TO: SHAVENA MARTIN, AMHERST TOWN CLERK

RE: Harmsway LLC Request for Review
c/o Felicity Hardee Law Practice
1500 Main Street
Springfield, MA 01115

April 8, 2020

Ms. Hardee and Harmsway LLC,

My name is Shannon Walsh and I am the Historic Preservation Planner for the Pioneer Valley Planning Commission. I am writing in response to the Request for Review of the Certificate of Appropriateness issued with 14 Conditions on February 22, 2020 for new construction at the corner of Main and Gray Streets (parcels 14B-250 and 14B-251) within Amherst’s Dickinson Local Historic District.

The request for appeal states that *The Dickinson Local Historic District erred in issuing a Certificate of Appropriateness for this project. The commission failed to comply with the substantive and procedural requirements of the Amherst Local Historic District Bylaw. The proposed project is inappropriate in scale and proportion both in relation to the parcel and in relation to the building and structures in the vicinity. The project will destroy the viewscape of the Dickinson Homestead (from the corner of Main and Gray) and the Leonard Hills House and Henry Hills House. The commission also failed to issue a Certificate of Appropriateness or a denial thereof within the time set forth in the Amherst Local Historic District Bylaw (see Section 7.5).*

Based on my review, I find that the Commission acted lawfully in approving a conditional Certificate of Appropriateness for the heavily revised proposed construction by Amherst Media towards the southeastern corner of the parcel at the corner of Main and Gray Streets. My determination was based on investigating if there is current documentation of the significance of these two parcels within this district (using the Dickinson Historic District National Register nomination and current inventory information in the Massachusetts Cultural Resource Information System-MACRIS) and reviewing the existing Amherst Local Historic District Bylaw; the Secretary of the Interior’s Standards for Rehabilitation (specifically Standard 9); the February 22, 2020 Certificate of Appropriateness and Town of Amherst Local Historic District Commission DECISION narrative based on the January 27, 2020 meeting; and the approximately 1 hour and 51 minute video recording and supporting documentation from the Commission’s January 27, 2020 meeting.

I’ve attached a summary of my findings.

Sincerely,

Shannon Walsh
Historic Preservation Planner
HISTORICAL SIGNIFICANCE OF THE TWO PARCELS AS UNDEVELOPED LANDSCAPES

The two parcels identified as 14B-250 and 14B-251 were originally part of the Main Street frontage of the Henry F. Hills House 390 Main Street, 38 Gray Street (1862, AMH.442) and were significant for that reason. When the district was listed on the National Register in 1977, the parcel was intact.

Figure 1: 1976 Dickinson Historic District National Register Nomination Sketch Map (#14 = Henry F. Hills House with star showing location of parcels)
While these parcels did have historical significance when they were related to the *Henry F. Hills House*, their historic character, function, and integrity were diminished when the property was subdivided in 2006 into five separate parcels along Gray and Main Streets. In 2008, three residential buildings constructed from around the late eighteenth to latenineteenth/early twentieth centuries with Greek Revival and Colonial Revival elements were moved from other locations in Amherst to the three empty parcels on Gray Street to preserve them from loss. They are identified as 14 Gray Street (1780, AMH.1189); 20 Gray Street (ca. 1860, AMH.522); and 32 Gray Street (AMH.193, ca. 1900).

In 2009, the Amherst Local Historic District Study Committee began to investigate the potential of a district. The 2012 Local Historic District Final Report Property Index lists the two parcels at 14B-250 and 14B-251 (16 and 17) as vacant lots with no architectural style.

![Figure 2: 2012 Local Historic District Study Area Map (note parcels 16 and 17/ parcels 14B-250 and 14B-251)](image-url)
These parcels are not currently listed in the Massachusetts Cultural Resource Information System (MACRIS) which would note their stand-alone significance as cultural resources as undeveloped landscapes. The map does show the inventory points for the Leonard Mariner Hills and Amelia Gray House, 360 Main Street, 35 Triangle Street (1862, AMH.443) and the Henry F. Hills House, 390 Main Street, 38 Gray Street (1862, AMH.442).

If the existing conditions of the district were inventoried today, as these are now separate parcels with no construction, they could potentially be considered as non-contributing resources due to the alterations to the original Henry F. Hills House site. Amherst Media purchased these parcels in 2013 and that year, they were also rezoned from R-G General Residence to B-N Neighborhood Business which changed the future use. They are located within the Amherst Business Improvement District, adopted 2011 and are in proximity to commercial and residential properties.
Figure 4: OLIVER MassGIS Map showing parcels 14B-250 and 14B-251 and two Hills properties

The construction is proposed to be located towards the southeastern corner of the easternmost parcel of the district which fronts on Main and Gray Streets (noted with star and two Hills Houses noted with arrows).
Relevant points from AMHERST LOCAL HISTORIC DISTRICT BYAW

1. Purpose The purpose of this bylaw is to aid in the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the Town of Amherst, the maintenance and improvement of their settings and the encouragement of new building designs compatible with existing architecture.

5. Commission Powers and Duties, 5.1 The COMMISSION shall exercise its powers in administering and regulating the CONSTRUCTION and ALTERATIONS of any STRUCTURES or BUILDINGS within the DISTRICT as set forth under the procedures and criteria established in this Bylaw. In exercising its powers and duties hereunder, the COMMISSION shall pay due regard to the distinctive characteristics of each BUILDING, STRUCTURE and DISTRICT area.

8.0 Criteria for Determinations 8.2 In the case of new CONSTRUCTION or additions to existing BUILDINGS or STRUCTURES, the COMMISSION shall consider the appropriateness of scale, shape, and proportions of the BUILDING or STRUCTURE both in relation to land area upon which the BUILDING or STRUCTURE is situated and in relation to BUILDINGS and STRUCTURES in the vicinity. The COMMISSION may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or bylaw.
SECRETARY OF THE INTERIOR’S STANDARDS FOR REHABILITATION – STANDARD 9 – AND THE GUIDELINES FOR REHABILITATING HISTORIC BUILDINGS

Related new construction…must not alter the historic character of the property. A property’s historic function must be evident even if there is a change of use. There has previously been development within the current Dickinson Local Historic District boundaries and in proximity to the intersection of Main and Gray Streets. In 2006, portions of the southern and eastern sections of the Henry F. Hills House parcel were subdivided into five lots (Figures 1, 2 and 4). In 2008, three homes from other parts of Amherst were moved to the lots at 14, 20, and 32 Gray Street. (Figures 3, 4) The moves were well-received due to the “care taken in their restoration and because a local historian…showed that [other Amherst homes] have been moved and relocated over the course of the community’s history.” The construction of a one and a half story Amherst Media building, at the southeastern corner of the parcel, as conditionally approved by the Commission, will not further diminish the historic character and function of the Henry F. Hills House property as it is no longer part of that property and the proposed construction is aligned and has compatible design elements with the three other Gray Street parcels that were once part of that property.

The location of new construction should be considered carefully in order to follow the setbacks of historic buildings and to avoid blocking the primary elevations. The project site plan was altered several times between August 2019 and January 2020 to meet site engineering requirements and to try to satisfy the Dickinson Historic District Commission’s mitigation requests and address public concerns to minimize adverse impacts. In the final approved version of the application, the proposed building location was moved as far southeast as possible and the plans demonstrate how the Henry H. Hill House and the Leonard Mariner Hills and Amelia Gray House were considered in the design so that the final version would have the least adverse impact on viewsheds while still allowing for the developer to construct a functional building on the site. Only the southern side elevation of the residential building at 14 Gray Street, which was moved there in 2008, will be directly blocked from Main Street by the new construction. The Henry F. Hills House and Leonard Mariner Hills and Amelia Gray House will still be able to be viewed from the public right of way on Main Street (Figures 4, 6).

Protecting the historic setting and context of the property, including the degree of open space and building density, must always be considered when planning new construction on a historic site. This entails identifying the formal or informal arrangements of buildings on the site, and whether they have a distinctive urban, suburban, or rural character. For example, a historic building traditionally surrounded by open space must not be crowded with dense development. The context of these two parcels changed once they were separated from the Henry F. Hills House in 2006. Gray Street was also altered in 2008 with the addition of historic resources that were moved there for preservation and which were relocated on three of the five parcels taken from the Henry F. Hills property. The proposed new construction by Amherst Media was redesigned multiple times to meet mitigation requests by the Amherst Local Historic District Commission to include a lower profile building (1.5 stories high) with Greek Revival details to make it compatible with existing buildings in the district, particularly those along Gray Street. It is in a

commercial and residential area so it has elements of both types of building. Across the street to the south of the parcels, there are one story, two story, and two and a half story buildings zoned B-VC: Village Center Business.

**In properties with multiple historic buildings, the historic relationship between buildings must also be protected. Contributing buildings must not be isolated from one another by the insertion of new construction.**

Not applicable. These two parcels do not have existing construction. They were significant as part of the Henry F. Hills House property landscape but their integrity was diminished when the parcel was subdivided and redeveloped.

**As with new additions, the massing, size, scale, and architectural features of new construction on the site of a historic building must be compatible with those of the historic building. When visible and in close proximity to historic buildings, the new construction must be subordinate to these buildings. New construction should also be distinct from the old and must not attempt to replicate historic buildings elsewhere on the site and to avoid creating a false sense of historic development.**

The proposed new construction will clearly be modern but will incorporate architectural elements compatible with existing buildings in the district. The new construction will be subordinate to the existing historic resources and shall be distinct from the old, does not attempt to replicate historic buildings elsewhere on the site (no longer part of the site) and will not create a false sense of historic development. At previous hearings, location, scale and proportion of the building was highly contested and it appears that much mitigation has occurred over several months to try and come up with a design that met the goals of being compatible with other buildings within the district. The presenter, Mr. Gillen, noted that the intent was for the final submitted design to be a “good soldier” and to blend with Gray Street residential properties and not to detract from the outstanding architecture of the two Hills properties. This is in accordance with the Secretary of the Interior’s Standards.

**The limitations on the size, scale, and design of new construction may be less critical the farther it is located from historic buildings.** These parcels are within the boundaries and towards the border of a District and are surrounded by historic buildings. The two adjacent Hills properties that are the most concerned with viewsheds have pronounced setbacks from Main Street and will still be visible from the public way based on the most recently approved plans. Properties across Main Street are zoned B-VC: Village Center Business and are one, two, and two and a half stories high. The *Emily Dickinson House* is not a direct abutter and is on the same side of the street and uphill to the west of these parcels.

**As with additions, maximizing the advantage of existing site conditions, such as wooded areas or drops in grade, that limit visibility, is highly recommended.** The proposed plan and conditions set forth by the Commission include incorporating a stone retaining wall and landscaping and utilizing a drop in grade to mask and lessen views of parking from the abutters. The parking will be to the north of the building and has been reduced to a maximum of eight spots based on previous Commission meetings. Parking was also designed to be in the least visible location from the public way on Main Street.

**Historic landscapes and significant viewsheds must be preserved. Also, significant archaeological resources should be take into account when evaluating the placement of new construction, and, as appropriate, mitigation measures should be implemented if the archaeological resources will be disturbed.** This historic landscape and viewshed was altered in 2006 when the property was subdivided and the two parcels in question, 14B-250 and 14B-251, were not individually inventoried with the creation of the Dickinson Local Historic District to have
stand-alone historical significance. Rezoning in 2013 further altered any protections for future use. As mitigation to allow the current property owner to use the site while working to preserve existing viewsheds of the Henry F. Hills House and the Leonard Mariner Hills and Amelia Gray House, multiple Local Historic District Commission public hearing continuations resulted in the heavily mitigated January 2020 design plan with a site plan and proposed building that was determined to have made efforts to address all previous concerns and to have the least adverse impact on visibility from Main Street of the Hills Houses while still allowing the developer to construct a building that will suit the needs of Amherst Media. The parcel which will be developed is not directly in front of the Henry F. Hills House and neither parcel is directly in front of the Leonard Mariner Hills and Amelia Gray House so view from the public way on Main Street standing directly in front of either parcel will be minimally impacted while still allowing the developer the right to build on his property. (Figures 4, 6) The Emily Dickinson House is not a direct abutter of either parcel owned by this developer.

Figure 6: Gillen Collaborative Architects Viewscapes
HARMSWAY LLC APPEAL

- Proposed project is inappropriate in scale and proportion both in relation to the parcel and in relation to the buildings and structures in the vicinity.
  The finding is that after several hearings and alterations to the original proposed plan the approved plan from the January 27, 2020 meeting is appropriate in its scale and proportion on the parcel as it was placed in its current location to have the least adverse impact to the public viewshed of the two Hills properties from Main Street and that at one and a half stories, it is appropriate in scale and proportion to other residential and commercial buildings and structures in the vicinity.

- The project will destroy the viewscape of the Dickinson Homestead (from the corner of Main and Gray) and the Leonard Hills House and Henry Hills House.
  The finding is that the approved project plans have been mitigated to have the least adverse impact on the viewscapes of the Henry F. Hills House and Leonard Mariner Hills and Amelia Gray House while still allowing the developer the right to build on his property. The proposed construction will be located three parcels east and downhill from the Emily Dickinson House on the same side of Main Street. The building will be one and a half stories high, to scale with other residential and commercial buildings in the area, and will also be aligned with buildings already located on Gray Street to the north and on Main Street to the east. There will still be open, undeveloped space on the Main Street frontage of the intact Leonard Mariner Hills and Amelia Gray House property as well as on the adjacent parcel owned by Amherst Media just west of the new construction and in front of the Henry F. Hills House.

- The Commission also failed to issue a Certificate of Appropriateness or a denial thereof within the time set forth in the Amherst Local Historic District Bylaw (see Section 7.5)
  - Amherst Local Historic District Commission public meetings shall be conducted in accordance with the Commonwealth of Massachusetts Open Meeting Law, MGL 30A, 18-25. (Historic District Commission Amherst, Massachusetts Rules and Regulations)
  - July 19, 2019, Amherst Media submitted an application to the Local Historic District Commission.
  - A Legal Notice of the public hearing was published August 1, 2019 in the Daily Hampshire Gazette.
  - The hearing was opened within the required 45 days of receiving the application. There were five public hearings in 2019 (August 15, September 9, October 15, October 22, and December 2) and two in 2020 (January 6, and January 27). If each of those meetings resulted in a vote for a continuance with Amherst Media agreeing to address requested alterations to plans (mitigation) then the Commission vote on January 27th which resulted in the February 22, 2020 Conditional Certificate of Approval was appropriate and done in accordance with the procedures set forth in the Amherst Local Historic District Bylaw.
  - Furthermore, if the Commission hadn’t followed procedure, the applicant would have been eligible to receive a CERTIFICATE of Hardship Due to Failure to Act (7.11)
FINAL COMMENTS

At the January 27th public hearing in which this application was approved (with 14 conditions) Ms. Hardee and representatives from Harm’s Way LLC were present but during the Public Comment portion, there were no questions or concerns stated about the building’s setback, design, disruption to the viewshed from the public way, or that there were procedural failings by the Commission. The recorded questions were mostly related to the proposed site plan to include concerns about ice collection, alterations to topography, drainage, and about the view of some of the building systems from the north.

Based on public feedback from earlier meetings and to minimize visual impact for the viewsheds of the two Hills properties, the design plans were considerably altered and the building was proposed for positioning as far to the southeastern corner of the lot as possible. The appeal states that the setback is inappropriate but positioning it further to the north or northwest would put it closer to the front views of the Hills properties from Main Street. Amherst Media provided multiple perspectives of how the new construction would appear once completed and to also give an impression of how it was the least invasive option, how it was to scale with the Gray Street residences and properties across Main Street, and how it would only directly impact the view of the southern side elevation of the residence at the adjacent parcel at 14 Gray Street. (Figures 4, 6)

The proposed positioning of new construction in the southeastern corner of the Main and Gray Street parcel will have the least adverse impact of the view from the Main Street public right of way when standing directly in front of the Henry F. Hills House and is not in front of the parcel for the Leonard Mariner Hills and Amelia Gray House. (Figures 4-6) The Emily Dickinson House (AMH.445) is not a direct abutter of either of these parcels and is two parcels to the west and uphill of the parcel proposed for new construction. There will be no direct visual impact to view the Emily Dickinson House from the public way when standing on Main Street in front of that property and there will be minimal visual impact when looking towards the east down Main Street as the proposed one and a half story building is to scale with and will have design elements compatible with other buildings in proximity. When standing at the northern corner of Main and Gray looking toward the Emily Dickinson House, there will be minimal adverse visual impact as the two parcels to the east of that property will remain undeveloped and the proposed construction at the corner of Main and Gray Streets is to scale with other existing buildings along Gray Street to the north and across Main Street to the south.