce the amounts appropriated for such projects (if any) by the same amount; and (ii) supplement each prior vote of the Town that authorizes the borrowing of money to pay costs of capital projects to provide that, in accordance with Chapter 44, Section 20 of the General Laws, the premium received by the Town upon the sale of any bonds or notes thereunder, less any such premium applied to the payment of the costs of issuance of such bond or notes, may be applied to pay project costs and the amount authorized to be borrowed for each such project shall be reduced by the amount of any such premium so applied; or to take any other action relative thereto.
(Inserted by Select Board)

On a motion by Alice von Loesecke, 84 Warren Avenue, Select Board and seconded,

Voted majority yes that the Town (i) appropriate (a) \$ 56,018.58 from the premium paid to the Town upon the sale of the bond anticipation notes on June 23, 2017, (b) \$ 48,938.81 from the premium paid to the Town upon the sale of the bond anticipation notes on August 24, 2018, and (c) \$ 39,329.87 from the premium paid to the Town upon the sale of the bonds on August 22, 2019, to pay costs of the Library roof replacement project authorized by vote of the Town passed May 4, 2019 (Article 23-3) and excluded from the limitations of Proposition 2 1/2, so-called on May 7, 2019 (Ballot Question #4), and to reduce the amount authorized to be borrowed for such project, but not yet issued by the Town, by \$144,287.26; and (ii) amend each prior vote of the Town that authorized the borrowing of money to pay costs of capital projects to provide that, in accordance with Chapter 44, Section 20 of the General Laws, the premium received by the Town upon the sale of any bonds or notes thereunder, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to pay project costs and the amount authorized to be borrowed for each such project shall be reduced by the amount of any such premium so applied.

ARTICLE 9: PURCHASE MIXING UNIT FOR WATER TANK

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds the sum of \$17,500 to be expended by the Water and Sewer Commissioners to purchase a mixing unit for the water tank located on Bolton Road, or pass any vote or votes in relation thereto.
(Inserted by Water and Sewer Commission)

On a motion by Cindy Russo, 35 Lancaster County Road, Water and Sewer Commission and seconded,

Voted majority yes that the Town transfer from Fiscal Year 2019 Certified Free Cash the sum of \$17,500 to be expended by the DPW Director, with the approval of the Water and Sewer Commissioners, to purchase a mixing unit for the water tank located on Bolton Road.

ARTICLE 10: WATER CHLORINATION SYSTEM DESIGN, PERMITTING, BIDDING, and CONSTRUCTION ADMINISTRATION SERVICES

To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a sum of money to be expended by the Water and Sewer Commissioners for the design, permitting, bidding and construction services for a full-time water chlorination system for the Town water supply system, or pass any vote or votes in relation thereto.
(Inserted by Select Board)

On a motion by Lucy Wallace, 18 Orchard Hill, Select Board and seconded,

Voted 2/3 majority yes that the Town appropriate the sum of \$42,000 and provide for said appropriation by transferring \$42,000 from the Capital Stabilization and Investment Fund to be expended by the DPW Director, with the approval of the Water and Sewer Commissioners, for the design, permitting, bidding and construction services for a full-time water chlorination system for the Town water supply system.

ARTICLE 11: LIBRARY ROOF REPAIR

To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a sum of money to be expended by the Library Trustee to repair the new Town Library's roof, or pass any vote or votes in relation thereto.
(Inserted by Capital/Library Trustees)

On a motion by John Seeley, 20 Pinnacle Road, Capital Planning and Investment Committee, and seconded,

Voted unanimously (greater than 2/3 majority) yes that the Town appropriate the sum of \$53,750 and provide for said appropriation by transferring \$53,750 from the Capital Stabilization and Investment Fund to be expended by the Library Trustees to repair the new Town Library's roof.

ARTICLE 12: SPRING FIELD MAINTENANCE

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of \$15,000 to be expended by the Parks and Recreation Commission for spring field maintenance to be performed prior to Fiscal Year 2021, or pass any vote or votes in relation thereto.

(Inserted by Parks and Recreation Commission)

The following motion was made by Doug Thornton, 213 Littleton Road, Parks and Recreation Commission and seconded,

I move the Town transfer from Fiscal Year 2019 Certified Free Cash the sum of \$15,000 to be expended by the Parks and Recreation Commission for spring field maintenance to be performed prior to Fiscal Year 2021.

A friendly amendment was offered by Dan Daly, 15 Littleton Road, Athletic Field Planning Subcommittee to replace "Parks and Recreation Commission" with "Department of Public Works" and to delete the word "spring" before "...field maintenance".

The Parks and Recreation Commission accepted the friendly amendment.

Voted majority yes that the Town transfer from Fiscal Year 2019 Certified Free Cash the sum of \$15,000 to be expended by the Department of Public Works for field maintenance to be performed prior to Fiscal Year 2021.

(Moderator William Barton allowed for the re-voting of this article, with the same results as the original majority yes vote.)

ARTICLE 13: TRANSFER FROM CERTIFIED FREE CASH TO THE CAPITAL STABILIZATION AND INVESTMENT FUND

To see if the Town will vote to transfer a sum of money from Fiscal Year 2019 Certified Free Cash to the Capital Stabilization and Investment Fund, or pass any vote or votes in relation thereto.

(Inserted by Finance Committee)

On a motion by Don Ludwig, 23 East Bare Hill Road, Finance Committee and seconded,

I move that the Town transfer \$1,259,345 from the Fiscal Year 2019 Certified Free Cash Account to the Capital Stabilization and Investment Fund.

A motion was proposed by Worth Robbins, 115 Massachusetts Avenue and seconded, to take no action on this article. The motion was voted no by majority [DID NOT PASS].

A motion to move the question by Nate Finch, 165 Codman Hill Road, was seconded and voted greater than 2/3rds yes.

Voted majority yes that the Town transfer \$1,259,345 from the Fiscal Year 2019 Certified Free Cash Account to the Capital Stabilization and Investment Fund.

ARTICLE 14: ADOPT M.G.L. CHAPTER 40, SECTION 8J, TO CREATE A COMMISSION ON DISABILITY

To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 40, Section 8J and establish a 5-member Commission On Disability to be appointed in accordance with said law, or pass any vote or votes in relation thereto.
(Inserted by Select Board)

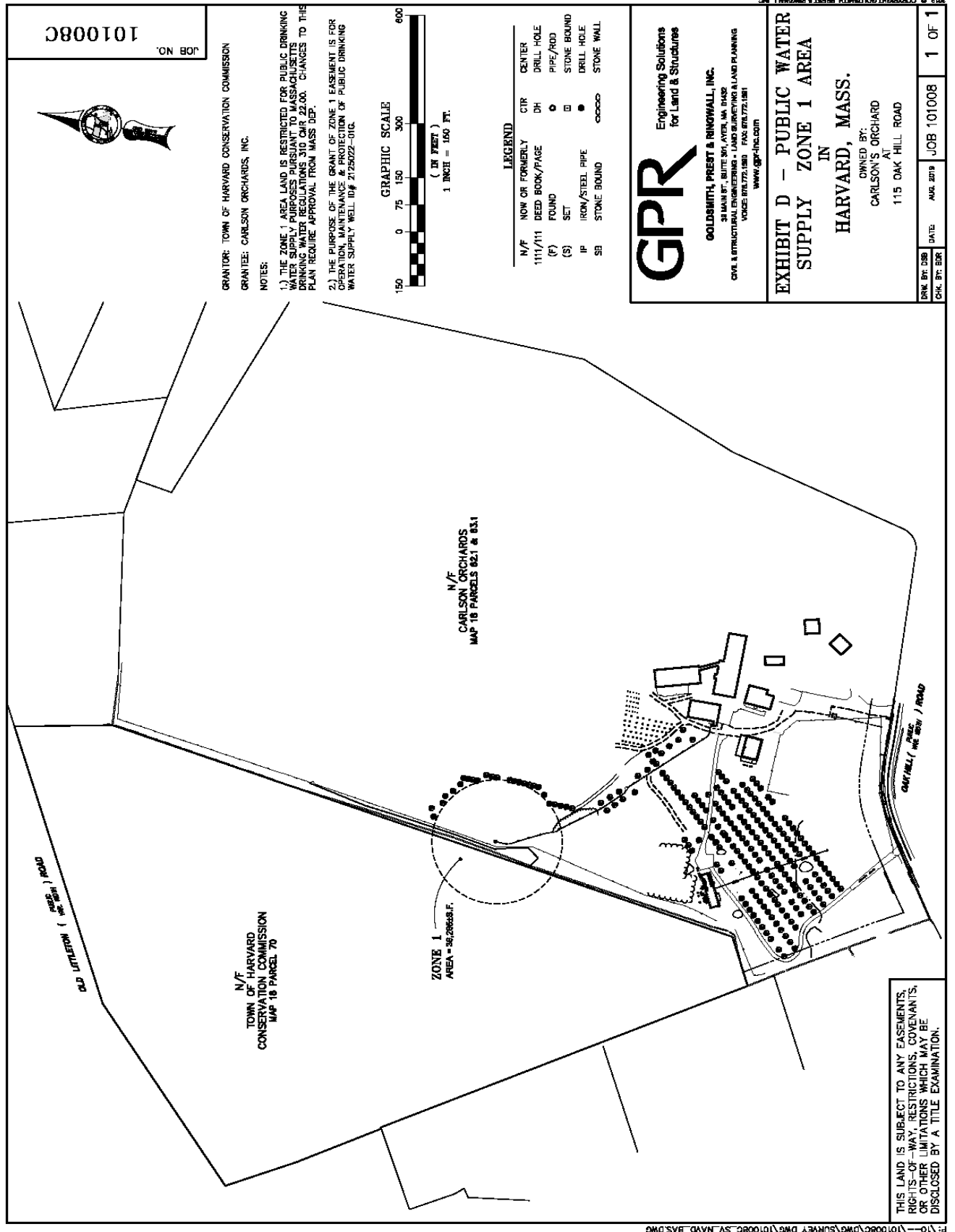
On a motion by Stuart Sklar, 39 Scott Road, Select Board and seconded,

Voted majority yes that the Town accept the provisions of Massachusetts General Laws Chapter 40, Section 8J and establish a five (5) member Commission on Disability to be appointed in accordance with said law.

ARTICLE 15: AUTHORIZE THE GRANT OF A ZONE 1 WELL PROTECTION EASEMENT OVER A PORTION OF THE DUNLAP CONSERVATION LAND

To see if the Town will vote to authorize a.) the Harvard Conservation Commission to grant a Zone 1 well protection easement over a portion of the so-called Dunlap Conservation Land for the benefit of an abutting landowner, which land is located on the southerly side of Old Littleton Road in Harvard, Massachusetts, and is shown as Parcel 70 on Assessors Map 18, and described as Parcel Two in the deed recorded with the Worcester District Registry of Deeds in Book 43843, Page 377 and is also shown as Parcel A on the plan recorded with said Registry of Deeds in Plan Book 180, Page 128, which portion of said land to be used for said easement contains approximately 36,265 square feet and is partially located in the MassDEP / DWP approved Zone 1 of the Well and is further described in the Exhibit entitled "Exhibit D – Public Water Supply Zone 1 Area prepared for Carlson Orchards, Inc." Dated August 2019, a copy of which exhibit is on file in the Office of the Town Clerk; and b.) the Select Board to petition the General Court of the Commonwealth of Massachusetts to enact a special act authorizing the grant of said easement and a change of use of said conservation land within said easement area, or pass any vote or votes in relation thereto.
(Inserted by Conservation Commission)

See Exhibit D – Public Water Supply Zone 1 Area map below:



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On a motion by Jim Burns, 50 Ayer Road, Conservation Commission and seconded,

Voted greater than 2/3 yes that the Town authorize a.) the Harvard Conservation Commission to grant a Zone 1 well protection easement over a portion of the so-called Dunlap Conservation Land for the benefit of an abutting landowner, which land is located on the southerly side of Old Littleton Road in Harvard, Massachusetts, and is shown as Parcel 70 on Assessors Map 18, and described as Parcel Two in the deed recorded with the Worcester District Registry of Deeds in Book 43843, Page 377 and is also shown as Parcel A on the plan recorded with said Registry of Deeds in Plan Book 180, Page 128, which portion of said land to be used for said easement contains approximately 36,265 square feet and is partially located in the MassDEP / DWP approved Zone 1 of the Well and is further described in the Exhibit entitled "Exhibit D – Public Water Supply Zone 1 Area prepared for Carlson Orchards, Inc." Dated August 2019, a copy of which exhibit is on file in the Office of the Town Clerk; and b.) the Select Board to petition the General Court of the Commonwealth of Massachusetts to enact a special act authorizing the grant of said easement and a change of use of said conservation land within said easement area.

ARTICLE 16: GRANT OF EASEMENT TO NATIONAL GRID FOR ELECTRICAL SERVICES TO THE NEW HILDRETH ELEMENTARY SCHOOL

To see if the Town will vote authorize the Harvard Select Board and/or the Harvard School Committee to grant an easement to National Grid for the purposes of providing electrical services to the new Hildreth Elementary School at 27 Massachusetts Avenue, Harvard, Massachusetts, or pass any vote or votes in relation thereto.
(Inserted by Select Board)

On a motion by Alice von Loesecke, 84 Warren Avenue, Select Board and seconded,

Voted greater than 2/3 yes that the Town authorize the Harvard School Committee to grant an easement to National Grid for the purpose of providing electrical services to the new Hildreth Elementary School at 27 Massachusetts Avenue, Harvard, Massachusetts, located in, through, under, over, across and upon a parcel of land situated on the easterly side of Massachusetts Avenue, formerly known as Bromfield Street, and the westerly side of Fairbanks Street, being more particularly described in a deed dated April 29, 1904, and recorded with the Worcester South District Registry of Deeds in Book 1782, Page 20.

ARTICLE 17: GRANT OF EASEMENT TO NATIONAL GRID FOR ELECTRICAL SERVICES TO THE HARVARD CENTER FIRE STATION

To see if the Town will vote authorize the Harvard Select Board to grant an easement to National Grid for the purposes of providing electrical services to the Harvard Center Fire Station at 11 Elm Street, Harvard, Massachusetts, or pass any vote or votes in relation thereto.
(Inserted by Select Board)

On a motion by Alice von Loesecke, 84 Warren Avenue, Select Board and seconded,

Voted greater than 2/3 yes that the Town authorize the Select Board to grant an easement to National Grid for the purpose of providing electrical services to the Harvard Central Fire Station at 11 Elm Street, Harvard, Massachusetts, located in, through, under, over, across and upon a parcel of land situated on the northwesterly side of the Town of Harvard Town Common now known and numbered at 11 Elm Street, Harvard, Massachusetts, being more particularly described in a deed dated May 9, 1973, and recorded with the Worcester South District Registry of Deeds in Book 5619, Page 62.

**ARTICLE 18: PROHIBIT DEER HUNTING ON TOWN CONSERVATION LAND –
CITIZEN PETITION**

To see if the Town will vote to ban hunting on Harvard Conservation Land.
(Inserted by Citizen Petition)

On a motion by Eve Wittenberg, 103 Prospect Hill Road, and seconded,

I move the Town vote to amend the Code of the Town of Harvard by adding a new Chapter 57, Hunting on Conservation Land: §57-1 Hunting on Conservation Land. The Town of Harvard hereby prohibits hunting, in any form, on all Town Conservation Land.

A motion to move the question by David Durrant, 159 East Bare Hill Road, was seconded and voted greater than 2/3rds yes.

Voted majority no [DOES NOT PASS] that the Town amend the Code of the Town of Harvard by adding a new Chapter 57, Hunting on Conservation Land: §57-1 Hunting on Conservation Land. The Town of Harvard hereby prohibits hunting, in any form, on all Town Conservation Land.

ARTICLE 19: AMEND THE PROTECTIVE BYLAW §125-39, SITE STANDARDS

To see if the Town will vote to amend the Protective Bylaw §125-39, Site Standards, by making the following revisions thereto, or pass any vote or votes in relation thereto:

[Key to revisions; underlining = additions; ~~striketrough~~ = deletions]

E. Fire protection. Where the site abuts an area in a W District or an adjacent municipality, development shall provide water supply for fire protection, with suitable access, except where a water hole, pond, hydrant, or other suitable supply already exists within 1,000 feet of each building on the site within the Town of Harvard.

(Inserted by Planning Board)

On a motion by Stacia Donahue, 224 Old Littleton Road, Planning Board and seconded,

Voted greater than 2/3 yes that the Town amend the Protective Bylaw, §125-39, Site Standards, by making the revisions thereto as printed on Page 6 of the Warrant with Finance Committee Recommendations for the October 28, 2019 Special Town Meeting.

Amended version as follows:

E. Fire protection. Where the site abuts an area in a W District or an adjacent municipality, development shall provide water supply for fire protection, with suitable access, except where a water hole, pond, hydrant, or other suitable supply already exists within 1,000 feet of each building on the site within the Town of Harvard.

The Planning Board voted 5 - 0 to recommend this article.

Tim Schmoyer, 278 Stow Road, made a motion to postpone hearing Article 20 until after Articles 21 and 22 have been voted on. The motion was seconded and approved by the Planning Board. [See Article 20 in numerical order.]

ARTICLE 20: AMEND THE PROTECTIVE BYLAW §125-02. DEFINITIONS

To see if the Town will vote to amend the Protective Bylaw §125-02, Definitions, by making the following revisions thereto, or pass any vote or votes in relation thereto:

[Key to revisions; underlining = additions; ~~strikethrough~~ = deletions]

ADULT DAY CARE: Daytime services, such as skilled care and supervision, group activities, provision of meals, transportation, trips, and light exercise, provided to elderly adults and the physically challenged who require assistance with daily needs of living.

ADULT DAY HEALTH: A community-based and non-residential service that provides nursing care, supervision, and health related support services in a structured group setting to MassHealth members who have physical, cognitive, or behavioral health impairments. The adult day health (ADH) service has a general goal of meeting the activities of daily living (ADL), and/or skilled nursing therapeutic needs of MassHealth members delivered by a MassHealth agency-approved ADH provider that meets the conditions of 130 CMR 404.000.

BLOCK: A block is the smallest area that is surrounded by streets. Blocks are the space for buildings within the street pattern of a city or town, and form the basic unit of the town's pattern of development. Blocks may be subdivided into any number of smaller land lots usually in private ownership, though in some cases, it may be other forms of tenure. Blocks are usually built-up to varying degrees and thus form the physical containers or 'streetwalls' of public space. Most town centers are composed of a greater or lesser variety of sizes and shapes of block.

FLOOR AREA RATIO: The ratio of total gross building square footage to the surface area (in square feet) of the lot (see Figure 1 below).

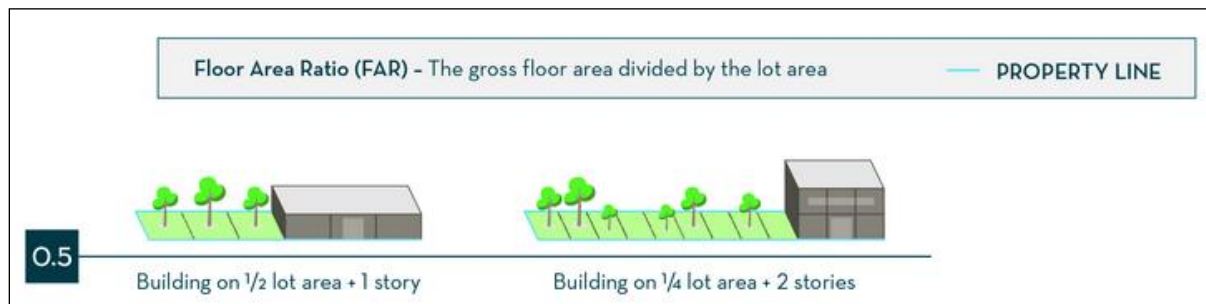


Figure 1- Floor Area Ratio Diagram

MICRO-BREWERY, MICRO-CIDERY, MICRO-DISTILLERY, MICRO-WINERY, MICRO-MEADERY: A facility, licensed under the relevant state and federal statutes, for the production and packaging of malt, wine, or hard cider beverages for distribution retail or wholesale, on or off the premises, with a capacity of not more than 5,000 barrels per year. (One barrel contains 31 U.S. gallons). A tasting room is permitted as an accessory use. [Added 11-6-2017 STM by Art. 2]

SMART GROWTH: Includes a range of development and conservation strategies that help protect our health and natural environment and make our communities more attractive, economically stronger, and more socially diverse. They include a range of principles including creating a range of housing opportunities and choices; creating walkable neighborhoods; encouraging community and stakeholder collaboration; fostering distinctive, attractive communities with a strong sense of place, making development decisions predictable, fair and cost effective; mixing land uses; preserving open space, farmland, natural beauty and critical environmental areas; providing a variety of transportation choices; and establishing sustainable

communities that are energy efficient, economically diverse, and socially responsible. Smart growth also includes the concepts of new urbanism and neotraditional development.
(Inserted by Planning Board)

On a motion by R. Jarrett Rushmore, 39 East Bare Hill Road, Planning Board and seconded,

I move that the Town amend the Protective Bylaw, §125-2, Definitions, by making the revisions thereto as printed on Pages 6 and 7 of the Warrant with Finance Committee Recommendations for the October 28, 2019 Special Town Meeting.

Tim Schmoyer, 278 Stow Road, proposed a friendly amendment to remove the section, “FLOOR AREA RATIO”, from the article.

The Planning Board did not accept the friendly amendment.

A friendly amendment was offered by Bonnie Heudorfer, 338 Stow Road, to delete the section, “SMART GROWTH”, from the article.

The Planning Board accepted the friendly amendment.

Voted greater than 2/3 yes that the Town amend the Protective Bylaw, §125-2, Definitions, by making the revisions thereto as printed on Pages 6 and 7 of the Warrant with Finance Committee Recommendations for the October 28, 2019 Special Town Meeting.

Amended version as follows:

ADULT DAY CARE: Daytime services, such as skilled care and supervision, group activities, provision of meals, transportation, trips, and light exercise, provided to elderly adults and the physically challenged who require assistance with daily needs of living.

ADULT DAY HEALTH: A community-based and non-residential service that provides nursing care, supervision, and health related support services in a structured group setting to MassHealth members who have physical, cognitive, or behavioral health impairments. The adult day health (ADH) service has a general goal of meeting the activities of daily living (ADL), and/or skilled nursing therapeutic needs of MassHealth members delivered by a MassHealth agency-approved ADH provider that meets the conditions of 130 CMR 404.000.

BLOCK: A block is the smallest area that is surrounded by streets. Blocks are the space for buildings within the street pattern of a city or town, and form the basic unit of the town’s pattern of development. Blocks may be subdivided into any number of smaller land lots usually in private ownership, though in some cases, it may be other forms of tenure. Blocks are usually built-up to varying degrees and thus form the physical containers or 'streetwalls' of public space. Most town centers are composed of a greater or lesser variety of sizes and shapes of block.

FLOOR AREA RATIO: The ratio of total gross building square footage to the surface area (in square feet) of the lot (see Figure 1 below).

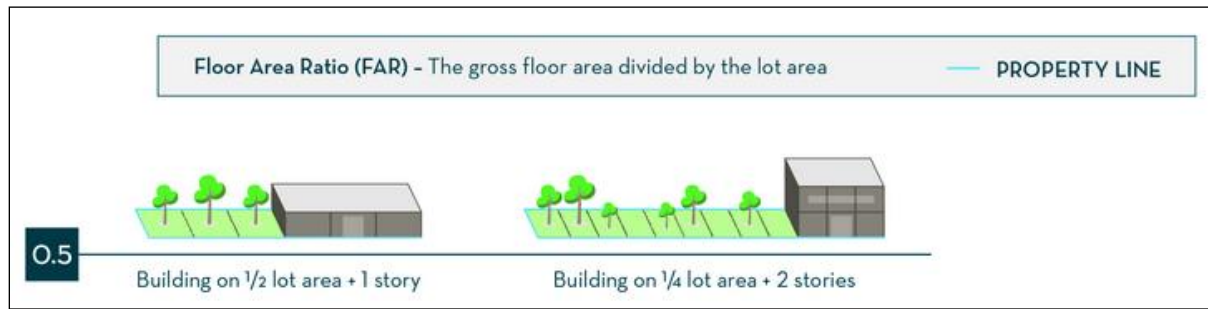


Figure 1- Floor Area Ratio Diagram

MICRO-BREWERY, MICRO-CIDERY, MICRO-DISTILLERY, MICRO-WINERY, MICRO-MEADERY: A facility, licensed under the relevant state and federal statutes, for the production and packaging of malt, wine, or hard cider beverages for distribution retail or wholesale, on or off the premises, with a capacity of not more than 5,000 barrels per year. (One barrel contains 31 U.S. gallons). A tasting room is permitted as an accessory use. *[Added 11-6-2017 STM by Art. 2]*

The Planning Board voted 5 - 0 to recommend this article.

ARTICLE 21: AMEND THE PROTECTIVE BYLAW §125-52, AYER ROAD VILLAGE SPECIAL PERMIT

To see if the Town will vote to amend the Protective Bylaw Chapter 125 Section 52, Ayer Road Village Special Permit, by making the following revisions thereto, or to take any vote or votes in relation thereto:

[Key to revisions; underlining = additions; ~~strikethrough~~ = deletions]

A. Purpose and objectives.

- (1) The purpose of this section is to provide an opportunity to present viable alternatives to conventional commercial sprawl-type development; specifically, to assist the Town in creating and maintaining a village identity for commercial properties on Ayer Road. A further purpose of this section is to discourage property owners from subdividing commercial lots into multiple parcels, which may result in multiple curb openings, uncoordinated access, circulation and signage, and less coherent design, and to encourage the merging of smaller parcels into well-planned sites. Additional objectives of this section include:
 - (a) Promotion of mixed-use development.
 - (b) Promotion of shared access in properties, with appropriate links to adjoining properties, lessening the need for curb openings on Ayer Road.
 - (c) Promotion of development that emphasizes pedestrian accessible walkways, benches, pathways, bicycle racks, and pedestrian-scale lighting and signage.
 - (d) Encouragement of building and site designs compatible with the local architecture, rather than generic designs.
 - (e) Avoidance of ~~excessive~~ inefficient building massing and unbroken building facade treatments.

- (f) Subordination of parking, loading docks, on-site utilities, heating, ventilation and air conditioning equipment (HVAC), utility lines, and solid waste dumpsters to building form.
 - (2) In order to promote the creation of a village commercial identity for commercial properties located on Ayer Road, and to accomplish the goals and objectives set forth for this area in the Town's Master Plan adopted by the Planning Board (as may be amended, and as described in this section), the Planning Board may more flexibly apply dimensional regulations and site standards as set forth below.
- B. **Applicability.** An applicant who is the owner (or with the permission of the owner) of land ~~(or with the permission of the owner) of land that is zoned Commercial C, with a minimum of 300 feet of frontage on Ayer Road, may apply for an Ayer Road Village Special Permit (ARV-SP). Selected mixed-use village development uses also require a special permit under this section and pursuant to § 125-13. The Planning Board is the special permit granting authority for special permits issued pursuant to this section and § 125-46.~~ may apply for an Ayer Road Village Special Permit (ARV-SP) based on the following criteria:
- (1) Land that is zoned Commercial C
 - (2) A minimum of 300 feet of frontage on Ayer Road;
 - (3) Mixed-use village development requires a Special Permit under this section and pursuant to § 125-13. The Planning Board is the special permit granting authority for special permits issued pursuant to this section and § 125-46.
- C. **Submittal requirements.** An application for an ARV-SP, together with an application for site plan approval, shall be filed with the Town Clerk and submitted to the Planning Board in accordance with § 125-38 and any additional site plan rules and regulations adopted by the Planning Board. A registered landscape architect, architect, and professional engineer must participate in the preparation of such site plan.
- D. **Review criteria and considerations.** In reviewing a proposed development pursuant to this section, the Planning Board may adopt design guidelines to assist it in the review of applications, and shall give due consideration to the following considerations and criteria:
- (1) In mixed-use projects, new development should be located, grouped, and sited in a manner to respect the context of any adjoining existing residential uses. All uses in the new development should be clustered appropriately.
 - (2) Where appropriate, historical significance shall be considered with special consideration for preservation of historic buildings on the site or on adjacent or neighboring properties.
 - (3) Development should be designed ~~for~~ to integrate pedestrian and bicycle ~~passage~~ access.
 - (4) Building and site design should mitigate potential adverse impacts of a proposed development upon neighboring properties and the streetscape. Such mitigation efforts may include but not be limited to the following:
 - (a) Parking lots shall not dominate the front yards of properties and shall be broken into small increments with internal landscaping. Not more than 25% of parking spaces proposed to serve the development shall be located in front of a building or buildings

where a preference is for parallel spaces along public or private streets.

- (b) Landscaped, required open space and green areas, in addition to their aesthetic value, shall be designed to reduce the rate and volume of stormwater runoff compared to pre-development conditions. Massachusetts Department of Environmental Protection (DEP) Stormwater Best Management Practices and other measures to minimize such runoff and improve water quality shall be implemented.
 - (c) Solid waste shall be handled so as to avoid negative off-site impacts (noise, odor, and visual) on neighbors and neighboring properties. The use of trash compactors, fencing and screening, or the containment of all solid waste storage and handling within the building(s) of the development is encouraged.
 - (d) Loading docks shall be located and designed to minimize negative off-site impacts (visual and operational) on neighbors and neighboring properties.
 - (e) Proposed structures shall be designed and sited to minimize scale-related impacts on neighboring lots and any adjacent open space.
 - (f) Changes in grade on the lot shall be designed to minimize the need for structural retaining walls close to neighboring properties and property lines.
- (5) Consistent with the principles of smart growth and new urbanism and include the Commercial Design Guidelines adopted by the Planning Board.

E. Sewage disposal.

- (1) Privately owned and maintained on-site sewage disposal or treatment systems may be approved to serve buildings and lots in an ARV-SP development, if maintained and operated by an owner, notwithstanding the provisions of § **125-32D** of this Bylaw, if such disposal or treatment facility or system is approved by the Town's Board of Health and in compliance with the requirements of Title 5, 310 CMR 15.00, or is approved in accordance with the requirements of 314 CMR 5.00 (the Ground Water Discharge Permit Program). Such an approved system may be located on land owned in common by the owners of the building(s) or lots within the development. The minimum setbacks of such system and any absorption area can be different from the minimum setback distance set forth in § **125-32C(2)(b)**, provided that such setback complies with Title 5, 310 CMR 15.00, the Town Board of Health's regulations, or is approved in accordance with the requirements of 314 CMR 5.00 (the Ground Water Discharge Permit Program).
- (2) Notwithstanding the provisions of §§ 125-32(C)(1), 125-32(C)(2)(a), 125-32(D), and 125-20(D), an ARV-SP project may also connect to public wastewater systems provided:
 - (a) All appropriate and applicable permits; whether federal, state, or local; must be obtained related to sewer system connection, road or other public way openings, septic system abandonment, or any other action required as part of connecting to a public sewer system.
 - (b) Such permitting shall be provided to the Planning Board at the appropriate time in the project review and development process and no required surety may be returned until all required permitting has been completed.

- (c) Public wastewater systems may include any wastewater treatment system owned or operated by any local, state, or federal entity or agency.
- (d) The connection shall be strictly limited to the project that is the subject of the Special Permit and no further extension of said system may occur without authorization by the Town of Harvard Select Board.

F. **Hearing and decision.** After notice and a public hearing in accordance with Massachusetts General Laws Chapter 40A, Sections 9, 11 and 15 and after following the procedure outlined in this Bylaw, the Planning Board may grant such a Special Permit with any appropriate conditions, safeguards, and limitations.

G. **Incentives for specific uses.**

- (1) In reviewing and acting on applications for an ARV-SP and for mixed-use village development special permits pursuant to § **125-13**, and in order to provide for flexible zoning requirements in such developments, notwithstanding any provisions of this Bylaw to the contrary, the Planning Board may permit development standards and building criteria that meets smart growth and new urbanist principles such as:
 - (a) Permit alternative building siting without regard to a lot width circle.
 - (b) Permit more than one structure or main building on a lot.
 - (c) Apply alternative building and structure setback requirements, except where lot boundaries abut property in the AR District, where a minimum of a sixty-foot setback shall apply.
 - (d) Apply alternative site standards relative to parking, loading, and driveways, including the establishment of minimum and maximum parking ratios.
 - (e) Apply alternative site standards relative to lighting and signs, including the imposition of more restrictive requirements than those set forth in this Bylaw.
- (2) Additionally, in reviewing and acting on applications for special permits issued pursuant to this section for a mixed-use village development, the Planning Board may authorize the following:
 - (a) Allow a floor area ratio (FAR) that exceeds that ~~Up to 10% more floor area than~~ allowed under § **125-30B** up to, but not greater than 0.3, except in the case of density bonuses which increase maximum FAR up to but not to exceed 0.4.
 - (b) Greater total building size than allowed under § **125-37**, Subsection A, provided that no building shall exceed 30,000 square feet of gross floor area.
- (3) The variations enumerated in Subsection G(1) and (2) above may be authorized by the Planning Board upon it finding that the purposes and objectives and the review criteria of this section have been met by the subject ARV-SP development proposal, and that such development, when completed, will result in one or more of the following:
 - (a) Preservation of an agricultural use, natural resources, including but not limited to woodlands, wetlands, streams and/or fields, or land with historic structures or other

unique features.

- (b) Connectivity between adjoining sites, or provisions for curb-cut reduction, shared access, and shared parking.
- (c) Inclusion of multifamily use ~~with a set of affordable housing units integrated within the development.~~ Multifamily units should be developed to be in close proximity to non-residential uses so that they may be within walking distance, and may also be included as the upper floors of a building with commercial uses on the ground floor.
- (d) Provision of a set-aside of housing units that shall be qualified for inclusion on the Commonwealth of Massachusetts' Subsidized Housing Inventory (SHI) May be eligible for density bonus of 0.1 shall be available if at least 20% of the units are designated for inclusion on the SHI.

H. **Waiver of site plan requirements.**

- (1) In cases where a use is proposed to be located on a site subject to an existing ARV-SP, or within an existing building that has been approved as part of an ARV-SP, and no changes are proposed to the site plan, the Planning Board may waive the requirement for a new, additional site plan submission in conjunction with such a special permit application, and require the applicant to add an appropriate notation to the previously approved plan.
- (2) Applicants may request relief or waiver from the requirements of the underlying zoning district and this Section, including the provisions of **Sections 125-38 and 125-39**, provided that such request is consistent with the provisions of **Section 125-52 (D)** above.

I. **Assisted living facility.** An assisted living facility may be permitted in an ARV-SP as a stand-alone use or as part of a mixed-used development. The lot on which an assisted living facility is located shall have a minimum land area of 1.5 acres and at least 3,500 square feet of land area for each assisted living unit, inclusive of the 1.5 acres minimum land area, within the Commercial District and shall comply with all dimensional requirements for lots set forth in § **125-29**. The maximum building size shall be 55,000 square feet of gross floor area. The following additional standards shall apply:

- (1) At least 50% of the development shall be open space, of which not more than half shall be wetland. The open space calculation may include land within required setbacks.
- (2) Unless otherwise modified by the Planning Board per § **125-52G(1)(c)**, no building shall be located closer than 100 feet to an AR District boundary, and no parking area or accessory structure shall be located closer than 60 feet to an AR District boundary.
- (3) Permitted accessory structures include maintenance buildings, and other customary accessory structures for use of the residents and staff.

The proponent shall be required to pay for an independent fiscal impact analysis, to be contracted by the Planning Board, which shall demonstrate likely revenues generated by the development and the estimated costs of providing municipal services. The Select Board may negotiate and enter into an agreement with the developer or owner of an assisted living facility which provides for, among other things, for payments to the Town to offset the Town's costs of providing

services to the development and/or for the provision of services to the development by service providers other than the Town at the developer's expense.
(Inserted by the Planning Board)

On a motion by Erin Mc Bee, 221 Littleton Road, Planning Board and seconded,
I move that the Town amend the Protective Bylaw, §125-52, Ayer Road Village Special Permit, by making the revisions thereto as printed on Pages 7 through 12 of the Warrant with Finance Committee Recommendations for the October 28, 2019 Special Town Meeting.

Erin Mc Bee, 221 Littleton Road, Planning Board, moved to amend the language in Section G. **Incentives for specific uses** (3) (d) to read as follows, “Provision of a set-aside of housing units that shall be qualified for inclusion on the Commonwealth of Massachusetts’ Subsidized Housing Inventory (SHI) may be eligible for density bonus of 0.1 if at least 20% of the units are designated for inclusion on the SHI.”

A friendly amendment was proposed by Kara Minar, 204 Still River Road, Select Board, to delete Section H. **Waiver of site plan requirements.** (2) , “Applicants may request relief or waiver from the requirements of the underlying zoning district and this Section, including the provisions of Sections 125-38 and 125-39, provided that such request is consistent with the provisions of Section 125-52 (D) above.”

The Planning Board accepted the friendly amendment.

John Daly, 86 Bolton Road, offered a friendly amendment to amend Section D. **Review criteria and considerations.** (4) (a) as follows, “Parking lots shall not dominate the front yards of properties and shall be broken into small increments with internal landscaping. Not more than 25% of parking spaces proposed to serve the development shall be located in front of a building or buildings, (whereas the preference of the Town is for parallel spaces along public or private streets).”

The Planning Board accepted the friendly amendment.

A motion to move the question by Chris Green, 102 Oak Hill Road, was seconded and voted greater than 2/3rds yes.

Voted greater than 2/3 no [DOES NOT PASS] that the Town amend the Protective Bylaw, §125-52, Ayer Road Village Special Permit, by making the revisions thereto as printed on Pages 7 through 12 of the Warrant with Finance Committee Recommendations for the October 28, 2019 Special Town Meeting.

The Planning Board voted 4 - 1 to recommend this article.

ARTICLE 22: AMEND THE PROTECTIVE BYLAW §125-12,13, and 14, SMALL-SCALE, MEDIUM-SCALE, AND LARGE-SCALE COMMERCIAL USES

To see if the Town will vote to amend the Protective Bylaw Chapter 125 Sections 12 (Small-scale commercial use), 13 (Medium-scale commercial use), and 14 (Large-scale commercial use), by making the following revisions thereto, or to take any vote or votes in relation thereto:

[Key to revisions; underlining = additions; ~~striketrough~~ = deletions]

§ 125-12 Small-scale commercial uses.

Uses are subject to § 125-39, Site standards.

- A. Legal, accounting, consulting, architectural, engineering, surveying, real estate, insurance, or similar professional office.
- B. Offices for agents for industrial, distributing, and wholesale companies.
- C. Travel agency or office.
- D. Secretarial services; telephone answering service.
- E. Photocopying service.
- F. Artisan and craft studio including photography Photo studio; artist's studio, craftsman's such as silversmith or woodworking, locksmith's or other artisan's studio.
- G. Florist, gift, stationery, or antiques shop.
- H. Repair and alteration of non-motorized or non-electronic small personal goods such as but not limited to shoes and leather wares, wearing apparel and accessories.
- I. Repair shop for musical instruments.

§ 125-13 Medium-scale commercial uses.

Uses are subject to § 125-39, Site standards.

- A. Medical or dental office.
- B. Automated teller machine.
- C. Personal or business service Barber or beauty shop including barber or beauty salon, shoe repair, tailoring, business or trade schools, photocopying, and locksmith.
- D. Repair of non-motorized household goods such as but not limited to home furnishings, including appliances, electronics, and upholstery.
- E. Sales, rental, and repair of non-motorized bicycles.
- F. An inn or bed-and-breakfast establishment.
- G. Dry cleaning and laundry pick-up station: An establishment where customers drop-off and pick up garments or articles that are sent to another location for cleaning or laundering. A dry cleaning and laundry pick-up station does not include on-site dry cleaning or laundry facilities. Collection agency for utilities; pickup for laundry or dry cleaning.
- H. Nursery school, kindergarten, or day-care center for preschool children.
- I. Sales and service for outboard motors, lawn mowers, snow-throwers, garden tractors, snowmobiles, and similar small engine equipment for off-street use only and not including rental for driveaway operation.

- J. Store, showroom, salesroom for the conduct of retail business, including a grocery, hardware, clothing, drug, or general store, not including auto sales, which uses shall not exceed 15,000 square feet of gross floor area of building space.
- K. Sales and distribution of medical supplies and equipment, but not storage of toxic or virulent substances.
- L. Catering service, delicatessen or other food market or a permitted eating establishment.
- M. Research and Development Services. Establishments primarily engaged in industrial or scientific research, including limited product testing. This classification includes electronic research firms or pharmaceutical research laboratories, but excludes manufacturing, except of prototypes, or medical testing and analysis and no storage of toxic or virulent substances. Laboratory for engineering, research, experimental, or testing activities.
- N. Accessory farm stand for sales of natural produce.
- O. Banking or equivalent financial institution, with or without automated teller facility.
- P. Restaurant or other food service establishment whose principal business is the sale of prepared foods or beverages that are either consumed on the premises or carried out by retail customers from the premises and Eating establishment not furnishing mechanical or live entertainment.
- Q. Broadcast station, newspaper, publishing, printing.
- R. Commercial entertainment and outdoor recreation, limited (outdoor and daylight hours only); golf, swimming, tennis, equestrian or polo, playground, tennis, fishing, boating, skating, swimming, fitness, or similar sports, but not motorized sports or a golf driving range.
- S. Shops and sales of supplies for plumbing, electrical, carpentry, cabinetmaking, plastering, masonry, glass, and similar work.
- T. Landscaping services involving equipment parking.
- U. Kennel and/or veterinary services.
- V. Mortuary.
- W. Nursing home; extended or intermediate-care facility licensed or approved to provide full-time convalescent or chronic care.
- X. Mobile storage, transfer, and distribution of fuel and petroleum products, not to exceed 5,000 gallons.
- Y. Warehousing and storage of common household goods, personal property, office equipment supplies and records, inventory and equipment owned by a municipality or any type of business allowed under § **125-12**, Small-scale commercial uses, and this § **125-13**, Medium-scale commercial uses. Stored/warehoused motorized vehicles and equipment shall contain no more than 3/4 of a tank of petroleum-based fuel per vehicle or piece of equipment, and while stored/warehoused shall remain disconnected from all electrical sources, including

batteries. All propane tanks/cylinders not physically mounted on, or in, a stored/warehoused vehicle/piece of equipment shall be stored in one securely caged location per building. However, the following uses are specifically prohibited: warehousing or storage of toxic or virulent materials, hazardous or medical wastes, and self-storage facilities.

Z. Mixed-use village development (MUVI).

- (1) Multifamily residential use, where such use is integrated with a commercial use constituting 30% or more of the proposed development or total gross floor area.
- (2) Grocery store greater than 15,000 square feet of gross floor area, subject to the issuance of an Ayer Road Village Special Permit, § 125-52.
- (3) Eating establishments with live musical entertainment.
- (4) Small screen arts theatre with not more than one screen.

AA. Assisted living facilities.

AB. Micro-brewery, micro-cidery, micro-distillery, micro-winery, micro-meaderies:

- (1) Retail sales of beverages produced on the premises are permitted along with retail sales of products associated with the brand, such as glassware, clothing and other marketing or promotional articles. Retail sales area may occupy no more than 25% of the floor area devoted to beverage processing and storage.
- (2) Tasting rooms may only serve alcoholic beverages produced by the facility.
- (3) A taproom, where beverages produced on the premises are sold and consumed on the premises, requires a special permit from the Planning Board.
- (4) Special events and activities, such as factory tours, weddings, and marketing events, are permitted, subject to obtaining special event permits that other departments may require.
- (5) This section is not intended to restrict the ability to conduct any use incidental to agriculture allowed by M.G.L. c. 40A, § 3, and the definition of agriculture in M.G.L. c. 128, § 1A.

AC. Adult or family day health or day care.

§ 125-14 Large-scale commercial uses.

Uses are subject to § 125-39, Site standards.

A. Commercial greenhouse and nursery.

B. Light manufacturing in which no more than 12 persons are engaged at any one time in forming, assembly, processing, and similar actual manufacturing operations, and in which all raw materials and finished products are stored inside the structure.

C. Machine, welding, brazing, or similar shop.

- D. Commercial entertainment and recreation: indoor with sound isolation from other premises; bowling alley, skating rink, theater, swimming pool, racquet sports, fitness center.
- E. Farm machinery sales and service.
- F. Auto repair garage or body shop; sales of auto accessories with installation on the premises. For purposes of this subsection "auto" includes cars, trucks up to 7,500 pounds gross vehicle weight, buses, motorcycles, and other vehicles for on-street use.
- G. **Marijuana establishment.** In the C district, a marijuana establishment may be allowed by special permit (see § **125-46**, Special permits) authorized by the Planning Board if in compliance with site plan standards and design review in § **125-38** provided that:
 - (1) A marijuana establishment shall not be sited within a radius of 500 feet of a public or private school, day-care center, or any facility in which children commonly congregate. The five-hundred-foot distance shall be measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed marijuana establishment;
 - (2) The Planning Board shall not approve a special permit for more than one marijuana establishment;
 - (3) The total square footage of a marijuana establishment shall not exceed 6,000 square feet, of which not more than 1,500 square feet shall be retail floor sales space; all activity shall be contained within a permanent building;
 - (4) The site plan shall show all exterior proposed security measures for the premises, including, but not limited to, lighting, fencing, gates and alarms, ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity;
 - (5) Hours of operation shall be between 10:00 a.m. and 8:00 p.m. seven days per week;
 - (6) Prior to obtaining a certificate of occupancy or operation, an applicant shall possess a license from the Cannabis Control Commission to operate a marijuana establishment and comply with the Commission's regulations at all times; and have negotiated and entered into a host community agreement with the Select Board;
 - (7) No building or parking area of a marijuana establishment shall be located within 200 feet of an Agricultural Residential District;
 - (8) Signs advertising brands of marijuana products shall not be visible from a public way and shall comply with § **125-41**, Signs;
 - (9) The applicant shall negotiate a host community agreement and impact fee with the Select Board prior to opening; and as part of the site plan review, applicant must get approval of the security plan from the Chief of Police;
 - (10) A special permit is granted exclusively to the applicant and may not be transferred.
- H. Adult entertainment uses:
 - (1) Purpose. This bylaw is enacted pursuant to the Town's authority under the Home Rule

Amendment to the Massachusetts Constitution to serve the compelling Town interest of preventing the clustering and concentration of adult entertainment enterprises as defined herein because of their deleterious effect on adjacent areas and in response to studies demonstrating their effect in generating crime and blight.

- (2) Special permit criteria. In the C District, the Planning Board shall grant a special permit for an adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre, or establishment which displays live nudity for its patrons unless the Board finds that:
 - (a) The adult use would adversely affect the public health, safety or welfare.
 - (b) The adult use would have severe traffic safety or congestion impacts that cannot be remedied without severe disruption to the neighborhood.
 - (c) Sound produced by music, loudspeakers, or patrons would be discernible by the public beyond the walls of the premises.
 - (d) Sign content identifies only the name of the establishment and contains no advertisement for activities within.
- (3) Standards. The adult use shall conform to the site plan standards in § **125-38** and the following requirements:
 - (a) No such use may be located within 500 feet of a property in residential use, 200 feet of the Commercial District boundary, 400 feet of Ayer Road, or 500 feet of a school, church, child care facility, park, playground or another adult entertainment use.
 - (b) No special permit shall be issued to any person convicted of violating the provisions of M.G.L. Ch. **119**, § 63, or M.G.L. Ch. 272, § 28.
 - (c) No store which rents and/or sells videos shall have any adult videos openly displayed in the same public viewing area as non-adult videos. Said adult videos shall be displayed in a separate room from the non-adult videos, which is to be constructed to prevent the view of adult video stock by the general public unless they enter the room itself. Said enclosure shall have only one entrance and be located to ensure proper monitoring.
 - (d) No pictures, publications, videotapes, movies, covers, or other implements, items, or advertising that fall within the definition of adult entertainment enterprise merchandise or are erotic, prurient, or related to violence, sadism, or sexual exploitation shall be displayed in the windows of, or on the building of, any adult entertainment enterprise, or be visible to the public from pedestrian sidewalks or walkways or from other areas, public or semi-public, outside such establishments.
- I. Media Production. Establishments engaged in the production of movies, video, music and similar forms of intellectual property. Typical facilities include movie and recording studios and production facilities, distribution facilities, editing facilities, catering facilities, printing facilities, post-production facilities, set construction facilities, sound studios, special effects facilities and other entertainment-related production operations. This classification does not include facilities for live audiences or transmission and receiving equipment for radio or television broadcasting (See Communication Facilities

[R.] above).

- a. Support Facilities. Administrative and technical production support facilities such as offices, editing and sound recording studios, film laboratories, and similar functions that occur entirely within a building.
- b. Full-Service Facilities. Indoor and outdoor production facilities, distribution facilities, post-production facilities, set construction facilities, sound stages, special effects facilities, and other media-related production operations.

(Inserted by Planning Board)

On a motion by Erin Mc Bee, 221 Littleton Road, Planning Board and seconded,

I move that the Town amend the Protective Bylaw, Chapter 125, Sections 12 (Small-scale commercial use), 13 (Medium-scale commercial use), and 14 (Large-scale commercial use), by making the revisions thereto as printed on Pages 12 through 17 of the Warrant with Finance Committee Recommendations for the October 28, 2019 Special Town Meeting.

A friendly amendment was offered by Kara Minar, 204 Still River Road, Select Board to amend the wording of **§ 125-13 Medium-scale commercial uses., P.** by deleting the words “or live” after “...mechanical...”

The Planning Board accepted the friendly amendment.

Bruce Nickerson, 212 Stow Road, proposed a friendly amendment to **§ 125-13 Medium-scale commercial uses., P.** to delete the wording, “and ~~Eating establishment~~ not furnishing mechanical entertainment.” after the words, “...carried out by retail customers from the premises...”

The Planning Board accepted the friendly amendment.

A motion to move the question by Paul Green, 288 Old Littleton Road, was seconded and voted greater than 2/3rds yes.

Voted greater than 2/3 yes to amend the Protective Bylaw Chapter 125 Sections 12 (Small-scale commercial use), 13 (Medium-scale commercial use), and 14 (Large-scale commercial use), by making the following revisions thereto.

Amended version as follows:

§ 125-12 Small-scale commercial uses.

Uses are subject to **§ 125-39**, Site standards.

- A. Legal, accounting, consulting, architectural, engineering, surveying, real estate, insurance, or similar professional office.
- B. Offices for agents for industrial, distributing, and wholesale companies.
- C. Travel agency or office.
- D. Secretarial services; telephone answering service.

- E. Photocopying service.
- F. Artisan and craft studio including photography studio; artist studio, craftsperson such as silversmith or woodworking, or other artisan's studio.
- G. Florist, gift, stationery, or antiques shop.
- H. Repair and alteration of non-motorized or non-electronic small personal goods such as but not limited to shoes and leather wares, wearing apparel and accessories.
- I. Repair shop for musical instruments.

§ 125-13 Medium-scale commercial uses.

Uses are subject to § **125-39**, Site standards.

- A. Medical or dental office.
- B. Automated teller machine.
- C. Personal or business service including barber or beauty salon, shoe repair, tailoring, business or trade schools, photocopying, and locksmith.
- D. Repair of non-motorized household goods such as but not limited to home furnishings, appliances, electronics, and upholstery.
- E. Sales, rental, and repair of non-motorized bicycles.
- F. An inn or bed-and-breakfast establishment.
- G. Dry cleaning and laundry pick-up station: An establishment where customers drop-off and pick up garments or articles that are sent to another location for cleaning or laundering. A dry cleaning and laundry pick-up station does not include on-site dry cleaning or laundry facilities.
- H. Nursery school, kindergarten, or day-care center for preschool children.
- I. Sales and service for outboard motors, lawn mowers, snow-throwers, garden tractors, snowmobiles, and similar small engine equipment for off-street use only and not including rental for driveaway operation.
- J. Store, showroom, salesroom for the conduct of retail business, including a grocery, hardware, clothing, drug, or general store, not including auto sales, which uses shall not exceed 15,000 square feet of gross floor area of building space.
- K. Sales and distribution of medical supplies and equipment, but not storage of toxic or virulent substances.
- L. Catering service, delicatessen or other food market or a permitted eating establishment.
- M. Research and Development Services. Establishments primarily engaged in industrial or scientific research, including limited product testing. This classification includes electronic

research firms or pharmaceutical research laboratories, but excludes manufacturing, except of prototypes, or medical testing and analysis and no storage of toxic or virulent substances.

- N. Accessory farm stand for sales of natural produce.
- O. Banking or equivalent financial institution, with or without automated teller facility.
- P. Restaurant or other food service establishment whose principal business is the sale of prepared foods or beverages that are either consumed on the premises or carried out by retail customers from the premises.
- Q. Broadcast station, newspaper, publishing, printing.
- R. Commercial entertainment and outdoor recreation, limited (outdoor and daylight hours only); golf, swimming, tennis, equestrian or polo, playground, tennis, fishing, boating, skating, swimming, fitness, or similar sports, but not motorized sports or a golf driving range.
- S. Shops and sales of supplies for plumbing, electrical, carpentry, cabinetmaking, plastering, masonry, glass, and similar work.
- T. Landscaping services involving equipment parking.
- U. Kennel and/or veterinary services.
- V. Mortuary.
- W. Nursing home; extended or intermediate-care facility licensed or approved to provide full-time convalescent or chronic care.
- X. Mobile storage, transfer, and distribution of fuel and petroleum products, not to exceed 5,000 gallons.
- Y. Warehousing and storage of common household goods, personal property, office equipment supplies and records, inventory and equipment owned by a municipality or any type of business allowed under § **125-12**, Small-scale commercial uses, and this § **125-13**, Medium-scale commercial uses. Stored/warehoused motorized vehicles and equipment shall contain no more than 3/4 of a tank of petroleum-based fuel per vehicle or piece of equipment, and while stored/warehoused shall remain disconnected from all electrical sources, including batteries. All propane tanks/cylinders not physically mounted on, or in, a stored/warehoused vehicle/piece of equipment shall be stored in one securely caged location per building. However, the following uses are specifically prohibited: warehousing or storage of toxic or virulent materials, hazardous or medical wastes, and self-storage facilities.
- Z. Mixed-use village development (MUVd).
 - (1) Multifamily residential use, where such use is integrated with a commercial use constituting 30% or more of the proposed development or total gross floor area.
 - (2) Grocery store greater than 15,000 square feet of gross floor area, subject to the issuance of an Ayer Road Village Special Permit, § **125-52**.

(3) Eating establishments with live musical entertainment.

(4) Small screen arts theatre with not more than one screen.

AA. Assisted living facilities.

AB. Micro-brewery, micro-cidery, micro-distillery, micro-winery, micro-meadery:

(1) Retail sales of beverages produced on the premises are permitted along with retail sales of products associated with the brand, such as glassware, clothing and other marketing or promotional articles. Retail sales area may occupy no more than 25% of the floor area devoted to beverage processing and storage.

(2) Tasting rooms may only serve alcoholic beverages produced by the facility.

(3) A taproom, where beverages produced on the premises are sold and consumed on the premises, requires a special permit from the Planning Board.

(4) Special events and activities, such as factory tours, weddings, and marketing events, are permitted, subject to obtaining special event permits that other departments may require.

(5) This section is not intended to restrict the ability to conduct any use incidental to agriculture allowed by M.G.L. c. 40A, § 3, and the definition of agriculture in M.G.L. c. 128, § 1A.

AC. Adult or family day health or day care.

§ 125-14 Large-scale commercial uses.

Uses are subject to § **125-39**, Site standards.

A. Commercial greenhouse and nursery.

B. Light manufacturing in which no more than 12 persons are engaged at any one time in forming, assembly, processing, and similar actual manufacturing operations, and in which all raw materials and finished products are stored inside the structure.

C. Machine, welding, brazing, or similar shop.

D. Commercial entertainment and recreation: indoor with sound isolation from other premises; bowling alley, skating rink, theater, swimming pool, racquet sports, fitness center.

E. Farm machinery sales and service.

F. Auto repair garage or body shop; sales of auto accessories with installation on the premises. For purposes of this subsection "auto" includes cars, trucks up to 7,500 pounds gross vehicle weight, buses, motorcycles, and other vehicles for on-street use.

G. **Marijuana establishment.** In the C district, a marijuana establishment may be allowed by special permit (see § **125-46**, Special permits) authorized by the Planning Board if in compliance with site plan standards and design review in § **125-38** provided that:

- (1) A marijuana establishment shall not be sited within a radius of 500 feet of a public or private school, day-care center, or any facility in which children commonly congregate. The five-hundred-foot distance shall be measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed marijuana establishment;
- (2) The Planning Board shall not approve a special permit for more than one marijuana establishment;
- (3) The total square footage of a marijuana establishment shall not exceed 6,000 square feet, of which not more than 1,500 square feet shall be retail floor sales space; all activity shall be contained within a permanent building;
- (4) The site plan shall show all exterior proposed security measures for the premises, including, but not limited to, lighting, fencing, gates and alarms, ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity;
- (5) Hours of operation shall be between 10:00 a.m. and 8:00 p.m. seven days per week;
- (6) Prior to obtaining a certificate of occupancy or operation, an applicant shall possess a license from the Cannabis Control Commission to operate a marijuana establishment and comply with the Commission's regulations at all times; and have negotiated and entered into a host community agreement with the Select Board;
- (7) No building or parking area of a marijuana establishment shall be located within 200 feet of an Agricultural Residential District;
- (8) Signs advertising brands of marijuana products shall not be visible from a public way and shall comply with § **125-41**, Signs;
- (9) The applicant shall negotiate a host community agreement and impact fee with the Select Board prior to opening; and as part of the site plan review, applicant must get approval of the security plan from the Chief of Police;
- (10) A special permit is granted exclusively to the applicant and may not be transferred.

H. Adult entertainment uses:

- (1) Purpose. This bylaw is enacted pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling Town interest of preventing the clustering and concentration of adult entertainment enterprises as defined herein because of their deleterious effect on adjacent areas and in response to studies demonstrating their effect in generating crime and blight.
- (2) Special permit criteria. In the C District, the Planning Board shall grant a special permit for an adult bookstore, adult video store, adult paraphernalia store, adult motion picture theatre, or establishment which displays live nudity for its patrons unless the Board finds that:
 - (a) The adult use would adversely affect the public health, safety or welfare.
 - (b) The adult use would have severe traffic safety or congestion impacts that cannot be remedied without severe disruption to the neighborhood.

- (c) Sound produced by music, loudspeakers, or patrons would be discernible by the public beyond the walls of the premises.
 - (d) Sign content identifies only the name of the establishment and contains no advertisement for activities within.
- (3) Standards. The adult use shall conform to the site plan standards in § **125-38** and the following requirements:
- (a) No such use may be located within 500 feet of a property in residential use, 200 feet of the Commercial District boundary, 400 feet of Ayer Road, or 500 feet of a school, church, child care facility, park, playground or another adult entertainment use.
 - (b) No special permit shall be issued to any person convicted of violating the provisions of M.G.L. Ch. **119**, § 63, or M.G.L. Ch. 272, § 28.
 - (c) No store which rents and/or sells videos shall have any adult videos openly displayed in the same public viewing area as non-adult videos. Said adult videos shall be displayed in a separate room from the non-adult videos, which is to be constructed to prevent the view of adult video stock by the general public unless they enter the room itself. Said enclosure shall have only one entrance and be located to ensure proper monitoring.
 - (d) No pictures, publications, videotapes, movies, covers, or other implements, items, or advertising that fall within the definition of adult entertainment enterprise merchandise or are erotic, prurient, or related to violence, sadism, or sexual exploitation shall be displayed in the windows of, or on the building of, any adult entertainment enterprise, or be visible to the public from pedestrian sidewalks or walkways or from other areas, public or semi-public, outside such establishments.
- I. Media Production. Establishments engaged in the production of movies, video, music and similar forms of intellectual property. Typical facilities include movie and recording studios and production facilities, distribution facilities, editing facilities, catering facilities, printing facilities, post-production facilities, set construction facilities, sound studios, special effects facilities and other entertainment-related production operations. This classification does not include facilities for live audiences or transmission and receiving equipment for radio or television broadcasting (See Communication Facilities [R.] above).
- a. Support Facilities. Administrative and technical production support facilities such as offices, editing and sound recording studios, film laboratories, and similar functions that occur entirely within a building.
 - b. Full-Service Facilities. Indoor and outdoor production facilities, distribution facilities, post-production facilities, set construction facilities, sound stages, special effects facilities, and other media-related production operations.

The Planning Board voted 5 - 0 to recommend this article.

The meeting was dissolved at 10:06 P.M.

Checkers for the meeting were Nancy Cronin, Steven Cronin, Peggy Chernoff, and Anton Chernoff. They checked in 390 voters out of a total of 4,361 registered voters (4,092 active voters).

Respectfully submitted,

Marlene Kenney
Town Clerk