

# Piccadilly Mill Open Space Trust

Overview

Version 4.00 - 25 February 2018

## INTRODUCTION

When you purchase a home in the Piccadilly Mill subdivision you also become a part owner (1/83 or 1.2%) of the Piccadilly Mill Open Space Trust (PMOST). PMOST is responsible to administer some 32.7 acres of land in five parcels within and adjacent to the Piccadilly Mill subdivision that have been permanently deeded as conservation land. The Town of Westborough, through the Conservation Commission and the Historical Commission, and the Commonwealth of Massachusetts are responsible to oversee and ensure the appropriate management of this conversation land.

All 83 homeowners within the Piccadilly Mill subdivision own a pro-rata share of PMOST and through it, the 32.7 acres of open space land. This ownership is permanently recorded on the homeowners' deeds; i.e., ownership and liability are mandatory and a condition of the deed. This means homeowners have the right to enjoy the benefits and use of the land in this Trust subject to all the restrictions which have been placed upon it. These restrictions require that the land be used only for passive recreation - walking paths, park benches, swing-sets, etc.

The PMOST is legally required to maintain the land (according to specific conservation, environmental and historic requirements) for which all Piccadilly Mill owners are fiscally responsible. Typically, the expenses including taxes, insurance, general upkeep and administration cost each homeowner ~\$150 annually.

In many ways the Trust operates like a condominium homeowners association and it has been legally constructed to allow it to:

- 1) Manage the land for the enjoyment of its owners, subject to the restrictions,
- 2) Select one or more Trustees to administer the Trust on the homeowners behalf,
- 3) Raise funds from homeowners to meet its fiscal obligations,
- 4) Provide fiscal and operational transparency to homeowners so they can see how funds are disbursed and the organization run,
- 5) Act upon the wishes of its owners within the guidelines detailed in the legal constructs. However, if the Trust does something inconsistent with its legal constructs (like build an aviation runway), it can be legally compelled to take actions to remediate the situation and homeowners would be fiscally responsible.

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## HISTORY

The Piccadilly Mill Open Space Trust has a 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 an 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 the compromise which allowed construction of the subdivision, a portion of the land was placed into this Trust forever deeded as "open space". The legal agreements were structured as tightly as possible to prevent future tinkering or changes in status.

The Piccadilly Mill Open Space Trust (PMOST) was reviewed and has been 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.

The Town of Westborough, acting through both the Conservation and Historical Commissions, has the primary responsibility to ensure the open space land is maintained in a manner consistent with its charter. The Conservation Commission (i.e., the Town of Westborough) is legally accountable to the State for the execution of its duties.

## GOOD NEWS

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 the 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 parcel #5 whose mechanical maintenance and upkeep is also the responsibility of the Town of Westborough. To summarize, the good news is that the Trust is generally not responsible for any machinery, buildings, utilities or road maintenance.

## RESPONSIBILITIES

To build the Piccadilly Mill subdivision, the developer had to meet newer and more stringent conservation guidelines which had been recently enacted. There is one that is especially important and relevant to the Trust.

The expanded conservation guidelines required that water runoff from the entire subdivision could not be faster post-construction than pre-construction. If you think about the subdivision now versus in its previous state as an apple orchard, it has a lot more flat surfaces – roads, roofs, and sidewalks. Of course, these flat surfaces inhibit the ability of

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the land to absorb rainfall and increases water runoff rates. To counter this increased runoff, the developer was required to engineer three large ponds, which catch and hold runoff. These catch ponds allow the land to absorb much of the water that would have runoff and meter the outflow on to surrounding property including Cedar Swamp. Collectively, these ponds allow the underground aquifers, a source for much of our local drinking water, to be recharged with rainwater. One of the town's drinking water wells is within 400 feet of open space parcel #1. As a result, there is yet another separate body of restrictions that pertain to this land.

There are three catch ponds on PMOST open space land and their maintenance and upkeep are its responsibility. The catch ponds are passively engineered - they have pipes, sluices and gravel but no machinery. They were originally engineered with a 20 to 30 year expected lifecycle, but eventually they can silt up with runoff, clog-up and breakdown. PMOST is liable to maintain these catch ponds. Currently, there are no known problems with these systems. However, when maintenance and repair of these runoff ponds and the related passive engineering systems comes due, the PMOST will have to do it and assess the homeowners.

The second major responsibility of the Trust is to "maintain" the open space. The minimum maintenance requirements are specified in the Landscape Plan - maintaining a set of walking trails on the land; trash and brush removal; and other minimal maintenance required for safety. Part of the maintenance of the open space is to ensure that it is used consistent with its formation covenants. As mentioned earlier, the land can only be used for passive recreation purposes. This means that PMOST is legally responsible to ensure that the land is not used for non-passive recreation purposes (such as riding off-road vehicles, motorcycles, snowmobiles, etc.)

The third major responsibility: As the owners of PMOST are fiscally responsible for any and all legal actions brought against it, securing and maintaining adequate insurance is an important element of its operating charter.

Finally, the fourth major responsibility of PMOST is its own administration. This includes formulating an annual operating plan, assessing costs to homeowners, collecting these levies, conducting "the business of the Trust", and then providing an adequate level of reporting to homeowners and stakeholders. The documents that create PMOST anticipate that the Trustee(s) provide their time pro bono. The original Trust document contemplates an annual public meeting, which includes 25% of homeowners.

In addition to the five parcels of open space, there are three pieces of land that homeowners within the Piccadilly Mill subdivision have raised questions about:

- 1) The ornamental wall erected by the developer which incorporates the original millstone from Piccadilly Mill at the entrance to the subdivision, and
- 2) The small boulevards within the circles on Saw Mill Drive and Grindstone Court.

The upkeep and maintenance of these three areas currently falls outside the jurisdiction of PMOST, as the land is not part of deeded open space.

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## CONCLUSION

From its owners, the Trust requires at a minimum two things: payment of annual assessments and adherence to the rules. Don't litter, dump debris, ride motorized vehicles, clear, or intrude onto the open space. The Trust has the ability to sue homeowners for not paying their assessments and can place liens upon property which could prevent title transfer. The Trust has been legally constituted in a way to insure it can reasonably execute its charter.

For those homeowners who choose to take a more active role, PMOST provides a unique opportunity to enjoy 32.7 acres of some truly beautiful land. It provides a ready organization should the homeowners collectively decide to extend amenities on the open space by adding benches or other passive recreation devices. And, with the consent of its owners, PMOST could be used as an organizational vehicle to maintain landscaping at the entrance to the subdivision and in the middle of the two boulevards. Finally, for those interested in donating their time and energies, PMOST welcomes the energies of volunteers in lieu of hiring external parties to perform work.

This document is not a legal document as it was created as an overview and introduction to PMOST. There are four major documents which govern this Trust and all are available from 1) the Registrar of Deeds for the County of Worcester or 2) the Town of Westborough:

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

Copies of these documents, including an electronic version of this summary, are available at our website [www.piccadillymill.com](http://www.piccadillymill.com). We recommend spending a few minutes at the site as additional information is available for your use.