

**Brookline Advisory Committee**  
**Ad Hoc Subcommittee for MBTA-CA Articles STM1-3,4,5 and STM4-1**  
**Public Hearing Meeting Minutes**

**Date/Time of Meeting:**

Tuesday, September 26, 2023, 7:30 pm – Jointly with Select Board

**Location of Meeting:**

Hybrid – Town Hall 6<sup>th</sup> Floor Select Board’s Hearing Room and Zoom

**Members Present:**

David Pollak (Chair), Katherine Florio, Kelly Hardebeck, Linda Olson Pehlke, Mark Penzel, Lee Selwyn (remote)

**Members Absent:**

John Doggett, Carlos Ridruejo

**Others Present:**

Brookline Select Board, staff, members of the public, Stephanie Ebbert, The Boston Globe; Craig Walker, The Boston Globe

**Subject/Agenda Item:**

Public Hearing on MBTA-CA Articles STM1-3,4,5 and STM4-1

**Substance of discussion: (attach additional pages if needed)**

See attached Select Board Minutes

**Action/Votes Taken: None**

**The following Documents/Exhibits were posted to the Meeting Agenda and/or presented at Meeting:**

- [Questions for petitioners WA 3 Pehlke 9.16.23](#)
- [EXPLANATIONS FOR WA 3 - 4 -5 MBTACA](#)
- [9.19.23 SB MEMO STM4](#)
- [STM4 - ARTICLE 1](#)
- [Land Use Questions for MBTA act articles - Mark Penzel](#)
- [MBTA CA articles 3-5 preliminary questions K Hardebeck 9.20.23](#)
- [E-Lg Format Map for MDistrict strategy WA5](#)
- [Article 5 - M-District Plus - Presentation - Linda Pehlke](#)
- [BBD - Harvard St Rezoning - Proposed Amendments Version 9.23.2023 STM4WA1](#)
- [R.Benka.Memo.HarvSt.Issues](#)
- [Public Comment on MBTA-CA Consensus Warrant Article](#)
- [Additional Public Comment on MBTA-CA Consensus Warrant Article](#)

## WARRANT ARTICLES - JOINT PUBLIC HEARING WITH AC LAND USE SUBCOMMITTEE

Public Hearing and possible vote for the following warrant articles for the November 14, 2023 Special Town Meeting and STM 4:

Warrant Article 3 - MBTA Communities Act – Consensus Article (Select Board) (now Article 1 of the STM4)

Warrant Article 4 – MBTA Communities Act – Contingency Article (Select Board)

Warrant Article 5 – MBTA Communities Act Amend Zoning Bylaw (Pehlke)

STM 4:

Warrant Article 1 – MBTA Communities Act Consensus Updated (Select Board)

Advisory Adhoc subcommittee Chair, David Pollock opened the joint meeting and made the introductions. Present: David Pollak, Kelly Hardebeck, Katherine Florio, Marcus Penzel, Linda Pehlke and Lee Selwyn

Chair Greene announced that Article 1 of the Special Town Meeting 4 is replacing Article 3 of the Special Town Meeting.

Town Administrator Carey reviewed there are 5 different warrant articles, that touch on the MBTA Communities Act in some way. The Select Board submitted 4 of those articles.

Warrant Article 3 the initial consensus plan version. That version of the warrant article contains a commercial mandate for ground floor commercial space usage only in the so-called H-MS Districts, The Harvard Main Street districts. Those districts do not make up the entirety of the corridor.

The Select Board offered another article that mandates commercial ground floor space along the whole Harvard St corridor with the expectation there will be some modifications. (STM3) Due to some language issues that become STM4 article1.

The Select Board intends to move one article which is the Special Town Meeting 4, article 1. Should that article fail the Select Board will move Article 4 of the STM (fallback article) M Districts Plus, solely the multi-family districts, the Emerald Island special district and the Brookline Housing Authority property at Walnut High Streets.

### Warrant Article 5 – MBTA Communities Act Amend Zoning Bylaw (Pehlke)

Petitioner Linda Pehlke reviewed the article submitted by herself, Nancy Heller and Susie Roberts. This article was amended to be identical to article 4. All the changes made are within scope. This was submitted to make sure the article is moved and discussed.

- It is an *Overlay* creating a by-right permitting process for Multi-Family housing. (multi-family defined as 3 or more units)
- Objective Design Standards were created to assure that replacement structures will be compatible with existing neighborhood settings.
- Property owners can choose to develop under existing zoning *or* they can meet the site plan and design review standards and go the by-right route.
- Meets legal compliance requirements of the MBTA-CA many times over.

- Includes proposals for additional BHA units @ Juniper/Walnut/High St. site. and expands allowable uses in Emerald Island to include multi-family.
- Large Projects >30,000 sq.ft. not allowed by-right - Must get design review special permit

#### MBTA -CA REQUIREMENTS

- By-right zoning capacity for 6,990 units (25% of 27,960, 2020 Census).
- Suitable for Families.
- Minimum size of 41 acres near rapid transit.
- Zoning must be implemented by 12/31/2023.
- Minimum Gross Density of 15 du/acre.
- Not more than 0.5 miles from T stop.
- No age restrictions.

A review of existing Multi-family districts – Brookline vastly exceeds the amount and density of multi family housing the State is looking for. As a result of this first analysis, we were able to pare back the areas included in the overlay. Primarily removed the area zoned M.1.0 because this is where the greatest threats of demolition, of how to scale buildings would occur. The analysis of this scenario yielded a capacity for 8,182 units, still well above the nearly 7k unit capacity we needed, and still, with an average density of fifty dwelling units per acre, covering an area of one hundred and sixty-two acres.

#### Things to keep in mind

- Harvard St. rezoning not needed for compliance. Brookline’s housing stock is already predominately multi-family and meets the goals of the act many times over.
- M-District - Plus Proposal Meets MBTA-CA Metrics three times over.
- Passage of M-District - Plus gives us time and flexibility to “do it right”.
- M-District - Plus likely to see additional 100% affordable and other housing growth.
- Brookline added 1,512 housing units between 2010-2020 a 6% increase.
- Brookline has already permitted an additional 1,325 housing units, a 5% increase • 40B window is open - Planning Director anticipates additional 2 - 6 projects.
- Comprehensive Planning and zoning reform about to start. We need inclusive and informed decision-making about our future. What is an appropriate rate of growth?

#### STM 4:

#### Warrant Article 1 – MBTA Communities Act Consensus Updated (Select Board)

Senior Planner Maria Morelli made a presentation of the article.

This plan combines proposals from different community stakeholders while meeting the board’s 3 most important goals for the overall plan. She reviewed the robust process to date.

Select Board considered different proposals from community stakeholders for MBTA-CA districts but maintained a directive to facilitate housing growth in a manner that would meet core Town goals.

## The Select Board Consensus Plan Would:

### Part 1

1. create a new overlay zoning district to permit as-of-right development of multifamily dwelling units within some existing multi-family (“M”) zoning districts
2. amend the Emerald Island Overlay District to incentivize multi-family units (separate from MBTA-CA districts);
3. allow for significant new development of affordable units at a Brookline Housing Authority (“BHA”) property on Walnut and High Streets;
4. amend the Affordable Housing By-Law so that it can be enforced without a special permit; and
5. create a new zoning district to permit as-of-right development of commercial, residential, or mixed-use projects on Harvard Street with a form-based zoning approach.

### Select Board Resolution

#### To Meet Town Goals with MBTA-CA Compliant Districts

- Facilitate racial, ethnic, and income diversity
- Increase the net amount of non-luxury housing suitable for all stages of life
- Protect and expand the commercial tax base

The rationale of the consensus plan is to both comply with MBTA-CA Statute and its intent of meeting Fair Housing Laws by stimulating much-needed new housing growth at a modest pace (Harvard, BHA), including a wider range of subsidized housing choices spanning very low income to workforce housing—to couple this with M-district overlay, a strategy to offer an additional layer of insurance toward compliance—which admittedly is expected to meet the letter of law but not to produce any new units.

This update focuses on Part 2, the portion of the consensus plan that Harvard Street. The logic of the new zoning is to codify Harvard Street’s identity as an iconic Main Street district and economic engine with enforceable, measurable design standards that prescribe the community’s vision for their neighborhood. A form-based zoning approach was used as a neighborhood conservation tool that would enable growth that respects this existing and abutting context.

Three zones span the district from Station Street to Verndale, capping height at four stories, whereas a fourth smaller zone caps height at 2.5 stories. All uses are allowed, housing is not mandated.

#### Harvard, Main Street:

Intent: A mixed-use, pedestrian-oriented environment, medium to large buildings footprint, high-intensity mixed-use building and housing choices.

#### Harvard Street- Traditional zone:

A walkable neighborhood to mixed-use environment of mostly attached, medium to large building footprint.

#### Harvard Street Main Street Neighborhood Zone:

A walkable neighborhood environment of detached, small to medium building footprint, modest intensity mixed-use buildings and housing choices.

Review of the various boards and committees that will be reviewing this article. A brief review of 40B projects among Harvard Street

Board member Warren asked Ms. Pehlke about a meeting on her article when 23k meeting notices that went out and no one showed up. Ms. Pehlke responded it was the summertime, she received the postcard, big difference is the M District is not up zoning or a zoning change that is going to precipitate a lot of new development and demolition and rebuilding, and redevelopment. It's not an urban renewal plan. It's the opposite of that. She lives in an M District and knows what it would take for that building to be demolished and rebuilt, all owners would need to agree; it is unlikely to be demolished.

Ms. Morelli spoke briefly on the ground floor commercial, because we are keeping buildings modestly at four stories, which is about the lowest we can go for economically feasible redevelopment. People will need to decide. If they have a successful business in two-story retail, they are not going to be tempted, but if they have less successful retail this regulation would not get in the way of their improving their property, which is how zoning should work.

Public comment:

1. Al Raine EDAB member spoke in support of the consensus article in its current form. He is a resident of the Harvard Street corridor. He supports the package that includes the combination of mandate ground floor design standards and financial incentive package, and inclusionary units have to be onsite. He also noted some side streets should be included.
2. Roger Blood reviewed the Housing Advisory Board's vote. HAB's vote supports the consensus article. It offers a real opportunity to create more housing and affordable housing. HAB does not support the proposed inclusionary zoning amendment that limits compliance on Harvard Street to only on-site affordable housing in the 4-10-unit project. It will discourage any small-scale development on Harvard Street including affordable units.
3. Katha Seidman noted that exactly 50 years ago, in 1973, Brookline last overhauled its base zoning regulations. That December, Town Meeting voted to significantly down-zone all of Brookline. For example, in the General Residence districts, afterwards called M districts, the maximum permitted height of 120 feet was lowered to the current 50 feet, and the maximum Floor Area Ratio of 4 was reduced to a FAR of 2.5. That change to Brookline's base zoning has blocked meaningful new housing production in Brookline for five long decades.
4. Ted Greenwood, Greater Boston Interfaith Organization supports meaningful zoning reform under the MBTA CA. He and many other members of GBIO organizations support the article to address housing shortages and affordable housing. This is an opportunity to take modest steps to ameliorate this shortage.
5. Jonathan Klein acknowledged all the work and thought put into this. He supports the article and supports more housing and a thriving commercial area. We need to reverse the last 50 years of failure to increase our housing stock.
6. Gary Schiffman spoke in strong support of the consensus plan. It addresses the local version of the national housing shortage crisis. Our current laws make it hard to build housing. He spoke on the challenge to obtain homeownership in Brookline today vs. many years ago. The jobs are here and the housing needs to be accessible again.
7. Thomas Levinson spoke in support of the consensus article. Real compliance with the MBTA Act. Brookline is better. He feels the other articles are impractical and not in real compliance with the MBTA Act. Leaving little or no new housing. He agrees with the moral obligation of social justice and climate justice. He supports more housing and commercial development, the Brookline we want is more expensive than the Brookline we have, and more revenue is needed.
8. Marty Rosenthal spoke in opposition to the consensus article which is at best an aspirational

- consensus. What is the rush? How much does the community really know about the details of this plan? Yes, there have been many meetings that basically ignore the issue that the article incentivizes tearing down one or two-story business buildings. Almost zero attention those issues. Provide clear notice about exactly what is being proposed to every business owner and resident on the buffer zones of the proposals. The plan will mostly accommodate luxury housing
9. Dick Benka spoke on the Harvard Street plan. The Harvard Street plan allows an increase of 1-2 story buildings to 4 stories or 58 feet with rooftop units. The rear yard setbacks to abutting residential districts are reduced from 30 feet, in some cases even more to 5 and 10 feet. The Harvard Street plan also includes some properties on side streets abutting residential neighborhoods. He also spoke about parking needs and availability will be reduced. No parking will be required for commercial uses and a significant reduction in residential parking. There is no long term analysis of the impact on commercial activity or planning for town and school services with the 800 units.
  10. Peter Defbach wishes Harvard Street was more vibrant. He has 4 roommates and can't afford to have only one roommate. Increase the amount of housing and more units to be built; he supports the consensus article.
  11. Michael Rubinstein TMM13 spoke in support of article 1 STM4. He believes the Planning Dept has made a thorough, considered effort to produce the new Harvard Street zoning bylaws. They have considered multiple interrelated factors to address the goals laid before them and the needs of all stakeholders present and future. He encouraged the Board to look closely at the slide presented related to interrelated factors.
  12. Arthur Conquest noted that he has not been paying serious attention to this project. He is concerned. We need a whole affirmative action, social action component to town meeting, and this warrant article. How are you going to deal with black and brown people from the ground floor? He spoke about seeing only one black person working on the BHS project in three years, which is unacceptable.

Board member VanScoyoc noted his concern of folks saying the MBTA-ca multifamily permitting plus part of this compliance is not going to produce any housing and is worthless. That is the compliance piece of what we are doing. That is the part we need to get through town meeting to be in compliance. The only known data that we have that is based on analysis by our own Planning dept is that this multifamily permitting plus piece of our work could in fact produce 0-500 units of housing.

Board member Paul Warren added there is quite a bit of work ahead of us. These articles may potentially be amended through the vetting process. He hopes they find a way to a path where there can be one motion at Town Meeting because he believes multiple motions will confuse people. The deadline for town meeting is October 24<sup>th</sup>.

Chair Greene added the question is whether as a town we support housing and affordable housing. We are stuck in a market system that controls whether affordable housing will be commercially viable. We need to make sure we do everything we can to get through the operations of the M district and the plus is really key.

All the information is available on the Town's website.

There being no further business, the Chair ended the meeting at 9:55 pm.

ATTEST