

Piccadilly Mill Open Space Trust

Frequently Asked Questions

Version 4.00 - 25 February 2018

1. What are the legal documents that constitute the Piccadilly Mill Open Space Trust (PMOST)?

There are four documents that constitute the Trust; they are:

- Declaration of Piccadilly Mill Open Space Trust, 30 July 1993
- Conservation Restrictions
- Historic Preservation Restriction and Easement
- Landscape Plan

2. Where can I get these documents?

These documents are a matter of public record and can be obtained from:

- The Town of Westborough (Historical, Conservation & Planning Commissions)
- The Registrar of Deeds for the County of Worcester
- The State of Massachusetts
- PMOST website: www.piccadillymill.com

3. I never knew anything about the Piccadilly Mill Open Space Trust when I bought my home in Piccadilly Mill subdivision. What gives?

The short answer is that 1) you may not have had a good lawyer/title company or 2) you may not remember the discussion amidst the haze of a typical house closing. All homes that are part of the Piccadilly Mill subdivision are deeded as part of the Trust; if you own a home then you are a part owner of this Trust.

4. Can the Piccadilly Mill Open Space Trust build a swimming pool, ball field or recreation area for use by its members on some of the open space?

As originally constituted, the Trust specifies that a swimming pool may NOT be built. The developer originally proposed building a public-use ball field on some of the open space, but this met with strong objections from some of the abutters on Morse Street.

Of course, it is possible to revisit this point. The documents which constitute the Trust could be amended. However, please note that when the Trust was constituted the creators went to considerable trouble to make amending it very difficult. Changing it will require a considerable investment in time and effort and concerted political will from a very organized group of citizens.

5. What can the 32.7 acres of land deeded to the PMOST be used for?

The land can only be used for walking, benches and swings, or other "passive" recreation. The Conservation Restrictions, one of the four documents which constitute the Trust, explain "passive" in much more detail. When you read all the detail and summarize it, the inescapable conclusion is that the land can only be used for very, very limited types of passive recreation.

6. Why did the Piccadilly Mill Land Trust come into being?

The Trust has a very complex history and was borne as a result of considerable political compromise between numerous parties including the original owner of the land, abutters, the Town, the State and the developer. The bottom line is this: In return for reducing the ultimate number of homes to 83 and permanently deeding pieces of land as open space, the parties were able to come to agreement and the subdivision was built.

There was considerable acrimony about developing the land as it was considered special, because of its beauty and history, by many people in town. As part of this compromise, land was placed into this Trust, forever deeded as "open space". Because of the tenor of the

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debate, the legal agreements were structured as tightly as possible to prevent future tinkering or changes in status.

The Piccadilly Mill Open Space Trust was reviewed and certified by the State of Massachusetts (Executive Office of Environmental Affairs), which is especially proud of it and views it as a model. All of this can be boiled down to the fact that the Trust is a political animal with numerous stakeholders beyond the homeowners. It can be assumed that any substantive changes would be a political process and likely require approval from numerous town and state agencies.

7. What are the responsibilities of the original developer, Carruth Capital?
Carruth Capital was the original Trustee and administered the Trust through 2001. They were required to turn over the Trust within one year of selling the last lot of the subdivision or ten years from its inception (1993). The Trust was turned over to homeowners in 2001 as new Trustees were elected. Carruth Capital has no further legal responsibility for any aspect of the Trust.
8. Is the Trust responsible to maintain roads, sewers, etc. within the subdivision?
While the Trust has many responsibilities, there are many very important responsibilities it does *not* have. Within the Piccadilly Mill subdivision, all roads and sidewalks are the responsibility of the Town (of Westborough). The water and sewer mains are generally the responsibility of the town although 1) there are rights of way on specific lots in the subdivision for underground utilities (as documented in individual deeds) and 2) there are rights of way on some of the open space for underground utilities (sewage mains). In addition, there is a sewage pumping station located on the open space whose mechanical upkeep and maintenance are also the responsibility of the town. To summarize, the good news is that the Trust is generally not responsible for any machinery, buildings, utilities or road maintenance.
9. Is the Trust responsible for any mechanical systems (which are subject to wear and tear and require maintenance or periodic replacement)?
The short answer is, yes. When the subdivision was built, conservation guidelines dictated that water runoff from the entire subdivision couldn't be any faster after construction than before. To address this, the developer engineered three large catch ponds, which hold runoff. These catch ponds allow the land to absorb much of the water and meter the outflow. These catch ponds are on Trust land and the Trust is responsible to maintain them. All of these structures are passive; i.e., pipes, gravel, etc. They were originally engineered with a 20 to 30 year expected lifecycle however they can eventually silt up with runoff. PMOST is liable to maintain these – and fix them when they fail.
10. People are using the open space to drive powered off-road vehicles like ATVs, motorcycles, snowmobiles, etc. What should I do?
Homeowners are encouraged to report violations to the Trustees and to the police. The Trustees act as spokesmen for the organization and will interact with the various town agencies including the police to handle such issues.
11. People are dumping yard waste and debris on Trust open space. What should I do?
PMOST is a privately held organization and as such the land that it owns is private property. As a part owner of the property you are encouraged to contact local police and also report this to the Trustees. The Trustees act as spokesmen for the organization and will interact with the various town agencies including the police to handle such issues.

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Please keep in mind that most of the PMOST land drains into an aquifer which provides town drinking water, and into Cedar Swamp which is an environmentally sensitive and protected area. Please discourage everyone from dumping yard waste in the open space as it often contains high concentrations of fertilizer, pesticides and herbicides. All yard wastes can be readily disposed of at the town transfer station, which is one block away from the subdivision.

12. Is the Piccadilly Mill subdivision in an environmentally sensitive area?

Yes, it is, for several reasons. First, there is a town well used for drinking water less than 400 feet from the perimeter of the subdivision. Second, runoff from the open space land drains into Cedar Swamp, which has been identified as an area of critical environmental concern by the state of Massachusetts. Finally, the subdivision is located on an aquifer, which provides drinking water to the entire area.

13. How did the Piccadilly Mill subdivision get its name?

The Piccadilly Mill subdivision is named for the former Piccadilly Mill, circa 1840, which was located on Piccadilly Pond. This land is part of the Trust's open-space. The mill was named for the small community that surrounds it which was called Piccadilly after Piccadilly Circus in London. During the 1700's, this area was known for its lively social scene and this is how it earned its name. This general area has a long tradition of manufacturing powered by the various mills on Piccadilly Pond.

14. What happened to the Piccadilly Mill?

The Piccadilly Mill was over 150 years old and in decrepit condition when it collapsed after a heavy rainstorm in 2000. It is important to note that the building was in terrible shape and would have cost >\$500,000 to rehabilitate. No organization in town had any interest in spending money to fix or preserve it. Hence, it fell into disrepair and ultimately, ruin. There are still numerous foundations from the various mills built on Piccadilly Pond. These foundations are protected by preservation restrictions. If the homeowners choose to, there are several options available to clean-up, preserve and otherwise enjoy these artifacts.

15. I am a homeowner at Piccadilly Mill and my lot abuts some of the Trust's open space. I don't like people walking along these trails. How can I keep them off?

As a homeowner, it is your right to ask people not to trespass on your private property. Adjacent to some lots, there is a six-foot wide finger of Trust land that connects it to larger piece of Trust open-space. Most adjacent homeowners graciously maintain these fingers of land although they have no obligation to do so. Every resident of Piccadilly Mill is entitled to free use of the Trust's open space, including these access ways, anytime. At the same time, they are bound to respect the rights of abutting homeowners.

16. I am a Piccadilly Mill homeowner on Belknap Street. What about me?

Most of the homes on Belknap Street abut one of the pieces of open space. Your rights are no different from those of any other Piccadilly Mill Open Space Trust owners.

17. What are the annual operating expenses of the Trust?

Annual costs have averaged ~ \$150 and provide for insurance, taxes and upkeep.

18. I have seen a farmer haying the open-space behind lots 1, 2 & 3. What's up?

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The Trust has had an agreement with a local farmer to hay the field. That is, the farmer mows the field, picks up the hay and gets to keep it. If the Trust chooses not to hay the field, it will be overgrown and require additional maintenance.

19. As a part owner of the PMOST, what are the risks to me?

There are three major types of risk the owners of PMOST are subject to:

- i. Any party claiming injury due some negligence or malfeasance can sue owners of the Trust – for instance, if a child is hurt playing on the land. For the reason, the Trust maintains insurance.
- ii. The Trust is required to administer a lot of rules on behalf of the various organizations that created it. To the extent that it doesn't do this well, there is a risk that the town could step in, perform the work and then assess the cost of performing these tasks back to the owners. To manage this risk, you should participate in the Trust's activities by attending the annual meeting.
- iii. There is financial risk beyond the typical operating costs of ~\$12,000 annually. If the catch basins (of which there are three located on land deeded to PMOST) need maintenance or cleaning, this will be a major expense. Of course, the 83 owners will share the costs, but when these systems need work, it is likely to be expensive. The best way to mitigate this risk is for PMOST to maintain the land in good condition and not allow the build-up of debris, which can clog pipes and runoff systems.