ARTICLE 3

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

At its October 31, 2017, meeting the Board reconsidered Article 3 in order to consider a request from the MBTA to provide funding to implement Traffic Signal Prioritization (TSP) along the Green Line's C Branch in Brookline. Article 8, Item 41 of the May, 2014 Annual Town Meeting was a $50,000 CIP appropriation intended to study Transit Signal Prioritization (TSP) on the MBTA's C Line. The intent was to study the potential and to price out the expansion along Beacon Street should the Transportation Board desire to expand TSP throughout the corridor. Town Meeting imposed three conditions on the expenditure, recommended by the Capital Advisory Subcommittee:

1. That before utilizing Town funds to implement the recommendations, if any, of the consultant, the Town shall seek implementation funds from the MBTA and document all such efforts;
2. The if MBTA implementation funds are not forthcoming, the Town shall seek implementation funds from other sources, including the state and federal governments, and document all such efforts; and
3. That before funds are sought or expended to implement any TSP project; the MBTA shall present a plan to the Town describing how congestion at Cleveland Circle resulting from reduced transit time on Beacon Street will be avoided.

Since that time, the Town has been working with the MBTA to create a TSP communication system that could be used on any Green Line train without the need for transponders, etc. The MBTA expended funds to develop their GPS communication system on all buses and trains and this system (similar to the one tested in Boston for the B & E lines and Cambridge for the buses on Mass Ave) uses that technology.

A test intersection was installed at Beacon Street @ Carlton Street in late May 2017 and the MBTA conducted a test in June 2017 to determine if the communication worked and to monitor the amount of calls put in, their average times, and the point in the cycle that it affected. This required a new traffic signal controller which the MBTA paid to install since our circa 2007 controllers did not have the communication ability built in. The cost was approx. $20k. When requested, the green light extended for an average of 10 seconds, and red shortened by an average of 6 seconds. It was not provided for when there was a pedestrian call and all minimums were maintained on all approaches.

The consultants have identified nine additional traffic signal locations along Beacon Street where TSP could be implemented:

- Beacon Street & Englewood Ave
- Beacon Street & Tappan Street turnaround
- Beacon Street & Washington Square

- Beacon Street & Marian Street
- Beacon Street & Winchester Street
- Beacon Street & Centre Street
- Beacon Street & Pleasant Street
- Beacon Street & Charles Street
- Beacon Street & Hawes Street

The identified cost for each was $20,555 per intersection for a total cost of $185k. The MBTA Board recently approved the funding for the expanded corridor trial in Boston. In order to leverage this momentum and add Brookline intersections to the plan the Town has been asked to convert the funding for study into implementation, covering 27% of the cost of the proposed Brookline project. Both the City of Boston and the City of Cambridge are expending funds to pay for the expanded corridor trial (Cambridge is paying 50% of their cost, Boston's match is unknown).

The Board supports this request and would like to re-appropriate the $50,000 in order to begin implementation. Therefore, a unanimous Board of Selectmen voted FAVORABLE ACTION on the following motion:

VOTED: That the Town:

1. Amend the FY2018 budget as shown below and in the attached Amended Tables I and II:

ITEM #	ORIGINAL BUDGET	PROPOSED CHANGE	AMENDED BUDGET
2. Human Resources	$686,579	($20,000)	$666,579
5. Finance	$3,262,446	$127,431	$3,389,877
6. Legal Services	$972,934	$20,000	$992,934
8. Town Clerk	$632,331	($80,000)	$552,331
21 Schools	$104,710,912	$47,431	$104,758,343

2. Appropriate $340,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for Singletree tank improvements and to meet the appropriation authorize the Treasurer, with the approval of the Selectmen, to borrow $340,000 under General Laws, Chapter 44, section 7 as amended, or pursuant to any other enabling authority.

3. Appropriate $320,000, or any other sum, to be expended under the direction of the Commissioner of Public Works, with the approval of the Board of Selectmen, for Singletree Hill Gatehouse improvements and to meet the

appropriation authorize the Treasurer, with the approval of the Selectmen, to borrow $320,000 under General Laws, Chapter 44, section 7 as amended, or pursuant to any other enabling authority.

4. Appropriate $50,000 to implement Traffic Signal Prioritization on the MBTA's Green Line and to meet the appropriation transfer from the balance remaining in the appropriation voted under Article 8, Item 41 of the May, 2014 Annual Town Meeting.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

On November 7, 2017, the Advisory Committee reconsidered Article 3 (FY2018 budget amendments) to consider a proposed amendment that would re-appropriate $50,000 that had been previously appropriated to study transit signal prioritization for the Green Line C branch on Beacon Street. Those funds would be re-appropriated to assist the MBTA's funding of implementing transit signal prioritization.

By a vote of 18–1–3 taken on November 7, 2017, the Advisory Committee recommends FAVORABLE ACTION on an Article 3 motion (offered by the Selectmen) that includes a budget amendment of $50,000 to fund transit signal prioritization on Green Line C branch along Beacon Street.

BACKGROUND:

The MBTA's Green Line's C branch runs through Brookline in a reserved median strip on Beacon Street. Streetcars on this line must stop at signals at cross streets. These frequent stops delay the streetcars and increase travel times for the 14,000 Brookline residents who ride these Green Line streetcars each weekday.

Transit Signal Priority

Transit Signal Priority/Prioritization (TSP) is intended to reduce the time it takes for transit vehicles to travel through mixed traffic. TSP uses technology—an integrated communication system that connects transit vehicles and traffic signals—to reduce the time that streetcars or buses spend waiting for traffic signals to turn green. Equipment mounted on the approaching trolley or on the trolley tracks monitors the location of trolleys and broadcasts a secure, encoded request to detection equipment at the intersection. Intersection-based detection equipment communicates with a priority request generator in the traffic signal network. The priority request generator validates the request and alerts the traffic control system. The traffic control system software processes the request and provides a priority green light through normal traffic operations for the approaching vehicle. As installed at the intersection of Beacon Street and Carlton Street in Brookline,

the system includes an off-the-shelf cellular modem (Sierra Wireless GX-450) and the TrafInfo Signal Priority Relay (TSPR) installed at the traffic signal cabinet to give priority to the MBTA Green Line (C-Cleveland Circle) trains in the inbound (eastbound) direction along Beacon Street as they approach the signalized intersection.

In short, when a transit vehicle such as a Green Line trolley approaches an intersection with a traffic signal, TSP extends the time that a green light remains green, or shortens the time that a red light remains red. Trolleys may not be given priority in all cases; the system could, for example, include exceptions, such as when a pedestrian "walk" signal has been activated.

Previous Town Meeting Action

The May 2013 Annual Town Meeting voted Favorable Action on a resolution that requested that "an appropriation of sufficient funds in the Fiscal Year 2015 budget be proposed to Town Meeting to commission a professional engineering study of the costs and benefits of upgrading Town-owned traffic signals, controllers, and associated equipment along Beacon Street to allow for the prioritization of MBTA trolleys."

The May 2014 Annual Town Meeting voted to approve a Capital Improvements Program (CIP) item that appropriated $50,000, to be expended under the direction of the Commissioner of Public Works, with any necessary contracts to be approved by the Board of Selectmen, for a study of MBTA Traffic Signalization. This appropriation was subject to the following three conditions:

> 1. That before utilizing Town funds to implement the recommendations, if any, of the consultant, the Town shall seek implementation funds from the MBTA and document all such efforts;
>
> 2. That if MBTA implementation funds are not forthcoming, the Town shall seek implementation funds from other sources, including the state and federal governments, and document all such efforts; and
>
> 3. That before funds are sought or expended to implement any TSP project, the MBTA shall present a plan to the Town describing how congestion ("bunching") at Cleveland Circle resulting from reduced transit time on Beacon Street will be avoided.

These funds were to have been used to hire a consultant to (1) study the new MBTA proposed communication system; (2) study the Town's traffic control system on Beacon Street; (3) identify the technology needed to implement the MBTA's system; and (4) provide a report that includes a cost-benefit analysis of upgrading the Town-owned traffic signal controllers and associated equipment on Beacon Street to allow for the prioritization of MBTA C Line trolleys. If eventually implemented, the cost then (in 2014), as estimated by the Town, would have been between $100,000 and $250,000.

Current MBTA Plans to Implement TSP

Since 2014, the MBTA has been moving forward with implementing TSP. The MBTA itself has conducted studies similar to the studies that would have been funded by the FY2015 CIP appropriation. Given that these studies already have been conducted, the FY2018 budget amendment would re-appropriate the $50,000 so that it would support the MBTA's implementation of TSP. The overall estimated cost of TSP for the C branch on Beacon Street is $185,000.

An October 23, 2017, presentation on TSP by the MBTA to the Fiscal and Management Control Board is available online: https://www.mbta.com/events/1155 (Select "Transit Signal Priority PDF.")

The MBTA presentation reports that in a June 2017 test of TSP at the intersection of Beacon and Carlton Streets the Green Line train was granted priority 83 times. The green light was extended by an average of ten seconds. The red light was reduced by an average of six seconds. The MBTA reported "no demonstrable negative effect to general traffic." The test was conducted over five days during the morning peak travel time (7:00 a.m.–9:00 a.m.). The test was conducted by TrafInfo Communications, Inc., which reported the results to the MBTA. The report was made available to the Advisory Committee.

The MBTA has proposed adding TSP to nine additional intersections along the C branch of the Green Line:

- Beacon Street and Englewood Ave
- Beacon Street and Tappan Street turnaround
- Beacon Street and Washington Square/Washington Street
- Beacon Street and Marion Street
- Beacon Street and Winchester Street
- Beacon Street and Centre Street
- Beacon Street and Pleasant Street
- Beacon Street and Charles Street
- Beacon Street and Hawes Street

Adding TSP to these intersections would enable Green Line trains to have priority through the entire corridor. Analysis by consultants (The IBI Group) has estimated that it would

cost $185,000 to provide TSP at these nine intersections. Dividing $185,000 by nine yields an estimate of $20,555 per intersection.

DISCUSSION:
Proponents of TSP argue that it reduces transit trip times and improves the ability of transit vehicles and automobiles to safely and effectively share limited road space. They report that studies have shown that Transit Signal Prioritization can reduce transit delays by up to 40% and improve travel times by up to 20%, making transit service faster and more reliable, with limited impact on automobiles. TSP has been implemented in New York, Chicago, Portland, Oregon, Baltimore, Los Angeles, Palo Alto, and other cities, as well as in other countries.

Proponents also emphasize the general benefits of reducing trip times for public transit, arguing that TSP will encourage discretionary drivers to use transit, reducing demand for limited space on our streets and improving local air quality. As for its potential impact in Brookline, saving ten seconds at each intersection may not seem like much, but it adds up and has a significant cumulative effect (almost two minutes) over an entire trip from Cleveland Circle to St. Mary's station. More rapid trips also make it more likely that Green Line riders will be able to make connections to other MBTA lines. If TSP reduces the time for each trip, it might even be possible to add more trolleys to the Green Line schedule. Thousands of Brookline residents who ride the Green Line will benefit from TSP, and it also may help the businesses along the Beacon Street corridor and in Coolidge Corner.

In response to objections that the MBTA should finance the implementation of TSP on the Green Line Beacon Street corridor, proponents of re-appropriating the $50,000 from studies to implementation point out that this sum would cover 27% of the cost of this project, with the MBTA covering the remaining 73%. They argue that $50,000 is a relatively small amount to contribute to this effort in the big picture, especially considering other areas in which the Town is seeking the MBTA's cooperation (e.g., obtaining permission to building part of the a new Brookline High School building over the Green Line tracks near the Brookline Hills station). Moreover, if Brookline is willing contributes some of the funding for the Beacon Street TSP project, the MBTA is more likely to fund the remainder of the project—a large proportion of the total cost. Boston and Cambridge are also using municipal funds to leverage MBTA funding for TSP projects in those communities. Cambridge, for example has agreed to fund 50% of the estimated cost of TSP on Massachusetts Avenue between the Arlington border and the Charles River. The total cost of that project is estimated at $250,000.

Some members of the Advisory Committee expressed concerns that Brookline already pays the MBTA a substantial amount—over $5 million annually—and that the Town should not be paying more; the MBTA should pay for TSP out of its own budget. There was some resentment over the fact that the MBTA seemed to be sending a message that the MBTA would not undertake TSP on the C line if the Town did not contribute toward the cost of implementing the system.

Other members of the Advisory Committee questioned whether the MBTA had fulfilled the third condition voted by Town Meeting in 2014. That condition requires the MBTA to present a plan to avoid "bunching" of trolleys at Cleveland Circle—a problem that may emerge if trip times decrease. The MBTA does not predict any induced congestion at Cleveland Circle due to TSP. Schedules will be adjusted to ensure that trains are evenly spaced, with movements into the train yard limited, but the effects of TSP will not be fully known until the system is implemented as a pilot program.

Questions were raised about the impact of TSP on motor vehicle traffic. Giving Green Line trolleys priority at Beacon Street signals could cause traffic to back up on the streets that cross Beacon Street (Harvard St., Saint Paul St., etc.) and also might make it harder for vehicles to make turns. On the other hand, automobile traffic on Beacon Street actually might move more rapidly, because vehicles would be able to take advantage of the longer green lights and shorter red lights that were intended to speed up trolley service.

In addition, there was some concern expressed about moving funds late in the day from one purpose to another.

Overall, there was significant agreement that the Town should allocate the $50,000 for TSP implementation, since there would be likely overall benefits for ridership on the MBTA, and further incentives to use public transportation.

RECOMMENDATION:
By a vote of 18–1–3 taken on November 7, 2017, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen under Article 3.

FY18 BUDGET - TABLE 1 Nov 2017 TM

		FY15 ACTUAL	FY16 ACTUAL	FY17 BUDGET	FY18 BUDGET	PROPOSED AMENDMENTS	FY18 AMENDED BUDGET	$$ CHANGE FROM FY17	% CHANGE FROM FY17
	REVENUES								
	Property Taxes	182,239,297	195,049,924	204,064,199	211,298,230		211,298,230	**7,234,031**	**3.5%**
	Local Receipts	25,847,019	29,377,154	23,836,698	29,556,650		29,556,650	**5,719,952**	**24.0%**
	State Aid	17,675,450	18,837,306	19,657,251	20,273,713	79,260	20,352,973	**616,462**	**3.1%**
	Free Cash	5,084,152	5,016,501	5,311,538	8,354,017		8,354,017	**3,042,479**	**57.3%**
	Overlay Surplus	2,100,000	0	0	0		0	**0**	**-**
	Other Available Funds	6,903,508	6,895,644	7,840,067	3,485,110		3,485,110	**(4,354,956)**	**-55.5%**
	TOTAL REVENUE	**239,849,426**	**255,176,529**	**260,709,753**	**272,967,720**	**79,260**	**273,046,980**	**12,257,968**	**4.7%**
	EXPENDITURES								
	DEPARTMENTAL EXPENDITURES								
	1 . Selectmen	685,876	684,191	688,622	697,169		697,169	**8,547**	**1.2%**
	2 . Human Resources	676,217	728,432	548,060	686,579	(20,000)	666,579	**138,519**	**25.3%**
	3 . Information Technology	1,783,823	1,843,320	1,908,580	1,896,399		1,896,399	**(12,181)**	**-0.6%**
	4 . Diversity, Inclusion, and Community Relations	177,539	202,210	239,050	243,101		243,101	**4,051**	**1.7%**
	5 . Finance Department	2,869,580	2,985,840	3,216,609	3,262,446	127,431	3,389,877	**45,837**	**1.4%**
	6 . a. Comptroller	*551,138*	*571,910*	*589,139*	*597,669*		*597,669*	***8,530***	***1.4%***
	b. Purchasing	*667,116*	*681,950*	*661,456*	*665,782*		*665,782*	***4,326***	***0.7%***
	c. Assessing	*664,015*	*685,044*	*689,132*	*690,060*		*690,060*	***928***	***0.1%***
	d. Treasurer	*987,311*	*1,046,936*	*1,276,882*	*1,308,935*	*127,431*	*1,436,366*	***32,053***	***2.5%***
	6 . Legal Services	889,316	989,752	967,934	972,934	20,000	992,934	**5,000**	**0.5%**
	7 . Advisory Committee	13,021	13,704	25,672	25,779		25,779	**107**	**0.4%**
	8 . Town Clerk	645,463	613,440	696,935	632,331	(80,000)	552,331	**(64,604)**	**-9.3%**
	9 . Planning and Community Development	851,249	874,057	958,875	982,599		982,599	**23,724**	**2.5%**
	10 . Police	16,260,029	16,732,901	16,738,565	16,829,005		16,829,005	**90,440**	**0.5%**
	11 . Fire	12,960,394	12,961,446	14,607,589	14,980,571		14,980,571	**372,982**	**2.6%**
	12 . Building	7,029,407	7,321,190	7,600,286	7,699,954		7,699,954	**99,668**	**1.3%**
(1)	13 . Public Works	16,330,565	14,970,796	14,387,630	14,457,331		14,457,331	**69,701**	**0.5%**
	a. Administration	*874,470*	*908,138*	*890,192*	*891,296*		*891,296*	***1,104***	***0.1%***
	b. Engineering/Transportation	*1,165,797*	*1,255,638*	*1,260,195*	*1,216,151*		*1,216,151*	***(44,044)***	***-3.5%***
	c. Highway	*4,872,841*	*4,574,473*	*5,027,423*	*4,957,738*		*4,957,738*	***(69,685)***	***-1.4%***
	d. Sanitation	*2,858,581*	*3,340,207*	*3,020,670*	*3,080,034*		*3,080,034*	***59,364***	***2.0%***
	e. Parks and Open Space	*3,322,096*	*3,701,159*	*3,701,557*	*3,826,815*		*3,826,815*	***125,258***	***3.4%***
	f. Snow and Ice	*3,236,779*	*1,191,182*	*487,593*	*485,297*		*485,297*	***(2,296)***	***-0.5%***
	14 . Library	3,894,348	3,993,162	3,992,157	3,974,583		3,974,583	**(17,574)**	**-0.4%**
	15 . Health and Human Services	1,184,308	1,193,045	1,189,084	1,193,753		1,193,753	**4,669**	**0.4%**
	16 . Veterans' Services	361,218	326,172	335,631	335,531		335,531	**(100)**	**0.0%**
	17 . Council on Aging	855,130	883,926	912,543	917,628		917,628	**5,085**	**0.6%**
	18 . Recreation	1,010,362	1,124,759	1,011,042	1,000,208		1,000,208	**(10,834)**	**-1.1%**
(2)	19 . Personnel Services Reserve	715,000	715,000	715,000	715,000		715,000	**0**	**0.0%**
(2)	20 . Collective Bargaining - Town	2,321,220	1,596,442	783,529	1,500,000		1,500,000	**716,471**	**91.4%**
	Subtotal Town	*68,477,847*	*68,442,343*	*71,523,393*	***73,002,901***	***47,431***	***73,050,332***	***1,479,508***	***2.1%***
	21 . Schools	*86,842,575*	*95,916,094*	*101,118,783*	*104,710,912*	*47,431*	*104,758,343*	***3,592,129***	***3.6%***
	22. . Vocational Education Assessments	*0*	*0*	*0*	*92,895*		*92,895*	***92,895***	***-***
	Subtotal Education	*86,842,575*	*95,916,094*	*101,118,783*	*104,803,807*	*47,431*	*104,851,238*	***3,685,024***	***3.6%***
	TOTAL DEPARTMENTAL EXPENDITURES	**155,320,422**	**164,358,438**	**172,642,176**	**177,806,708**	**94,862**	**177,901,570**	**5,071,637**	
	NON-DEPARTMENTAL EXPENDITURES								
(1)	23 . Employee Benefits	50,474,515	54,064,860	56,848,194	60,454,518		60,454,518	**3,606,324**	**6.3%**
(3)	*a. Pensions*	*17,882,573*	*18,707,021*	*19,718,677*	*21,499,185*		*21,499,185*	***1,780,508***	***9.0%***
	b. Group Health	*25,110,830*	*27,484,720*	*29,042,055*	*30,173,026*		*30,173,026*	***1,130,971***	***3.9%***
	c. Health Reimbursement Account (HRA)	*49,478*	*70,000*	*0*	*0*		*0*	***0***	
(3)	*d. Retiree Group Health Trust Fund (OPEB's)*	*3,311,860*	*3,499,119*	*3,774,837*	*4,480,080*		*4,480,080*	***705,243***	***18.7%***
	e. Employee Assistance Program (EAP)	*24,900*	*28,000*	*28,000*	*28,000*		*28,000*	***0***	***0.0%***
	f. Group Life	*132,666*	*145,000*	*145,000*	*145,000*		*145,000*	***0***	***0.0%***
	g. Disability Insurance	*10,221*	*16,000*	*16,000*	*16,000*		*16,000*	***0***	***0.0%***
(3)	*h. Worker's Compensation*	*1,450,000*	*1,550,000*	*1,450,000*	*1,450,000*		*1,450,000*	***0***	***0.0%***

		FY15 ACTUAL	FY16 ACTUAL	FY17 BUDGET	FY18 BUDGET	PROPOSED AMENDMENTS	FY18 AMENDED BUDGET	$$ CHANGE FROM FY17	% CHANGE FROM FY17
(3)	*i. Public Safety IOD Medical Expenses*	*300,575*	*250,000*	*250,000*	*200,000*		*200,000*	***(50,000)***	***-20.0%***
(3)	*j. Unemployment Compensation*	*325,000*	*300,000*	*300,000*	*200,000*		*200,000*	***(100,000)***	***-33.3%***
	k. Medical Disabilities	*18,565*	*40,000*	*40,000*	*40,000*		*40,000*	***0***	***0.0%***
	l. Medicare Coverage	*1,857,847*	*1,975,000*	*2,083,625*	*2,223,228*		*2,223,228*	***139,603***	***6.7%***
(2)	24 . Reserve Fund	1,718,000	2,200,198	2,348,736	2,460,011		2,460,011	**111,275**	**4.7%**
	25 Stabilization Fund	0	0	0	0		0	**0**	
	26 Affordable Housing	170,390	163,078	158,539	576,803		576,803	**418,264**	**263.8%**
	27 . Liability/Catastrophe Fund	234,839	78,969	144,322	203,644		203,644	**59,322**	
	28 . General Insurance	332,137	382,645	394,148	405,972		405,972	**11,824**	**3.0%**
	29 . Audit/Professional Services	81,500	130,000	137,000	137,000		137,000	**0**	**0.0%**
	30 . Contingency Fund	10,528	15,000	15,000	15,000		15,000	**0**	**0.0%**
	31 . Out-of-State Travel	2,253	3,000	3,000	3,000		3,000	**0**	**0.0%**
	32 . Printing of Warrants & Reports	28,046	35,000	35,000	35,000		35,000	**0**	**0.0%**
	33 . MMA Dues	11,746	12,278	12,585	12,900		12,900	**315**	**2.5%**
	Subtotal General	*2,589,439*	*3,020,169*	*3,248,330*	*3,849,329*		*3,849,329*	***600,999***	***18.5%***
(1)	34 . Borrowing	9,403,333	9,276,014	10,742,938	12,766,192		12,766,192	**2,023,254**	**18.8%**
	a. Funded Debt - Principal	*7,196,544*	*7,188,044*	*7,923,973*	*9,031,750*		*9,031,750*	***1,107,777***	***14.0%***
	b. Funded Debt - Interest	*2,193,256*	*2,082,502*	*2,658,965*	*3,574,442*		*3,574,442*	***915,477***	***34.4%***
	c. Bond Anticipation Notes	*0*	*0*	*100,000*	*100,000*		*100,000*	***0***	***0.0%***
	d. Abatement Interest and Refunds	*13,533*	*5,468*	*60,000*	*60,000*		*60,000*	***0***	***0.0%***
	TOTAL NON-DEPARTMENTAL EXPENDITURES	**62,467,287**	**66,361,043**	**70,839,462**	**77,070,040**	**0**	**77,070,040**	**6,230,578**	**8.8%**
	TOTAL GENERAL APPROPRIATIONS	**217,787,709**	**230,719,481**	**243,481,638**	**254,876,747**	**94,862**	**254,971,609**	**11,302,217**	**4.6%**
	SPECIAL APPROPRIATIONS								
	35 . Town Building Furniture (revenue financed)				50,000		50,000		
	36 . Town Building Rehab/Upgrade (revenue financed)				50,000		50,000		
	37 . Data Room Improvements (Re-appropriation)				120,000		120,000		
	38 . Technology Applications (revenue financed)				175,000		175,000		
	39 . Fire Apparatus Rehab (revenue financed)				50,000		50,000		
	40 . Engine #6 Replacement (revenue financed)				625,000		625,000		
	41 . Fire Station Renovations (revenue financed)				280,000		280,000		
	42 . PPE Washers and Dryers (revenue Financed)				71,000		71,000		
	43 . Coolidge Corner Library - Elev./Rear Windows /Carpet (revenue financed)				646,500		646,500		
	44 . Traffic Calming / Safety Improvements (revenue financed)				58,659		58,659		
	45 . Bicycle Access Improvements (re-appropriation $27,900, + revenue financed)				33,000		33,000		
	46 . Parking Meter Technology Upgrade (revenue financed from Parking Meter Fund)				161,040		161,040		
	47 Carlton St /Monmouth Traffic Signal (revenue financed)				333,663		333,663		
	48 . Street Rehabilitation (revenue financed)				1,670,000		1,670,000		
	49 . Sidewalk Repair/Reconstruction (revenue financed)				312,000		312,000		
	50 Municipal Service Center Site Improvements (revenue financed)				240,000		240,000		
	51 Davis Path Footbridge Study (revenue financed)				40,000		40,000		
	52 . Stormwater Improvements (revenue financed Water and Sewer fund)				300,000		300,000		
	53 Water System Improvements (Utility bond)				300,000		300,000		
	54 Murphy Playground (revenue financed)				70,000		70,000		
	55 . Playground Equipment, Fields, Fencing (revenue financed)				305,000		305,000		
	56 . Town/School Grounds Rehab (revenue financed)				150,000		150,000		
	57 . Tree Removal and Replacement (revenue financed)				230,000		230,000		
	58 . School Furniture Upgrades (revenue financed)				90,000		90,000		
	59 . Town/School ADA Renovations (revenue financed)				75,000		75,000		
	60 . Town/School Elevator Renovations (revenue financed)				475,000		475,000		
	61 . Town/School Energy Conservation Projects (revenue financed)				75,000		75,000		
	62 . Town/School Energy Management Systems (revenue financed)				125,000		125,000		
	63 . Town/School Building Security / Life Safety (revenue financed)				215,000		215,000		
	64 . School Building Rehab/Upgrade (revenue financed)				100,000		100,000		
	65 . Driscoll School Rehabilitation (re-appropriation $282,724 + revenue financed)				400,000		400,000		
	66 . Classroom Capacity (revenue financed)				995,000		995,000		
	67 . 9th School at Baldwin Feasibility/ Schematic Design (revenue financed)				1,500,000		1,500,000		

		FY15 ACTUAL	FY16 ACTUAL	FY17 BUDGET	FY18 BUDGET	PROPOSED AMENDMENTS	FY18 AMENDED BUDGET	$$ CHANGE FROM FY17	% CHANGE FROM FY17
	68 . Brookline Reservoir Park - Construction (bond)				2,200,000		2,200,000		
(4)	69 . High School Schematic Design (bond)				1,850,000		1,850,000		
(5)	70 . MBTA Traffic Signal Prioritization Implementation (re-appropriation)				0	50,000	50,000		
(6)	**TOTAL REVENUE-FINANCED SPECIAL APPROPRIATIONS**	**9,415,000**	**10,113,000**	**8,879,374**	**9,720,862**		**9,720,862**	**841,488**	**9.5%**
	TOTAL APPROPRIATED EXPENDITURES	**227,202,709**	**240,832,481**	**252,361,012**	**264,597,609**	**94,862**	**264,692,471**	**12,236,597**	**4.8%**
	NON-APPROPRIATED EXPENDITURES								
	Cherry Sheet Offsets	126,443	91,451	89,197	86,983		86,983		
	State & County Charges	6,201,536	6,319,715	6,393,642	6,508,126	(15,602)	6,492,524		
	Overlay	2,080,721	1,965,726	1,840,902	1,750,000		1,750,000		
	Deficits-Judgments-Tax Titles	25,000	25,000	25,000	25,000		25,000		
	TOTAL NON-APPROPRIATED EXPEND.	**8,433,700**	**8,401,892**	**8,348,741**	**8,370,109**	**(15,602)**	**8,354,507**	**21,368**	**0.3%**
	TOTAL EXPENDITURES	**235,636,409**	**249,234,373**	**260,709,753**	**272,967,718**	**79,260**	**273,046,978**	**12,257,965**	**4.7%**
	SURPLUS/(DEFICIT)	**4,213,017**	**5,942,156**	**0**	**0**	**0**	**0**		

(1) Breakdown provided for informational purposes.
(2) Figures provided for informational purposes. Funds were transferred to departmental budgets for expenditure.
(3) Funds are transferred to trust funds for expenditure.
(4) Article 1 of the Second Special Town Meeting
(5) Re-appropriated and not included in total amount.
(6) Amounts appropriated. Bonded appropriations are not included in the total amount, as the debt and interest costs associated with them are funded in the Borrowing category (item #34).

FY18 BUDGET - TABLE 2 Nov 2017 TM

Department/Board/Commission	Personnel Services/ Benefits	Purchase of Services	Supplies	Other Charges/ Expenses	Utilities	Capital Outlay	Inter-Govt'al	Debt Service	Agency Total
Board of Selectmen (Town Administrator)	666,784	6,580	4,000	17,600		2,205			697,169
Human Resources Department (Human Resources Director)	309,230	305,709	19,000	31,000		1,640			666,579
Information Technology Department (Chief Information Officer)	1,131,127	469,272	10,350	17,550		268,100			1,896,399
Diversity, Inclusion, and Community Relations (Director)	213,076	20,000	9,000	150		875			243,100
Finance Department (Director of Finance)	2,215,168	1,095,267	48,760	22,057	1,375	7,250			3,389,877
Legal Services (Town Counsel)	625,425	250,309	3,500	112,000		1,700			992,934
Advisory Committee (Chair, Advisory Committee)	22,639		2,275	570		295			25,779
Town Clerk (Town Clerk)	454,379	83,072	11,150	2,450		1,280			552,331
Planning and Community Department (Plan. & Com. Dev. Dir.)	946,264	18,633	9,712	4,550		3,440			982,599
Police Department (Police Chief)	15,246,124	574,743	219,900	74,000	281,611	432,627			16,829,005
Fire Department (Fire Chief)	14,299,208	166,240	167,488	31,350	193,809	122,476			14,980,571
Public Buildings Department (Building Commissioner)	2,444,025	2,361,802	29,750	10,400	2,731,607	122,370			7,699,954
Public Works Department (Commissioner of Public Works)	8,019,901	3,336,525	960,750	53,500	1,073,453	993,202	20,000		14,457,331
Public Library Department (Library Board of Trustees)	2,876,169	186,559	594,250	4,700	286,905	26,000			3,974,583
Health & Human Services Department (Health & Human Svcs Dir)	926,337	205,490	15,100	4,120	38,686	4,020			1,193,753
Veterans' Services (Veterans' Services Director)	168,448	1,988	650	163,935		510			335,531
Council on Aging (Council on Aging Director)	774,288	43,583	19,763	2,900	71,394	5,700			917,628
Recreation Department (Recreation Director)	734,358	23,037	86,480	12,400	139,913	4,020			1,000,208
School Department (School Committee)									104,758,343
Total Departmental Budgets	**52,072,950**	**9,148,809**	**2,211,878**	**565,232**	**4,818,753**	**1,997,710**	**20,000**		**175,593,674**
DEBT SERVICE									
Debt Service (Director of Finance)								12,766,192	12,766,192
Total Debt Service								**12,766,192**	**12,766,192**
EMPLOYEE BENEFITS									
Contributory Pensions Contribution (Director of Finance)	21,434,185								21,434,185
Non-Contributory Pensions Contribution (Director of Finance)	65,000								65,000
Group Health Insurance (Human Resources Director)	30,173,026								30,173,026
Retiree Group Health Insurance - OPEB's (Director of Finance)	4,480,080								4,480,080
Employee Assistance Program (Human Resources Director)	28,000								28,000
Group Life Insurance (Human Resources Director)	145,000								145,000
Disability Insurance	16,000								16,000
Workers' Compensation (Human Resources Director)	1,450,000								1,450,000
Public Safety IOD Medical Expenses (Human Resources Director)	200,000								200,000
Unemployment Insurance (Human Resources Director)	200,000								200,000
Ch. 41, Sec. 100B Medical Benefits (Town Counsel)	40,000								40,000
Medicare Payroll Tax (Director of Finance)	2,223,228								2,223,228
Total Employee Benefits	**60,454,518**								**60,454,518**
GENERAL / UNCLASSIFIED									
Vocational Euducation Assessments									92,895
Reserve Fund (*) (Chair, Advisory Committee)				2,460,011					2,460,011
Liability/Catastrophe Fund (Director of Finance)				203,644					203,644
Housing Trust Fund (Planning & Community Develpoment Dir.)				576,803					576,803
General Insurance (Town Administrator)		405,972							405,972
Audit/Professional Services (Director of Finance)		137,000							137,000
Contingency (Town Administrator)				15,000					15,000
Out of State Travel (Town Administrator)		3,000							3,000
Printing of Warrants (Town Administrator)	15,000	10,000	10,000						35,000
MMA Dues (Town Administrator)				12,900					12,900
Town Salary Reserve (*) (Director of Finance)	1,500,000								1,500,000
Personnel Services Reserve (*) (Director of Finance)	715,000								715,000
Total General / Unclassified	**2,230,000**	**555,972**	**10,000**	**3,268,358**					**6,157,225**
TOTAL GENERAL APPROPRIATIONS	**114,757,468**	**9,704,781**	**2,221,878**	**3,833,590**	**4,818,753**	**1,997,710**	**20,000**	**12,766,192**	**254,971,609**

(*) NO EXPENDITURES AUTHORIZED DIRECTLY AGAINST THESE APPROPRIATIONS. FUNDS TO BE TRANSFERRED AND EXPENDED IN APPROPRIATE DEPT.

ARTICLE 4

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

At their October 31, 2017 meeting, the Board of Selectmen reconsidered their motion on Article 4 in order to address deficiencies in the bond authorization language that were highlighted by the Moderator.

The Board unanimously voted FAVORABLE ACTION on the following motion:

VOTED: The Board of Selectmen is authorized to acquire, by purchase, gift, eminent domain or otherwise, in fee simple, a parcel of land located at 111 Cypress Street, Brookline, MA, as shown on the taking plan attached hereto and to be recorded herewith, including all buildings and structures thereon and all privileges and appurtenances thereto belonging, as well as all trees and shrubs thereon, excepting therefrom any easements of record shown on said taking plan included within such description by whomsoever the same may be owned, consisting of approximately 38,961 Square Feet, for general municipal purposes, and for all purposes and uses accessory thereto, including but not limited to, inter alia, the expansion of both the existing High School campus and High School educational facilities and amenities, including class rooms, conference and meeting rooms, study areas and educational office space; that the sum of $16,400,000 is appropriated, to be expended at the direction of the Selectmen, to pay costs of acquiring said property, and for the payment of all costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor. The Selectmen are hereby authorized to apply for, accept and expend any grants from any source whatsoever that may be available to pay any portion of this project. Any premium received upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

Land Description:

Unregistered Land
Beginning at the point of curvature at station 7+10.14 (left) on Brington Road as shown on the street datacard on file in the Engineering Division office.

Thence running by Brington Road N27-30-09W for twenty-three and 30/100 feet (23.30') to a point

Thence turning and running by land N/F of John Murphy et al. for four courses, N20-59-54E for sixty two and 92/00 feet (62.99'), N50-52-08E thirty three and 88/ feet (33.88'),

N23-34-11E thirty eight and 20/00 feet (38.20'), N66-25-49W forty six and 30/100 feet (46.30') to a point at land N/F George K Sioras et al.

Thence turning and running by land N/F of George K. Sioras N52-49-11E for fifty six and 28/100 feet (56.28') to a point

Thence turning and running S68-43-47E for one hundred seventy five and 65/100 feet (175.65) to Cypress Street
Thence turning and running by Cypress Street S32-19-41W for fifty and 71/100 feet (50.71') to a point of curvature

Thence running by Cypress Street on a curve to the left having a radius of 657.85 feet for a distance of one hundred seventy four and 28/100 feet (174.28') to a point of reverse curvature

Thence running by Cypress Street and Brington Road by a curve to the right having a radius of 20.11 feet for a distance of thirty four and 46/100 feet (34.46') to a point of common curvature

Thence running by Brington Road by a curve to the right having a radius of two hundred and 00/100 feet (200.00') for a distance of one hundred twenty nine and 62/100 feet (129.62') to the point of beginning.

Registered Land

Beginning at an angle point 63.12 feet N32-19-41E from a point of tangency on Cypress Street.

Thence running by Cypress Street S32-19-41W for twelve and 41/100 feet (12.41') to a point

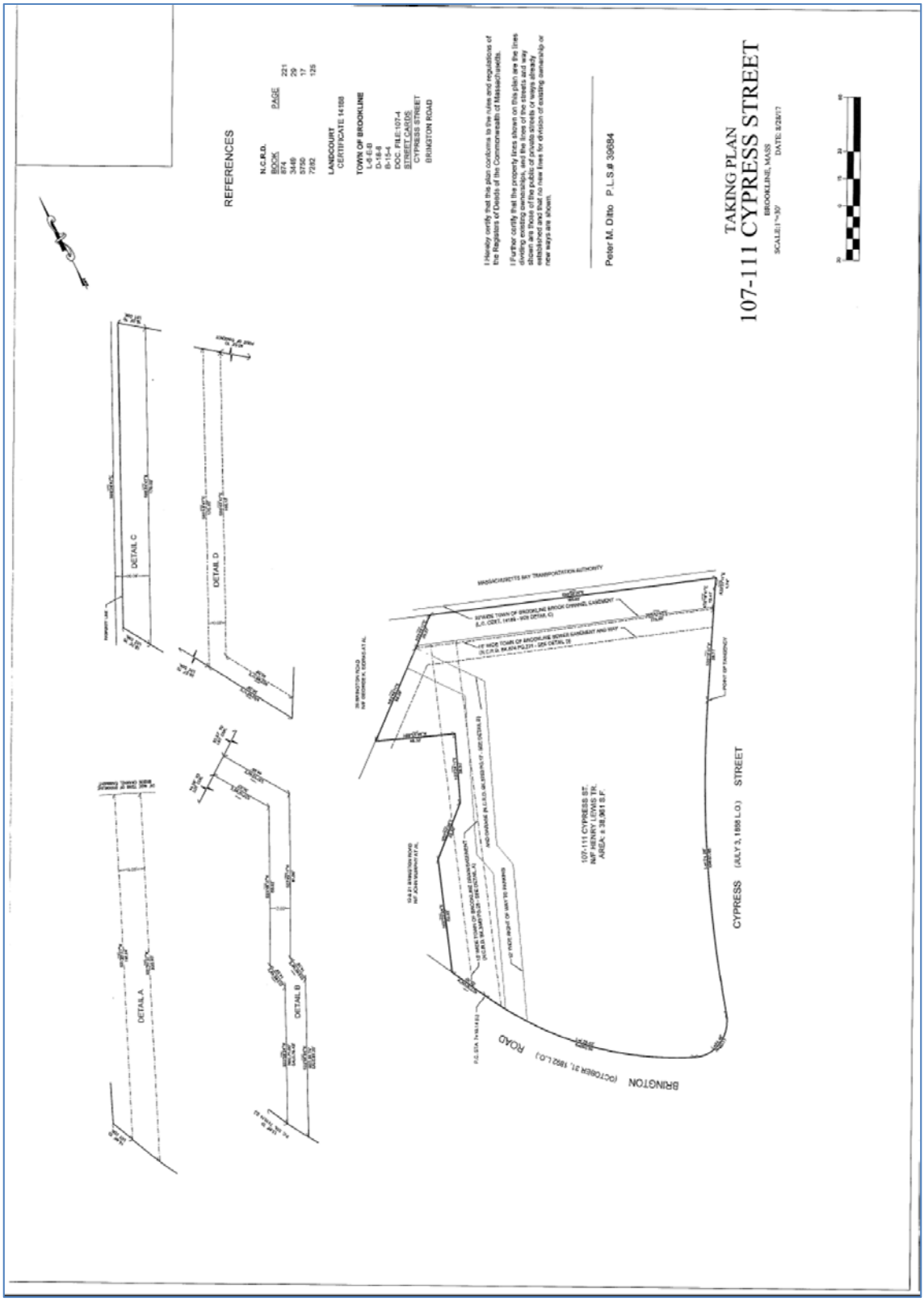
Thence turning and running N68-43-47W for one hundred seventy five and 65/100 feet (175.65') to land N/F of George K. Sioras

Thence turning and running N52-49-11E for twenty and 27/100 feet (20.27') to land of MBTA

Thence turning and running S68-33-39E for one hundred sixty eight and 60/100 feet (168.60') to Cypress Street

Thence turning and running by Cypress Street for N35-27-11E for four and 74/100 feet (4.74) to the point of beginning.

Area of both the registered and unregistered parcels together - +/- 38,961 S.F



(A larger copy of this map will be available in the Selectmen's Office)

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Warrant Article 4 would authorize the Selectmen to spend no more than $16.4 million to acquire the property at 111 Cypress Street by eminent domain. The Town intends to use this site to build an expansion of Brookline High School. The Advisory Committee previously voted overwhelmingly to recommend Favorable Action on the motion offered by the Selectmen. The motion recommended under Article 4 needs to be amended to include the legally required language that authorizes the Town to finance this expenditure by issuing bonds so that the Town can borrow the funds to be appropriated. The amended motion offered by the Selectmen includes the necessary language.

RECOMMENDATION:

By a vote of 21–0–0 taken on November 7, 2017, the Advisory Committee recommends FAVORABLE ACTION on the Article 4 motion offered by the Selectmen.

ARTICLE 5

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

Article 5 asks the Town to authorize funding to advance the design of an additional (9th) elementary school for Brookline. In August, the Board anticipated that they would be prepared to either move forward on the Baldwin/Soule site, or consider moving funding forward on an alternate site in time for Town Meeting. At a joint meeting in executive session held on September 19, 2017, the Board of Selectmen and School Committee voted independently and unanimously to expand the sites under consideration for a new 9th elementary school to include the acquisition of a 7-acre parcel of privately owned land located on Heath Street (the Pine Manor site). Shortly after this announcement, the Board held a public hearing to solicit feedback on this site. The feedback received has allowed the Board to determine that more study is needed before proceeding with a final site. During this time, Article 1 of the First Special Town Meeting (STM1) was filed by citizen petition. Article 1 provides for an expanded scope and allows for the flexibility needed to reconsider previous sites that were dismissed before certain encumbrances on the current sites were known.

The Board favors the compromise language drafted under Article 1 of STM1 and therefore on October 31, 2017 unanimously voted NO ACTION under Article 5.

More information on this topic can also be found in the Supplement for Article 1 of STM1.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Article 5 was placed on the Warrant by the Selectmen so that Town Meeting could consider authorizing funding for the feasibility or design studies for a 9th elementary school. It offers only three options to address the challenges of increasing school capacity: building on the Baldwin School and Soule Recreation sites in accordance with the requirements of the National Park Service's Land and Water Conservation Fund program and Article 97 of the Massachusetts Constitution; building on the unrestricted portion of the Baldwin School site, and building on Pine Manor College land. (More information on each of these options can be found in the Advisory Committee's Report on Article 1 of the First Special Town Meeting to be held within the Fall Special Town Meeting at 7:30 p.m. on November 14, 2017 ("STM 1").

RECOMMENDATION:

Advisory Committee members found the scope of Article 5 to be too restrictive for the purposes of undertaking a successful search for a feasible way to provide needed

classroom and other educational spaces. Therefore, by a vote of 21–0–4, the Committee recommends NO ACTION on Article 5.

Article 1 of the First Special Town Meeting

Because Article 1 of the First Special Town Meeting essentially replaces Article 5, the Advisory Committee's vote on Article 1 is presented here. The Advisory Committee's full report on this matter can be found in its report on Article 1 of the First Special Town Meeting.

The Advisory Committee initially recommended Favorable Action on the following motion under Article 1 of the First Special Town Meeting (STM 1):

VOTED: That the Town re-appropriate the following amounts out of funds previously appropriated under Section 13, Special Appropriation No. 67 of Article 9 of the 2017 Annual Town Meeting, to be expended under the direction of the Building Commission, with any necessary contracts greater than $100,000 to be approved by the Board of Selectmen and the School Committee, as follows: (1) $300,000 for the purpose of further site evaluation services, including legal services, at the Baldwin/Pine Manor sites and site evaluation services, including legal services, at alternate sites, which shall include but not be limited to the Pierce School and adjacent properties, and the Baker School; (2) an additional $400,000, for further feasibility study on a single-site solution; and (3) a further additional $300,000 (or a total of $700,000 for feasibility studies), for further feasibility study on a multi-site solution should a multi-site solution be chosen. The evaluation and determination of a single- site or a multi-site solution prior to the expenditure of funds for feasibility studies referred to in (2) and (3) above shall include the options of constructing a new school and of demolishing, renovating, and expanding existing schools, with the determination of a single-site or multi-site solution made by the Board of Selectmen and School Committee with the advice of the Ad Hoc Subcommittee of the Advisory Committee, after evaluation information has been received by the Board of Selectmen, School Committee and Ad Hoc Subcommittee and publicly presented for discussion to the extent advised by Town Counsel.

After further review of the language of the motion, it was determined that minor revisions should be made in order to ensure that the appropriated funds could be spent in accordance with the intent of the motion. The motion below includes the necessary revisions to the previous motion. Deletions are shown in ~~strikethrough~~; addition in **bold**.

By a vote of 23–1–0, the Advisory Committee recommends FAVORABLE ACTION on the following motion under Article 1 of the First Special Town Meeting:

VOTED: That the Town re-appropriate ~~the following amounts out of~~ **up to $1 million in** funds previously appropriated under Section 13, Special Appropriation No. 67 of Article 9 of the 2017 Annual Town Meeting, to be expended under the direction of the Building

Commission, with any necessary contracts greater than $100,000 to be approved by the Board of Selectmen and the School Committee, as follows: (1) $300,000 for the purpose of further site evaluation services, including legal services, at the Baldwin/Pine Manor sites and site evaluation services, including legal services, at alternate sites, which shall include but not be limited to the Pierce School and adjacent properties, and the Baker School; (2) an additional $400,000, for further feasibility study ~~on a single site solution~~; and (3) a further additional $300,000 (or a total of $700,000 for feasibility studies), for further feasibility study on a multi-site solution should a multi-site solution be chosen. The evaluation and determination of a single- site or a multi-site solution prior to the expenditure of funds for feasibility studies referred to in (2) and (3) above shall include the options of constructing a new school and of demolishing, renovating, and expanding existing schools, with the determination of a single-site or multi-site solution made by the Board of Selectmen and School Committee with the advice of the Ad Hoc Subcommittee of the Advisory Committee, after evaluation information has been received by the Board of Selectmen, School Committee and Ad Hoc Subcommittee and publicly presented for discussion to the extent advised by Town Counsel.

ARTICLE 9

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

On November 7, 2017 the Board reconsidered their motion under Article 9 in order to address a paragraph that had not been included in the warrant but had been included in the draft reviewed with the legislative representatives at the State House this past summer and preliminary approved by them, and that is language that had been borrowed in substance from Somerville's successful recent home rule petition asking for above-quota liquor licenses. The Moderator has allowed this edit to be within the scope of the original article.

The additional proposed paragraph (e) in bold states, essentially, that if a restaurant loses a liquor license for a reason other than through a transfer to another business, the license goes back to the Town and can be given out to a new business at the same parcel or within the same development area, essentially making explicit what may have been implicit (that the license belongs to the Town to be reissued along the same lines).

The Board of Selectmen unanimously voted FAVORABLE ACTION on the following motion:

VOTED: That the Town authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court (the new paragraph (e) is in **bold**):

AN ACT AUTHORIZING THE TOWN OF BROOKLINE TO GRANT 35 ADDITIONAL LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES AND 5 ADDITIONAL LICENSES FOR THE SALE OF WINES AND MALTS TO BE DRUNK ON THE PREMISES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. (a) Notwithstanding section 17 of chapter 138 of the General Laws or any other general or special law to the contrary, the licensing authority of the Town of Brookline may grant 35 additional licenses for the sale of all alcoholic beverages to be drunk on the premises, and 5 additional licenses for the sale of wines and malt beverages to be drunk on the premises pursuant to section 12 of chapter 138, provided, however, that such licenses are issued to an establishment that holds a Common Victuallers license pursuant to section 2 of chapter 140 of the General Laws. The licenses granted under this section shall be subject to all of said chapter 138 except said section 17.

(b) The licensing authority shall restrict the licenses authorized by this section in the following manner:

(i) 1 license for the sale of all alcoholic beverages may be granted to an entity located at the parcel depicted on page 59 of the Town of Brookline Assessor's Atlas, as block number 238, lot number 01; ("Map 1");

(ii) 2 licenses for the sale of all alcoholic beverages may be granted to entities located at the parcels depicted on page 29B of the Town of Brookline Assessor's Atlas, as block number 138, parcel numbers 01 and 02. ("Map 2");

(iii) 1 license for the sale of all alcoholic beverages may be granted to an entity located at the parcel depicted on page 29B of the Town of Brookline Assessor's Atlas as block number 135, lot number 01. ("Map 2");

(iv) 4 licenses for the sale of all alcoholic beverages may be granted to entities located at the parcels depicted on page 29B of the Town of Brookline Assessor's Atlas as block 135, lot numbers 10-11, 12-13, 14, 15, 17-18, and 19-22. ("Map 2");

(v) 3 licenses for the sale of all alcoholic beverages may be granted to entities located at the parcels depicted on page 9 of the Town of Brookline Assessor's Atlas as block number 045, lot numbers 01, 11 and 02-01. ("Map 3");

(vi) 5 licenses for the sale of all alcoholic beverages may be granted to entities located at the parcels depicted on page 122A of the Town of Brookline Assessor's Atlas as block number 425, lot numbers 07, 07-01, 07-09, 10, 10-01, 11 and 12. ("Map 4");

(vii) 4 licenses for the sale of all alcoholic beverages may be granted to entities located at the parcel depicted on page 8 of the Town of Brookline Assessor's Atlas as block number 042, lot number 11-01. ("Map 5");

(viii) 15 licenses for the sale of all alcoholic beverages may be granted to entities located in any of the "Development Opportunity Areas," the boundaries of which are shown on a map titled "Development Opportunity Areas (Map 6-A, 6-B, and 6-C)" dated August 2017;

(viiii) 5 licenses for the sale of wines and malt beverages may be granted to entities located in any of the "Development Opportunity Areas," the boundaries of which are shown on a map titled shown on a map titled "Development Opportunity Areas (Map 6-A, 6-B, and 6-C)" dated August 2017.

(c) A license granted under this section shall only be exercised in the dining room of a Common Victualler and in such other public rooms or areas as may be deemed reasonable and appropriate by the licensing authority as certified in writing.

(d) Once issued, the licensing authority shall not approve the transfer of the licenses to any other location but it may grant the licenses to new applicants at the same location if the applicants file with the licensing authority a letter from the department of revenue and a letter from the division of unemployment assistance indicating that the licenses are in good standing with the department and that all applicable taxes, fees, and contributions have been paid.

(e) If a licensee terminates or fails to renew a license granted under this section or if any such license is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority and the licensing authority may then grant the license to a new applicant at a parcel or within the development opportunity areas under the same conditions as specified in this section.

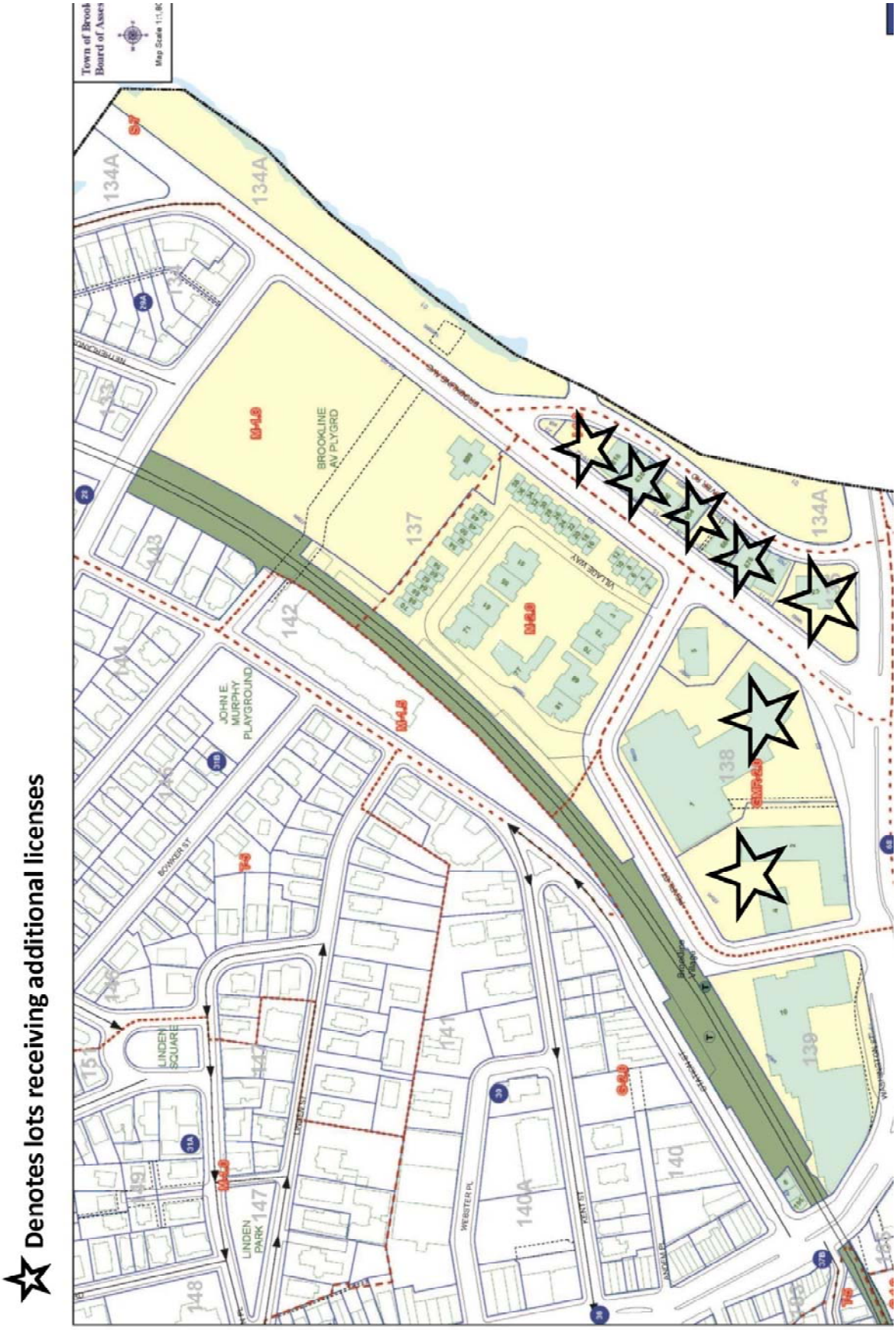
SECTION 2. This act shall take effect upon its passage.

The General Court may make such amendments as are within the scope of the general public objectives of this petition.

MAP 1

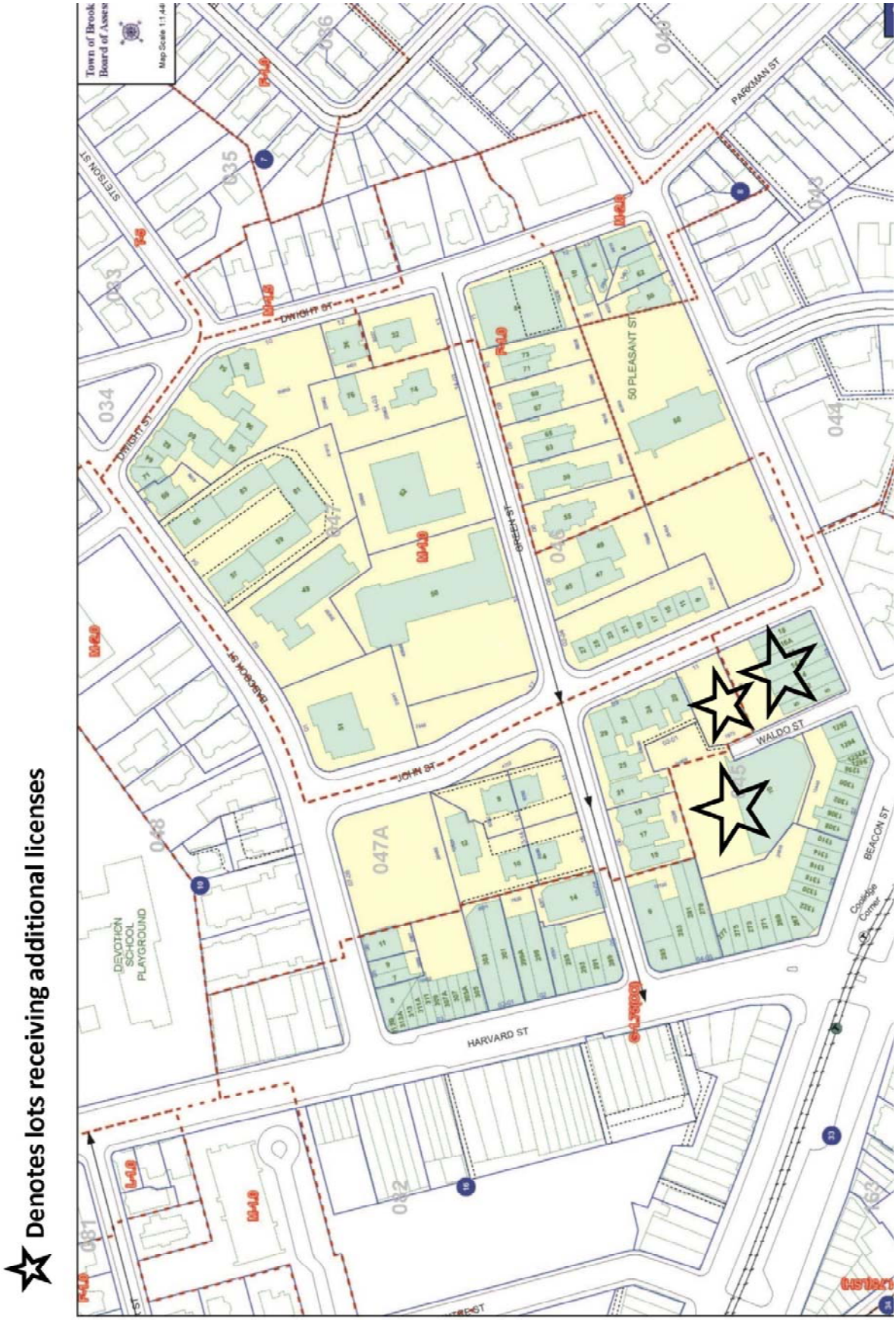
☆ **Denotes lot receiving additional licenses**

MAP 2



☆ **Denotes lots receiving additional licenses**

MAP 3



☆ **Denotes lots receiving additional licenses**

MAP 4

☆ **Denotes lots receiving additional licenses**

MAP 5

☆ Denotes lot receiving additional licenses

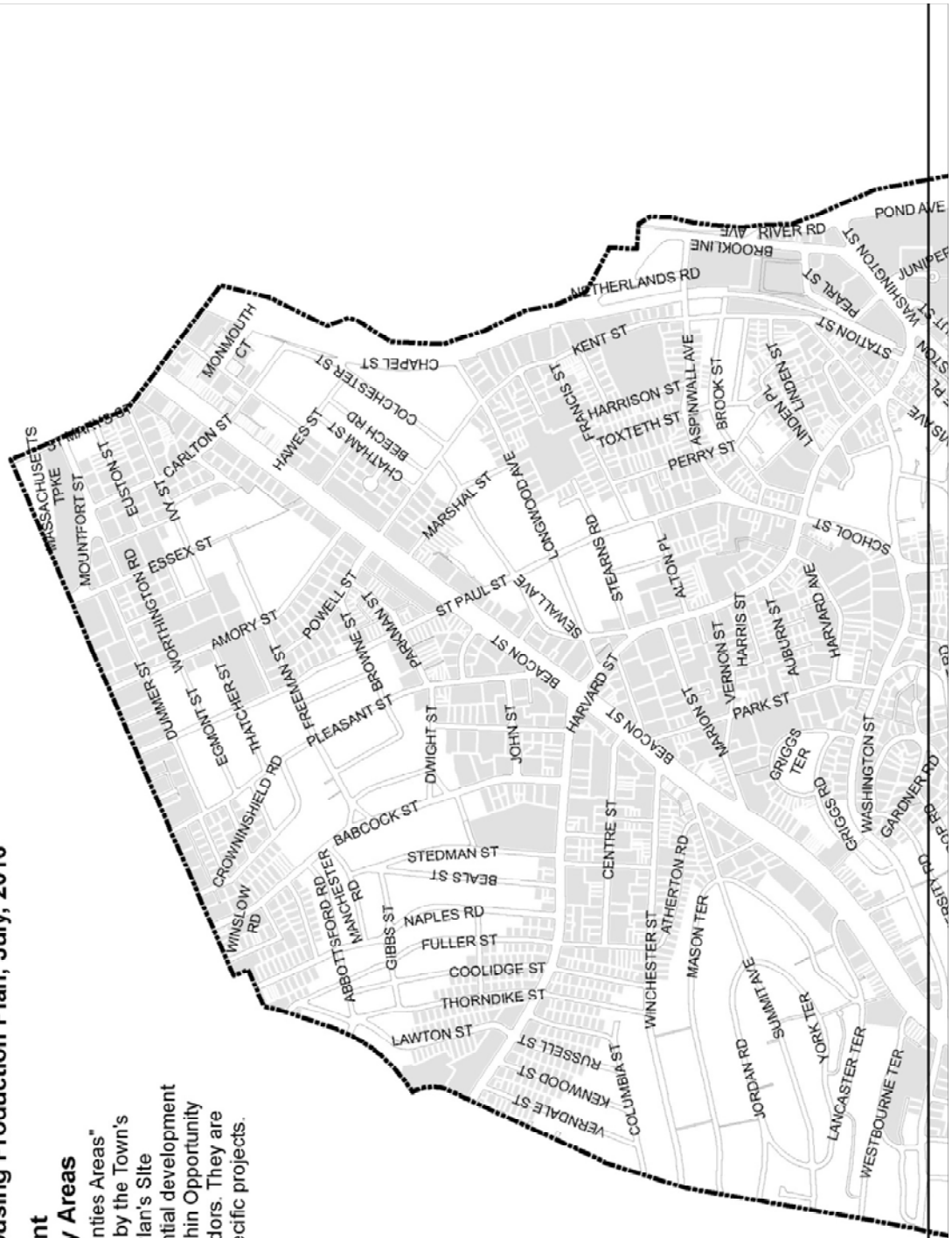
Development Opportunity Areas
MAP 6-A

Date: August 2017
Sources: Town of Brookline GIS,
Town of Brookline Housing Production Plan, July, 2016

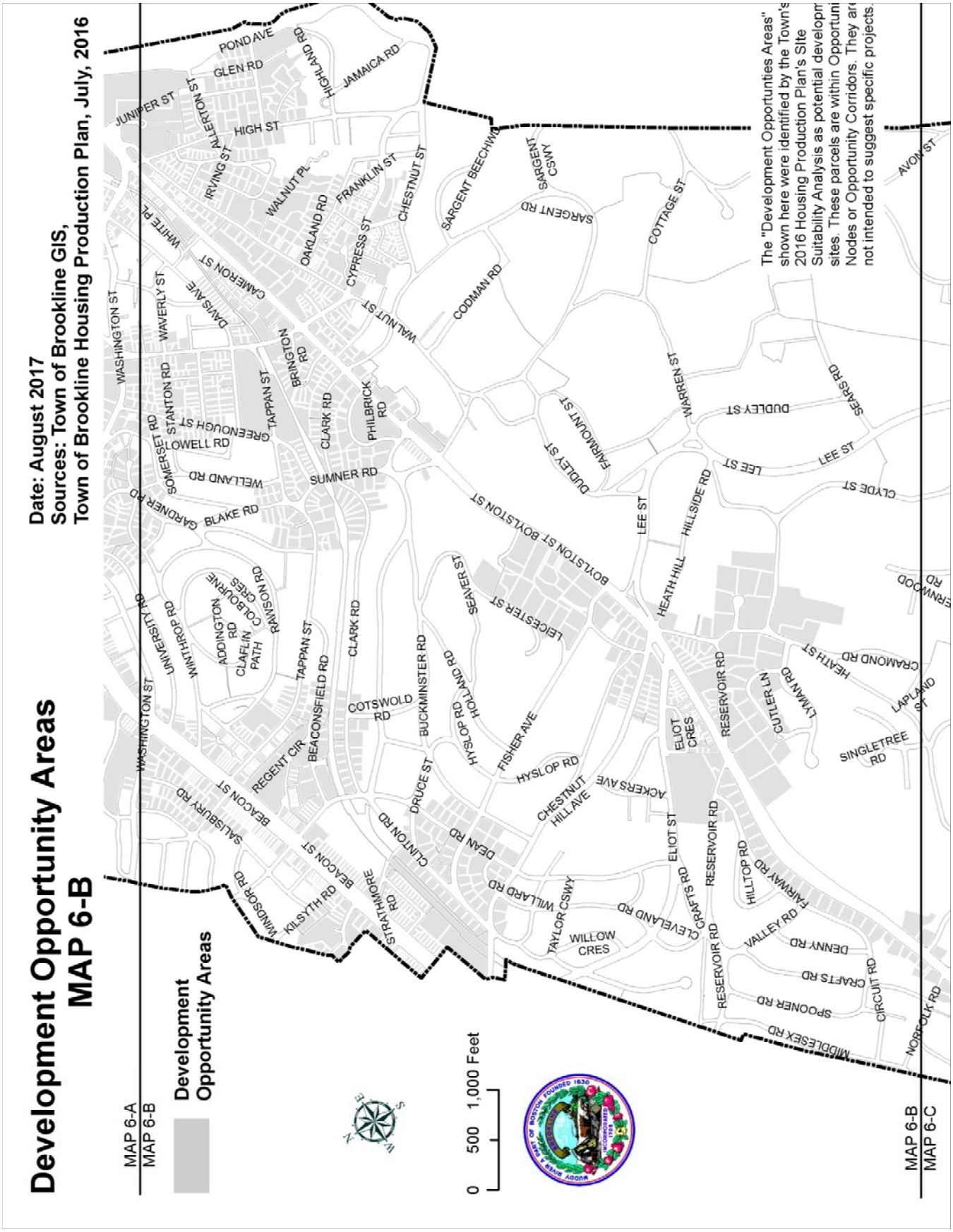
Development Opportunity Areas

The "Development Opportunties Areas" shown here were identified by the Town's 2016 Housing Production Plan's SIte Suitability Analysis as potential development sites. These parcels are within Opportunity Nodes or Opportunity Corridors. They are not intended to suggest specific projects.

0 500 1,000 Feet



MAP 6-A
MAP 6-B


Development Opportunity Areas
MAP 6-B
Date: August 2017
Sources: Town of Brookline GIS,
Town of Brookline Housing Production Plan, July, 2016
Development Opportunity Areas
MAP 6-A
MAP 6-B
MAP 6-B
MAP 6-C
0 500 1,000 Feet
The "Development Opportunities Areas" shown here were identified by the Town's 2016 Housing Production Plan's Site Suitability Analysis as potential developm sites. These parcels are within Opportuni Nodes or Opportunity Corridors. They ar not intended to suggest specific projects.
POND AVE
GLEN RD
JUNIPER ST
ALLERTON ST
HIGH ST
HIGHLAND RD
JAMAICA RD
IRVING ST
WALNUT PL
FRANKLIN ST
CHESTNUT ST
SARGENT BEECHWD
SARGENT CSWY
SARGENT RD
COTTAGE ST
AVON ST
WHITE PL
CAMERON ST
OAKLAND RD
CYPRESS ST
DAVIS AVE
WAVERLY ST
WASHINGTON ST
WALNUT ST
CODMAN RD
STANTON RD
SOMERSET RD
GREENOUGH ST
LOWELL RD
TAPPAN ST
BRINGTON RD
CLARK RD
PHILBRICK RD
WELLAND RD
SUMNER RD
GARDNER RD
BLAKE RD
WARREN ST
DUDLEY ST
SEARS RD
FAIRMOUNT ST
LEE ST
CLYDE ST
BOYLSTON ST
HILLSIDE RD
HEATH HILL
UNIVERSITY RD
WINTHROP RD
ADDINGTON RD
COLBOURNE CRES
CLAFLIN PATH
RAWSON RD
SEAVER ST
LEICESTER ST
HEATH ST
CRAMOND RD
LAPLAND ST
SINGLETREE RD
CUTLER LN
LYMAN RD
RESERVOIR RD
ELIOT CRES
COTSWOLD RD
BUCKMINSTER RD
HOLLAND RD
HYSLOP RD
FISHER AVE
ACKERS AVE
CHESTNUT HILL AVE
REGENT CIR
BEACONSFIELD RD
DRUCE ST
CLINTON RD
DEAN RD
BEACON ST
SALISBURY RD
WINDSOR RD
KILSYTH RD
STRATHMORE RD
WILLARD RD
TAYLOR CSWY
WILLOW CRES
CLEVELAND RD
CRAFTS RD
ELIOT ST
HILLTOP RD
FAIRWAY RD
VALLEY RD
DENNY RD
CRAFTS RD
SPOONER RD
CIRCUIT RD
NORFOLK RD
MIDDLESEX RD

Development Opportunity Areas
MAP 6-C
MAP 6-B
MAP 6-C
Date: August 2017
Sources: Town of Brookline GIS,
Town of Brookline Housing Production Plan, July, 2016
ST PAULS AVE
GODDARD AVE
MEADOWBROOK RD
FOREST ST
DALE ST
CLYDE ST
LEE ST
NEWTON ST
ALLANDALE RD
RISLEY RD
LELAND RD
PAYSON RD
BAKER CIR
WOODCLIFF RD
CLEARWATER RD
PKY VIEW PKY
VIEW
ASHEVILLE RD
BONAD RD
RUSSETT RD
THORNTON RD
INDEPENDENCE DR
INTERVALE RD
WEST ROXBURY PKY
OGDEN RD
SOUTH ST
GROVE ST
FAIRGREEN PL
HALLWOOD RD
BELLINGHAM RD
GOODNOUGH RD
WALNUT HILL RD
WALLIS RD
GERRY RD
FERNWOOD RD
ALBERTA RD
SHAW RD
BEVERLY RD
WOLCOTT RD
RANGELEY RD
LAGRANGE ST
PRINCETON RD
YARMOUTH RD
RANDOLPH RD
WOODLAND RD
PINE RD
GLENCE RD
HAMMOND ST
ASTON RD
CEDAR RD
LAUREL RD
HAMMOND POND PKY
SAW MILL RD
KENSINGTON CIR
HEATH ST
BOYLSTON ST
CRAFTSLAND RD
0 500 1,000 Feet
Development Opportunity Areas
The "Development Opportunities Areas" shown here were identified by the Town's 2016 Housing Production Plan's Site Suitability Analysis as potential development sites. These parcels are within Opportunity Nodes or Opportunity Corridors. They are not intended to suggest specific projects.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

The Advisory Committee, after considerable discussion and increasing awareness of the complexity of the issue, initially voted to recommend Favorable Action on a motion that was essentially the same as the Article 9 language that the Selectmen had placed in the Warrant.

On November 7, 2017, the Advisory Committee met to reconsider its previous recommendation. This reconsideration was initially prompted by the realization that the following paragraph inadvertently had been omitted from Article 9 as it has appeared in the Warrant:

(e) If a licensee terminates or fails to renew a license granted under this section or if any such license is cancelled, revoked or no longer in use, it shall be returned physically, with all of the legal rights, privileges and restrictions pertaining thereto, to the licensing authority and the licensing authority may then grant the license to a new applicant at a parcel or within the development opportunity areas under the same conditions as specified in this section.

The omitted paragraph, which the Moderator ruled was within the scope of the Warrant Article, is significant because it uses language borrowed from Somerville's recent successful home rule petition to obtain more liquor licenses. The effect of the paragraph may be limited, however, because most liquor licenses change hands through the sale or transfer of a business, and thus would not go back to the Selectmen (the licensing authority) to be reissued.

Further discussion of Article 9 by the full Advisory Committee and its Public Safety Subcommittee, which conducted considerable research and held multiple public hearings on the Article, raised other questions about the Article and the Advisory Committee's previous recommendation.

- Should the requested liquor licenses be tied to specific sites in Brookline (e.g., the Holiday Inn or Beacon Street or the new hotel on River Road) or should they be designated for general areas in which the Town is trying to encourage commercial development? What is in the best interest of the Town as it tries to promote appropriate and beneficial development? (Note that half of the licenses (20) are proposed to be fixed to a specific parcel rather than to a specific commercial area (which is what Somerville successfully did), which may make many of the licenses unusable if a restaurant does not open on that specific parcel.)

- Does tying liquor licenses to a particular site increase the chances that Brookline's proposed legislation will be approved? Does it make any difference at all?

- If tying licenses to particular sites means that Brookline would have some licenses that it, in effect, could not issue (because, for example, multiple licenses already had been issued for that site), would having these unused licenses jeopardize Brookline's chances of obtaining legislative approval for additional licenses?

- Did the Town vet a sufficient number of possible approaches with legislative staff to determine the best model to follow while filing the legislation?

- If the best possible motion under Article 9 would be beyond the scope of the Warrant, should the Town file legislation for some additional liquor licenses now and then file further legislation after obtaining the necessary authority at the next Town Meeting? (Note that the only amendments that can be made within the scope of the article are amendments to remove licenses from the list, which puts the Town at risk of not having the licenses it may need.)

- Is the proposed split between general liquor licenses and beer & wine licenses appropriate? Other communities report a growing demand for beer & wine licenses, but under Article 9 the large majority (35/40) of new Brookline licenses would be general licenses.

- Should the Board of Selectmen and the Economic Development Advisory Board hold a public hearing before putting an Article such as Article 9 on the Warrant? Neither body did in this case, but the proposed legislation potentially affects every part of Brookline.

Despite these concerns, the Advisory Committee ultimately decided to recommend the approach that the Selectmen intend to pursue. This recommendation reflected several factors. First, time is running out to obtain approval of the necessary legislation during the current legislative sessions. Second, different parties (State House staff, legislators, officials in other municipalities) give conflicting advice on the best way to win legislative support for obtaining more liquor licenses. Thus the precise approach adopted by Brookline may not matter. Third, the legislation outlined in the Warrant Article almost certainly will evolve as it makes its way through the legislative process on Beacon Hill. Thus it may not be necessary to micro-manage the language of the motion at this stage.

RECOMMENDATION:
By a vote of 21–1–2 taken on November 7, 2017, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen under Article 9.

ARTICLE 10

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

This narrative applies to Articles 10-15 and STM2 Article 1

Planning for the redevelopment of Hancock Village has been a long and arduous process, characterized by dissension, fragmentation and uncertainty. We are now faced with an opportunity to move forward with a Master Plan that provides predictability and finality. It represents a compromise, but it is a compromise that furthers the best interests of the Town, puts an end to contentious and expensive litigation, and sets out a comprehensive plan to guide the future development of Brookline's largest housing development.

Clearly, there are many throughout the neighborhood and the town – including the members of the Board of Selectmen – who would prefer that the pastoral setting of Hancock Village be retained as a testament to the Garden Village concept popularized in the mid-twentieth century. But that is not an option. As a property owner, Chestnut Hill Realty has avenues available to it to increase the density of its property. These include the one it has opted to pursue: MGL Chapter 40B, which statutorily allows developers to circumvent virtually all municipal regulation on development as long as the developer agrees to set aside a portion of his project for subsidized housing. While such developments can be challenged in court, legal challenges are by their nature uncertain, and can, if unsuccessful, result in a considerable expenditure of resources without any corresponding improvement in the project. When presented with an alternative, the Town elected to investigate the possibility of a negotiated settlement, culminating in the warrant articles now before Town Meeting.

Those six warrant articles together comprise a Master Plan. The Plan – and only the Plan – provides the Town with protections that establish parameters on all future development on the site. The Plan represents the conclusion of an extraordinary effort amongst the parties to settle a lawsuit and to create a definitive and final plan for the future of Hancock Village. The proposed zoning overlay district establishes what may and may not be done on the property. It is "one-and-done" to the maximum extent authorized by the State, which has authority over the project inasmuch as it controls the degree to which the Town will be able to place units on its Subsidized Housing Inventory (SHI), the list that determines whether or not Brookline has met its regional obligation to create affordable housing.

The Master Plan that we have before us is certainly not perfect. But it is better than the most clearly defined alternative: the 161 units at the Residences of South Brookline (ROSB) for which Chestnut Hill Realty has already received a Comprehensive Permit combined with the 40B project proposed for 226 units at Puddingstone at Chestnut Hill

(Puddingstone), which is pending before our Zoning Board of Appeals. We recognize that if the developer were to pursue the pending Comprehensive Permit to create 226 units at Puddingstone, the ZBA and Planning Department would work to reduce the density. But the ZBA's authority to reduce density in a Comprehensive Permit hearing is limited by state statute, and in all likelihood Puddingstone would still be a massive project consisting of 200 residential units more or less.

If Town Meeting fails to approve the Warrant Articles relative to Hancock Village, a host of scenarios could conceivably occur. But, in the opinion of the Board of Selectmen, there is a very real possibility that Chestnut Hill Realty will be allowed to construct ROSB and also pursue and ultimately receive the pending Comprehensive Permit for Puddingstone. The Board of Selectmen is unanimous in its decision not to take that risk – the potential consequences are too severe for the Town and for the neighborhood.

In contrast, the Master Development Plan together with the proposed zoning amendment and associated documents offer the Town a host of benefits relative to the permitted and pending 40B Comprehensive Permits.

- The Master Development Plan codifies "one-and-done." No structures that are not explicitly identified on the zoning map may be constructed. With the exception of small, limited first-floor Additions to existing townhouses, no structures may be expanded beyond the footprints identified on the Plan. The Plan represents the final and complete build-out to the extent that the Town may legally limit future development while still achieving the maximum benefit available to it with respect to its SHI. We note that the Memorandum of Agreement leading up to this settlement states that CHR will provide a permanent deed restriction against using Chapter 40B or other state statute which overrides local zoning. The Massachusetts Department of Housing and Community Development, which oversees the SHI, will only permit a 20-year deed restriction, which is disappointing. But the deed restriction will be filed towards the end of the project which could be as late as 10 years from now, so this restriction's effective period will be for much longer than 20 years.
- Rezoning the property allows for a dramatically better design by giving the developer the flexibility to adjust the placement of the proposed buildings within the site, as compared to the ROSB 40B. Most notably, the 11 residential buildings from the ROSB 40B that occupy the buffer zone between Hancock Village and its immediate abutters have been removed, and the Asheville Building (the largest building in ROSB) has been significantly moved and adjusted to fit better within the site, thereby dramatically reducing the visual impact of the building on the abutting single-family neighborhood.
- The Master Development Plan reduces the total number of bedrooms by as much as 239 from the approved and pending 40B projects while still retaining a significant component as affordable housing. The contrast is compelling.
- The approved 40B project includes 11 residential buildings and extensive parking and driveways within the green belt, essentially decimating the buffer. In

contrast, the Master Development Plan protects over 3.5 acres of the greenbelt. There will be no buildings in the greenbelt under this Plan and, upon completion of the project or within 10 years from initiation of the project (whichever is earlier), the owner will convey 3.5 acres of the greenbelt to the Town of Brookline. The owner will maintain this property for 30 years.

- There will be no recycling-trash buildings within the buffer zone, unlike the permitted ROSB 40B, which includes at least one recycling-trash building in the S-7 district.
- Chestnut Hill Realty will construct and convey a playground to the Town of Brookline on property adjacent to the Baker School.
- Chestnut Hill Realty will construct significant improvements to Independence Drive in compliance with the Town's Complete Streets Policy. Although some of these improvements were required as a condition of the approved 40B, the improvements have been expanded and will include a traffic signal at Independence Drive and Sherman Road.
- Chestnut Hill Realty will donate $1,000,000 to the Town for public improvements within the general area surrounding Hancock Village.
- By creating a new traffic pattern, the Master Development Plan will result in the closing of Asheville Road to traffic other than emergency vehicles. This will result in not only the elimination of additional traffic but the removal of existing traffic generated by Hancock Village from Russett Road.
- While the Master Plan will generate approximately 20 less affordable units than the combined 40Bs, it will still generate between 55 and 63 affordable units. The units will be permanently affordable, just as they would be with a 40B project.
- Although the combined 40Bs will add a maximum of 374 units (148 for ROSB and, per the proposed plan, 226 for Puddingstone) to the SHI, the Master Development Plan will generate 148 units for the SHI, which counts towards the 40B safe harbor.

By design, the Master Development Plan provides for essentially as-of-right development, but it is important to note that the Town has retained both review and oversight over all components of the plan. The new overlay district by-law provides for the establishment of the Hancock Village Conformance Review Committee, a new committee whose sole responsibility is to insure that all aspects of the Hancock Village project conform to the Town's understanding. In addition, controls on the project will be exercised by municipal departments to guarantee compliance with Town by-laws and practices, such as:

- The Preservation Commission's authority over demolition remains. For example, the Preservation Commission has issued an 18-month stay on the demolition of the garages on Independence Drive and Gerry Road.
- The specified limited Additions allowed after 10 years will be reviewed by the Planning Board in accordance with design guidelines written into the Zoning By-law. The limited Additions are intended to extend the dining rooms and can be no higher than the first floor, add no more than 60 square feet of habitable space per

unit, extend out no more than 6 feet and be no more than 10 feet wide. The dimensions were negotiated with the Advisory Committee Planning and Regulation Subcommittee, with an eye towards making sure the additions could not be used as bedrooms.

- The Neighborhood Conservation District Commission (NCDC) will retain control over the design involved in the rebuilding of any existing buildings that, for any reason, may be demolished. This is in addition to the restrictions imposed by the pending Zoning By-law, which expressly prohibit expansion of the existing buildings, including rebuilding beyond the existing footprints or established heights.

We respect the fact that as of this writing Precinct 16 members are opposed to the warrant articles before you. But the Board of Selectmen is not willing to turn away from a plan that represents so much progress towards the stated goals of the Town in general – and the neighborhood in particular – to pursue a theoretical alternative, all the while risking a result that is demonstrably worse. Further, we view the litigation challenging the ROSB Comprehensive Permit in the same manner we view all litigation: inherently risky and uncertain, with no guarantee that the results will be favorable to the Town or the neighborhood. During the Board's meeting on November 7th CHR represented that they do not support the motion presented by Susan Roberts and will not participate in a "friendly 40B".

A host of neighbors, committees, boards and commissions have reviewed the initial warrant articles and elicited changes from the property owner. The Board of Selectmen acknowledges and appreciates their work, as it has resulted in Chestnut Hill Realty agreeing to:

- Eliminate a trash-recycling building from the S-7 buffer zone. This building may be relocated in the future—but expressly not in the buffer zone and subject to a series of restrictions within the Zoning By-law.
- Retain the Hancock Village Neighborhood Conservation District, albeit at a limited scope. (See the Board of Selectmen's Report on Warrant Article I of the 2nd Special Town Meeting within Special Town Meeting below.)
- Explicitly require representation on the Hancock Village Conformance Review Committee to include two members of the Neighborhood Conservation District Commission and one member of the Preservation Commission.
- Significantly reduce the potential size of the limited Additions both individually and in the aggregate. Whereas the original warrant article allowed for a maximum of 175 square feet of gross floor area per Addition with the aggregate gross floor area of the Additions not to exceed 25,000 square feet, Article 10 now places more rigorous constraints on the Additions including but not limited to a total maximum of 18,000 square feet in aggregate gross floor area and no more than 60 square feet of habitable space (approximately 71 square feet in gross floor area) per Addition.

These all represent substantial improvements to the plan and directly address many but not all of the stated concerns of the Precinct 16 Town Meeting Members. They serve as testimony to the fact that our process works.

On November 7, 2017, a unanimous Board of Selectmen voted FAVORABLE ACTION on the following motion:

VOTED: That the Town will amend its Zoning By-Law and to approve a Master Development Plan for the Hancock Village redevelopment project, as follows:

(i) Amend the Zoning Map to include a new HVOD overlay district, the boundaries of which are shown on the plan entitled, "Hancock Village Overlay District Boundary Map," prepared by Stantec, dated October 31, 2017, and filed with the Town Clerk as of that date; and

(ii) Amend Section 3.01.4 to add the following new zoning overlay district to the list of previously identified zoning overlay districts: Hancock Village Overlay District.

(iii) Amend Section 5.06.4 to create Section 5.06.4.k "Hancock Village Overlay District ("HVOD")" as follows

k. *Hancock Village Overlay District*

1) The Hancock Village Overlay District (HVOD) is the site of an established residential development in the Garden Village model that has been identified as an appropriate site for a limited amount of new mixed-income housing, coupled with a limited scope of expansion and interior alteration of the existing improvements, all as shown on the Master Development Plan and otherwise specifically addressed herein.

2) As used in this Section 5.06.4.k, the following terms shall have the following meanings, except where the context clearly indicates otherwise:

a) ADDITION — An expansion of an existing building that increases the exterior massing of such building.

b) ADDITION PLANS – Architectural plans and elevations submitted in connection with one or more Additions pursuant to Section 5.06.4.k.4.b.ii.H.

c) CONFORMANCE REVIEW — The process and standards set forth in Section 5.06.4.k.12 to determine conformance of the HVOD Project or any proposed phase or portion thereof with the Master Development Plan and the standards and requirements set forth in this Section 5.06.4.k.

d) CONSTRUCTION ACTIVITY – The construction of new structures, roadways, driveways, parking areas or Additions, or site work associated with such construction. Construction Activity shall not include: (i) site work not associated with the construction of new structures, roadways, driveways parking areas or Additions; (ii) the installation of utilities; (iii) restoration and improvement of land within the Open Space Areas (HVOD Buffer Areas) depicted on the Master Development Plan; (iv) improvements solely to the interior of structures that do not increase floor area, footprint or bedroom count; or (v) activities involving uses and structures referred to in M.G.L. c.40A §3, to the extent allowed under said section of the General Laws. Construction Activity shall include the reconstruction of any structure within the HVOD voluntarily demolished (wholly or partially) other than in the event of damage or destruction by fire, explosion or other catastrophe.

e) DESIGN CERTIFICATE – A certificate issued by the Planning Board pursuant to Section 5.06.4.k.4.b.ii.H, below.

f) DESIGN GUIDELINES – The Design Guidelines set forth in Section 5.06.4.k.4.b.ii.G, below.

g) DISTRICT FLOOR AREA RATIO (DFAR) —The ratio of the combined gross floor areas of all buildings within the HVOD to the total area of the HVOD.

h) FINAL PLANS — The plans and materials submitted in connection with the Conformance Review pursuant to Section 5.06.4.k.12.

i) GRADE PLANE — The average of finished ground level adjoining a building at the exterior walls. Where finished ground level slopes away from the exterior walls, the grade plane shall be established by the lowest points within the area between the building and a point 6 feet from the building. For purposes of calculating building height within the HVOD, this definition shall be used in place of the level specified in Section 5.30.

j) HANCOCK VILLAGE CONFORMANCE REVIEW COMMITTEE (HVCRC) — The Committee appointed by the Planning Board pursuant to Section 5.06.4.k.12.b to determine conformance of the HVOD Project or any proposed phase or portion thereof with the Master Development Plan and the standards and requirements set forth in this Section 5.06.4.k. The HVCRC shall consist of nine (9) members, and shall include among the membership two (2) members of the Neighborhood Conservation District Commission and one (1) member of the Preservation Commission, allowing for a single person with dual memberships to serve in both roles, if appropriate. Said members of the Neighborhood

Conservation District Commission and Preservation Commission shall be appointed to the HVCRC by the Chairs of their respective Commissions. The Planning Board shall establish rules and regulations governing what constitutes a quorum and other matters related to the conduct of the HVCRC.

k) HEIGHT OF BUILDING — The vertical distance of the highest point of the roof beams in the case of a flat roof, or the top of the rafters at the ridge in the case of a sloping roof above the grade plane. For purposes of calculating building height within the HVOD, this definition shall be used in place of the definition specified in Article II of this By-Law, and the provisions of Sections 5.30-5.32 shall not apply; provided, however, that, within the HVOD: (i) structures or facilities normally built or installed so as to extend above a roof and not devoted to human occupancy, such as transmission towers, chimneys, smokestacks, flag poles, masts, aerials, elevator penthouses and water tanks or other structures normally built above the roof and not devoted to human occupancy shall be excluded from the computation of building height as long as they would not if counted cause the applicable maximum Building Height to be exceeded by more than 10 feet, except as authorized by a special permit granted by the Board of Appeals; (ii) any rooftop mechanical feature, heating or air conditioning unit, vent, stack, or mechanical penthouse shall be screened by parapet walls or similar building elements, to the extent necessary to screen such feature from view from properties outside of the HVOD, and shall comply with the provisions of the Noise Control By-Law; and (iii) rooftop structures shall not cause the applicable maximum Building Height to be exceeded by more than 10 feet except as authorized by a special permit granted by the Board of Appeals.

l) HVOD — The Hancock Village Overlay District, the boundaries of which are shown on a map of land entitled "Hancock Village Overlay District Boundary Map" dated September 7, 2017, prepared by Stantec Planning and Landscape Architecture P.C., filed with the Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this By-Law. The HVOD has an area of approximately 2,165,545 square feet.

m) HVOD PROJECT — All development within the four "Development Areas" and the two "Open Space Areas" (HVOD Buffer Areas), as shown on the Master Development Plan, including all associated roads and site access features shown thereon, and renovations pursuant to Section 5.06.4.k.4.b.i of this By-Law and the construction of a single additional recycle center as provided for in Section 5.06.4.k.4.v. The HVOD Project does not include any Addition.

n) MASTER DEVELOPMENT PLAN — A plan entitled "Hancock Village Master Development Plan" dated October 31, 2017, prepared by Stantec Planning and Landscape Architecture P.C., a copy of which is on file with the Town Clerk's Office and shall be incorporated into this By-Law and made a part hereof.

o) PROPONENT — The proponent or developer of the HVOD Project or any proposed phase or portion thereof, or the proponent or developer of any Addition.

p) SIGNAGE PLAN – A plan entitled "HVOD Signage Plan" dated August 31, 2017, prepared by Stantec Planning and Landscape Architecture P.C., a copy of which is on file with the Town Clerk's Office.

q) STRUCTURED PARKING — A parking facility contained entirely within a building or structure.

Other terms used but not defined in this Section 5.06.4.k shall have the meanings set forth in Article II of this By-Law.

3) The HVOD is established as an overlay district superimposed over the underlying zoning districts. The regulations set forth in this Section 5.06.4.k shall apply to the entire HVOD land area in lieu of all other use, bulk and dimensional, parking, landscaping, screening, setback/radius, signage, affordable housing and other zoning regulations that would otherwise be applicable. Such regulations shall apply to the entire HVOD land area as if it were one lot, even if it is comprised, at any time, of more than one parcel, including parcels separated by a street or way.

4) Land within the HVOD may be developed and used as follows:

a. The HVOD Project shall be allowed in accordance with the Master Development Plan and the standards and guidelines set forth in this Section 5.06.4.k. The following structures and uses shall be allowed as components of the HVOD Project or any proposed phase or portion thereof:

i. Multiple Dwellings (but not including lodging houses, hotels, dormitories, fraternities or sororities) containing, in total, no more than 382 new dwelling units constructed in locations as shown on the Master Development Plan as follows:

Figure 5.06.4.k.1

	Total Units	**1 Bedroom**	**2 Bedroom**	**3 Bedroom**	**Total Bedrooms**	**Affordable Units**

		Units	Units	Units		
Asheville Building	112	84	28	0	140	28 at 80% Adjusted Area Median Income ("AMI")[1]
Gerry Building	36	13	11	12	71	9 at 80% AMI; 18 at 100% AMI[2, 3]
Sherman Building	234	133	101	0	335	0
Total	382	230	140	12	546	37 at 80% AMI; 18 at 100% AMI[2, 3]

Footnotes to Figure 5.06.4.k.1:
[1] For purposes of this Section 5.06.4.k, the designation "at 80% AMI" shall refer to an Affordable Unit that meets the LIP Criteria laid out in the Guidelines for M.G.L. c. 40B Comprehensive Permit Projects, Subsidized Housing Inventory (Updated December 2014) or any subsequent revision or replacement guidelines adopted by the Massachusetts Department of Housing and Community Development (DHCD), available for rent to an Income Eligible Household, as defined said Guidelines.
[2] For purposes of this Section 5.06.4.k, the designation "at 100% AMI" shall refer to an Affordable Unit (as defined in Section 4.08.2.c), available for rent or sale to an Eligible Household (as defined in Section 4.08.2.d) earning less than or equal to 100% of the AMI.
[3] In lieu of providing 18 Affordable Units at 100% AMI (10 one-bedroom units, 8 two-bedroom units) within the Gerry Building, the Proponent may, at its election, instead provide 18 one-bedroom units and 8 two-bedroom units at 100% AMI (for a total of 26 units containing 34 bedrooms) within townhouse buildings that exist within the HVOD as of the effective date of this Section 5.06.4.k, and shall indicate its decision to make such election on the Affordable Housing Plan for the Gerry Building required by Section 5.06.4.k.4.a.i.I.

All Affordable Units (whether at 80% AMI or 100% AMI) included within the HVOD Project (or included within any townhouse buildings that exist within the HVOD as of the effective date of this Section 5.06.4.k, pursuant to Footnote 3 in Figure 5.06.4.k.1) shall follow the following standards and procedures:

A) Each Affordable Unit shall be indistinguishable in external appearance from market rate units located in the same building as such Affordable Unit. Affordable units shall have the same mechanical systems as market rate units, except that Affordable Units with up to two bedrooms may have only one bathroom, and Affordable Units with three bedrooms shall have at least 1.5 bathrooms. Affordable units shall have the same level of quality of finishes and appliances as the market rate units except where the Director of Planning and Community Development specifically approves, in advance, a request for different finishes and/or appliances. All residents of the HVOD, including residents of the Affordable Units, shall enjoy equal rights to use and access the Community Center

Building and related facilities.

B) The Affordable Units shall contain square footage which is no less than (1) the average size of market rate units containing the same number of bedrooms, or (2) the following, whichever is smaller:

1 bedroom:	700 square feet
2 bedrooms:	900 square feet
3 bedrooms:	1100 square feet

For purposes of this subparagraph only, square footage shall be calculated within the interior surfaces of the perimeter surfaces of the walls of the unit.

C) Floor plans for Affordable Units which differ from those of market rate units located within the same building shall not be approved without the recommendation of the Director of Planning and Community Development.

D) Initial rents, and rent increases for the Affordable Units shall be established in accordance with Guidelines established by DHCD and the Town's Department of Planning and Community Development.

E) The Town may establish a system of priorities for selecting buyers or renters, in accordance with the Town's Affordable Housing Guidelines and any applicable DHCD requirements.

F) All Affordable Units will be monitored on an annual basis by DHCD and the Town of Brookline Planning Department/ Housing Division. The Town may require that lessees of affordable rental units meet income recertification requirements upon renewal of lease terms.

G) Affordability restrictions shall be embodied in DHCD's LIP Rent Regulatory Agreement for the 80% AMI Affordable Units and a similar Town Rental Agreement for the 100% AMI Affordable Units.

H) Covenants and other documents necessary to ensure compliance with this section shall be executed and recorded prior to the issuance of a certificate of occupancy. In addition, the execution and recording of such covenants and other documents prior to issuance of a certificate of occupancy shall be a condition of any building permit issued for an HVOD Project building (or building permit for the renovation of an existing unit intended to be rented at 100% AMI pursuant to Footnote 3 of Figure 5.06.4.k.1) containing Affordable Units.

I) Submittal of Affordable Housing Plan—The Proponent shall submit an Affordable Housing Plan form to the Planning and Community Development Department prior to making an application for a building permit for a particular HVOD Project building. This form shall provide a schedule of all project units by location, square footage, unit types, number and types of rooms, and location of Affordable Units within that building. Locations of all Affordable Units must be approved by the Director of Planning and Community Development.

J) Prior to issuance of any certificate of occupancy for any unit in the HVOD Project including Affordable Units, the Proponent shall submit to the Director of Planning and Community Development for approval a plan for marketing and selection of occupants of the Affordable Units in the building where the certificate of occupancy is sought; said plan to include the initial rents for the units designated as affordable. All Affordable Units (80% AMI and 100% AMI) within a particular building will be marketed at the same time and will follow DHCD Guidelines for Affirmative Marketing and Tenant Selection, as outlined in Section 3 of Guidelines for M.G.L. c. 40B Comprehensive Permit Projects, Subsidized Housing Inventory (Updated December 2014) or any subsequent revision or replacement guidelines adopted by DHCD.

K) The Building Commissioner may limit, restrict or withhold the issuance of a certificate of occupancy for any market rate unit in a particular HVOD Project building until certificates of occupancy also have been issued for a corresponding percentage of Affordable Units in such building as required by this Section 5.06.4.k.a.i (for example purposes only, the Building Commissioner may withhold, limit or restrict a certificate of occupancy for a market rate unit in the Asheville Building if issuance of such certificate of occupancy would result in Affordable Units constituting less than 25% of the total number of units in the Asheville Building for which certificates of occupancy are being, or have been issued).

ii. Leasing, business and professional office uses incidental to and exclusively for the management of buildings within the HVOD; provided, however, that the aggregate gross floor area of all such uses shall not exceed 10,000 square feet. Uses allowed pursuant to this subsection and subject to the limitation on square footage are distinct from those uses described in subsection iv, below;

iii. Parking as shown on the Master Development Plan and otherwise in accordance with Section 5.06.4.k.6;

iv. Social or community facilities, private swimming pools, health and fitness clubs, tennis courts or other amenity space incidental to one or more Multiple Dwellings within the HVOD and identified on the Master Development Plan and intended for the exclusive use of residents of the HVOD; and

v. Recycling facilities incidental to one or more allowed uses within the HVOD, including one additional recycle center not shown on the Master Development Plan. Should the Proponent elect to construct the single additional recycle center not shown on the Master Development Plan, that construction shall conform to the following requirements:

A) The recycle center shall not be located within the area zoned S-7.

B) The total square footage allowed for the recycle center shall not exceed 1,000 sf (excluding any covered areas not enclosed by walls).

C) The height for the additional recycle center shall not exceed 29 feet above grade.

D) The design of the recycle center shall be consistent with the design of recycling centers shown on the Master Development Plan.

E) Should the construction of the recycle center require the relocation of parking spaces, driveways or roadways, such relocation shall not result in an increase in the number of total parking spaces permitted in the HVOD pursuant to Section 5.06.4.k.6, nor an increase in the number of surface parking spaces shown on the Master Development Plan, nor a material reconfiguration of the site circulation. Surface parking relocated due to the construction of the recycle building shall not be relocated to the area zoned S-7.

F) Construction of the recycle center cannot result in any change in the location or footprint of any building shown on the Master Development Plan.

G) Construction of the recycle center shall be subject to Conformance Review pursuant to Section 5.06.4.k.12. With respect to that review, the Final Plans shall be reviewed for conformance with the conditions of this Section and all other relevant Sections of 5.06.4.k.

b. The residential use of those existing structures shown on the Master Development Plan but not included within the HVOD Project, and the structures themselves, are allowed by right in the manner, form, dwelling unit and bedroom counts and configurations, and with the structural dimensions that exist as of the effective date of this Section 5.06.4.k. The existing residential use and structures shown on the Master Development Plan may be expanded, altered and changed as follows:

    i. The renovation of existing dwelling units within the HVOD by converting laundry or utility rooms to bedrooms, creating up to 13 new bedrooms, is allowed exclusively in the locations shown as “Laundry/Storage Room Conversion” on the Master Development Plan, provided such renovations do not increase the footprint of the existing buildings.

ii. An Addition shall be allowed by right; provided, however, that the following conditions shall be satisfied:

A) The DFAR, including the proposed Addition, shall not exceed 0.48. For purposes of this Section 5.06.4.k, the DFAR shall be computed using the entire gross floor area of: (i) the HVOD Project, regardless of whether construction thereof has been completed at the time of such Addition; and (ii) any other building existing within the HVOD at the time of such Addition. The total square footage allowed for Additions pursuant to this section shall not exceed 18,000 square feet, measured from the exterior faces of the walls or from the centerlines of the of the walls for adjoining buildings.

B) Additions will only be added to units that have half baths on the first floor and modernized, reconfigured kitchens. No Addition shall add more than 60 square feet of gross floor area, measured from interior wall to interior wall, to any individual dwelling unit. The Additions will include no more than 3 exterior walls and no wall closing it off from the adjacent living space. No Addition shall extend more than 6 feet from the previously existing footprint of the unit being modified, excluding any roof overhangs and the thickness of the exterior wall of the Addition. No Addition shall have a lateral width of more than 10 feet.

C) The Addition shall only serve to extend the habitable space of the first story of the existing buildings to which they are attached and shall not extend past the height of the first story except as is necessary to conform to the design guidelines delineated below in Section 5.06.4.k.4.b.ii.G.

D) The Addition shall not involve the construction of new structures, the addition of new dwelling units, or the addition of new bedrooms or lofts.

E) No new structures shall be constructed, except as shown on the approved Master Development Plan.

F) At least ten (10) years have passed since the issuance of the first building permit for a building within the HVOD Project.

G) The Planning Board has reviewed such Addition Plans in accordance with the process set forth in Section 5.06.4.k.4.b.ii.H below, and confirmed the Addition conforms to the following Design Guidelines:

i. Additions shall be compatible with the character of the building and earlier Additions in terms of size, scale, massing, material, location and detail. Additions shall be designed so that the primary elevations of the original building remain clearly delineated.

ii. Each Addition shall respect the existing historic streetscape. The historic relationship of buildings to the street, including setbacks and open spaces, shall be maintained.

iii. Building materials shall conform to the requirements of Section 5.06.4.k.10.a, below.

iv. Additions shall maintain the spatial organization between the existing buildings.

H) Prior to submitting an application for a building permit in connection with an Addition, the Proponent shall submit Addition Plans to the Planning Board. Within forty-five (45) days of such submission, the Planning Board shall review the Addition Plans at a regularly scheduled meeting, for the sole purpose of determining whether such Addition Plans conform to the Design Guidelines set forth above in Section 5.06.4.k.4.b.ii.G. Within fourteen (14) days of said meeting, provided the Addition Plans conform to the Design Guidelines, the Planning Board shall issue a Design Certificate, a copy of which shall be filed with each of the Office of the Town Clerk and the Building Department, stating that such Addition Plans conform to the Design Guidelines. In the event the Planning Board does not issue such Design Certificate pursuant to this Section 5.06.4.k.4.b.ii.H, the Planning Board shall specify in writing all of its reasons for determining that the Addition does not conform to the Design Guidelines and the Proponent may, at its option: (x) withdraw the request for such Design Certificate; or (y) modify the Addition Plans to bring them into conformance with the Planning Board's findings, and resubmit the Addition Plans for review in accordance with

this Section 5.06.4.k.4.b.ii.H. If, after completion of either of (x) or (y), above, a Design Certificate does not issue, the Proponent may seek review under G.L. c. 249, §4. In the event the Planning Board fails to act within any of the time periods specified in this Section 5.06.4.k.4.b.ii.H, the conformance of the Addition Plans to the Design Guidelines shall be deemed confirmed by the Planning Board.

c. Prior to the commencement of any Construction Activity for the HVOD Project, or any portion thereof, under this Section 5.06.4.k, the land within the HVOD shall remain subject to the underlying zoning then in effect. Upon a Proponent's election to pursue development of the HVOD Project, or any portion thereof, as shown on the approved Master Development Plan, a notice to such effect shall be recorded in the Norfolk Registry of Deeds and filed with the Town Clerk and the Building Department prior to issuance of any building permit for the HVOD Project pursuant to this Section 5.06.4.k. From and after the filing of such notice, all Construction Activity within the HVOD shall be in accordance with the approved Master Development Plan or pursuant to Section 5.06.4.k.4.b.ii in the case of an Addition. Activities that do not constitute Construction Activity may be undertaken, if otherwise permitted by applicable provisions of this By-law, prior to, or following, the filing of the notice described in this Section.

5) The following dimensional regulations shall apply to the HVOD:

a) Building Footprint: All buildings shall be limited to the two-dimensional building footprint shown on the Master Development Plan, with the exception of an Addition satisfying the requirements of Section 5.06.4.k.4.b.ii.

b) Maximum Building Height: Asheville Building: 60 feet above Grade.

Gerry Building: 47 feet above Grade.

Sherman Building: 69 feet above Grade.

Community Center Building: 47 feet above Grade.

Recycle Center Buildings: 29 feet above Grade.

An existing structure shown on the Master Development Plan but not included within the HVOD Project, and any structure reconstructed on the footprint of such existing structure (whether due to voluntary demolition

or due to damage or destruction by fire, explosion or other catastrophe), shall have a maximum Building Height equal to the height of the existing structure as of the effective date of this Section 5.06.4.k.

c) Setbacks: All buildings shall be subject to the setbacks from the boundaries of the HVOD (excluding the boundary line that is also a municipal boundary line) as shown on the Master Development Plan.

d) Maximum DFAR: The DFAR for the entire HVOD shall not exceed 0.48.

6) The parking and traffic circulation requirements set forth in this Section 5.06.4.k.6 shall apply within the HVOD, rather than the requirements set forth in Sections 6.01 through 6.03 and Sections 6.05 through 6.09 or elsewhere in this By-Law; provided, however, that Section 6.04 shall apply to the design of all parking in the HVOD in all respects except for the requirements as to setbacks, interior landscaping, and common driveways. Prior to the issuance of any Conformance Determination pursuant to Section 5.06.4.k.12, the Director of Engineering and Transportation shall find that the HVOD Project has met all applicable standards related to parking and traffic circulation.

a) The Master Development Plan establishes a schedule of total parking spaces to be provided within the HVOD. At no time shall the total number of parking spaces within the HVOD exceed 1,439. If and to the extent construction of the entire HVOD Project is completed, no fewer than 1,375 parking spaces shall be provided within the HVOD. For any phase of the HVOD Project that includes the construction of a new building, as part of the Conformance Review conducted pursuant to Section 5.06.4.k.12, the Proponent shall submit to the HVCRC a phasing schedule describing the number of parking spaces to be constructed as part of such phase.

b) Parking locations shall be as shown on the Master Development Plan; provided that additional parking spaces may be provided in structured parking facilities within both the Asheville, Gerry and Sherman Buildings. Such spaces shall count toward the maximum total number of parking spaces allowed within the HVOD in Section 5.06.4.k.6.a.

c) To the extent consistent with the Master Development Plan, parking may be provided through on-street spaces on private roadways within the HVOD, ground-level paved areas, Structured Parking or any combination thereof.

d) Parking spaces within the HVOD shall be used only by HVOD residents and their guests, and employees or agents of the owners or managers of property within the HVOD. The entire HVOD shall be treated as one lot for the purpose of providing the required number of parking spaces, subject to the provisions of this Section 5.06.4.k.6.d. All tenants within the HVOD shall have the right to lease or otherwise license or use parking spaces within the HVOD on such terms and

conditions as may be established by the owner or owners from time to time, provided that there shall be no discrimination between tenants within any particular building with respect to their ability to lease or otherwise access and use parking spaces within the HVOD. The owners of adjacent parcels within the HVOD, as applicable, shall establish the rights of such owners and their tenants, guests and invitees to use the parking spaces within the HVOD pursuant to one or more easement agreements, which shall be duly recorded at the Norfolk County Registry of Deeds or filed with the Norfolk County District of the Land Court, as applicable.

e) All parking areas and facilities shall be set back from the boundaries of the HVOD as shown on the Master Development Plan.

f) Sidewalks or multipurpose pedestrian ways and facilities shall connect each parking area or facility to buildings, public spaces, or other destination points within the HVOD as shown on the Master Development Plan. Except as shown on the Master Development Plan, no vehicular access to the HVOD over the frontage sidewalks shall be permitted.

g) All streets within the HVOD shall be designed and maintained so that fire lanes are unimpeded by obstacles and landscaping, as shown on the Master Development Plan.

h) Any of the specific requirements set forth in this Section 5.06.4.k.6 may be waived by the HVCRC in accordance with Section 5.06.4.k.12.g, below, with the exception of the minimum and maximum total number of parking spaces specified in Section 5.06.4.k.6.a.

7) Signs, to the extent visible from public ways, shall conform to the Signage Plan.

8) There shall be a buffer area, delineated as "HVOD Buffer Area" on the Master Development Plan, from the boundary of the HVOD (excluding the boundary line that is also a municipal boundary line). Said buffer may be:

a) Landscaped in accordance with the requirements set forth in Section 5.06.4.k.9 to minimize visual impact on adjacent residential uses through the use of plantings, berms, or fencing; or

b) Developed as open space with play areas as shown on the Master Development Plan.

9) Landscaping and Screening of Parking and Buffer Areas.

a) Landscaping within and around parking areas in the HVOD shall be substantially as shown on the Master Development Plan; provided, however, that

a detailed landscaping plan shall be submitted for review and approval by the HVCRC as part of its Conformance Review.

b) In reviewing the landscaping plan, the HVCRC shall consider whether:

i. Proposed plantings include both trees and evergreen shrubs, including those existing within the HVOD.

ii. Trees are proposed to be two and one-half inches (2 ½") caliper four feet (4') above ground level, of a species common to eastern Massachusetts, and likely to reach an ultimate height of at least thirty feet (30').

iii. Shrubs are at least thirty inches (30") in height at the time of planting, and of an evergreen species common to eastern Massachusetts, and likely to reach an ultimate height of at least four feet (4'), except where a lower height is necessitated for egress visibility as determined by the Building Commissioner.

iv. Plantings are grouped, not evenly spaced, and located or trimmed to avoid blocking egress visibility.

c) Screening shall be required to obscure the visibility of parking areas of seven (7) or more spaces from within fifty feet (50') beyond the boundaries of the HVOD at normal eye level. Such screening shall consist of plantings of species, size and spacing to provide effective screening within three (3) years of planting, and shall be supplemented by an opaque fence or wall at least six feet (6') tall but no higher than seven feet (7') tall.

d) Whenever possible, the landscaping and screening requirements set forth in this Section 5.06.4.k.9 shall be met by retention of existing plants.

e) All plant materials required by this Section 5.06.4.k.9 shall be maintained in a healthful condition. Dead limbs shall be promptly removed and dead plants shall be promptly replaced at the earliest appropriate season. Any fences required for screening shall be properly maintained.

f) Proposed changes to landscaping within the HVOD from the detailed landscaping plan reviewed and approved by the HVCRC pursuant to Section 5.06.4.k.12 shall be submitted to the Planning Department for review and approval by the Assistant Director of Regulatory Planning.

10) The following design and performance standards shall apply to all Construction Activity within the HVOD. These standards shall be reflected in the final plans and

materials submitted for review and approval by the HVCRC as part of its Conformance Review:

a) Exterior Finish Materials:

i) Building exteriors shall be compatible with the character, style, materials and details of the existing Hancock Village and constructed of durable and maintainable materials.

ii) Buildings shall include operable windows of metal or vinyl-clad wood and shall meet or exceed the minimum thermal resistant requirements of the State Building Code.

iii) The design, layout and color of doors and windows shall reflect the style and character of existing buildings within the HVOD.

iv) Finish materials shall not be susceptible to rapid staining, fading or other discoloration.

b) The provisions of Section 7.04 shall apply to the HVOD Project. Without limiting the foregoing, all exterior lighting shall be designed and maintained so that no direct light or glare shines on any street or abutting residence located outside the HVOD. No exterior lights shall be mounted higher than fifteen (15) feet.

11) Prior to any Conformance Review for a building within the HVOD, the Proponent shall submit a rubbish and recycling plan and schedule to the Chief of Environmental Health for review and approval. Such approval shall be based on a determination that:

a) All rubbish generated within the HVOD shall be handled and disposed of in compliance with all applicable regulations by the Proponent;

b) The Proponent has provided sizes, number, and location of recycling buildings, dumpsters, trash compactors, and recycling containers;

c) The Proponent has provided a schedule for trash and recycling pick-up demonstrating compliance with applicable Town by-laws;

d) Dumpsters are fully screened on three sides with solid walls of a sufficient height with a solid front gate;

e) Trash compactors are enclosed; and

f) The Proponent has provided a rodent and insect control plan.

12) Development of the HVOD Project or any phase or portion thereof shall be allowed, subject to a Conformance Review by the HVCRC as provided herein.

a) A request for a Conformance Review shall be filed with the Town Clerk, and copies shall be submitted to the Planning Board and the Zoning Coordinator. The application shall include, as applicable, the following Final Plans and related materials:

1. Locus Map showing boundaries of the subject property
2. Existing Conditions Plan
3. General Layout Map
4. Site Development Plans identifying building locations including all accessory structures, site circulation, location of trash receptacles, location of parking and all other site components. These shall include Landscaping, Utility and Stormwater Plans (which Utility and Stormwater Plans shall be reviewed and approved by the Director of Engineering and Transportation prior to submission to the HVCRC and shall be provided to the HVCRC for informational purposes only)
5. Architectural Floor and Elevations Plans
6. Transportation Access Plan (reviewed and approved by the Director of Engineering and Transportation and provided to the HVCRC for informational purposes only)
7. Exterior Lighting Plan
8. Table of development data, including building height, setbacks, gross floor area, number of dwelling units, number of bedrooms per dwelling, number of affordable housing units, number of parking spaces (including designated handicapped spaces), and number of bicycle parking spaces/racks.
9. A computation, prepared by a licensed professional engineer, of the current DFAR of the HVOD and the impact of construction of the HVOD Project or phase or component thereof on that DFAR.

b) As soon as practicable after receipt of a request for a Conformance Review, the Planning Board shall appoint the HVCRC to conduct the Conformance Review.

c) Within fourteen (14) days of receiving the request, the Director of Planning and Community Development (or her designee), shall send a letter, with a copy to the Town Clerk, notifying the Proponent that its request is either complete or incomplete. Any determination that the request is incomplete shall state what additional information is required to complete the request. If the Director of Planning and Community Development (or designee) does not issue a letter within the 14-day period, the request shall be deemed complete.

d) The Conformance Review shall be completed within sixty (60) days of the determination that the request is complete, presuming that the Proponent has made timely submissions of materials in response to reasonable requests of the HVCRC that are consistent with its powers under this By-Law, except with the written consent of the Proponent. During the Conformance Review period, the HVCRC shall hold one or more public meetings, (i) notice of which shall be posted in accordance with the Open Meeting Law, M.G.L. c. 30A, §§ 18 through 25 and its implementing regulations; and (ii) which shall be conducted in accordance with rules and regulations to be adopted by the Planning Board. The HVCRC may consult with relevant Town boards and departments, which may submit comments or recommendations in writing or at a meeting of the HVCRC. The affirmative vote of a majority of a quorum of the HVCRC shall be required to complete the Conformance Review and issue a Conformance Determination authorizing the HVOD Project, or any phase or portion thereof, to proceed. Submission of any of the information or materials listed above in Section 5.06.4.k.12.a may be waived by the HVCRC if such information or materials would not be relevant to the phase (or portion thereof) for which Conformance Review has been requested, or is duplicative of information previously provided in connection with the HVOD Project or prior phases thereof.

e) Provided the request for Conformance Review submitted pursuant to Section 5.06.4.k.12.a is complete and the Final Plans for the proposed HVOD Project, or any phase or portion thereof, conform to the Master Development Plan and the requirements set forth in this Section 5.06.4.k, the HVCRC shall issue a Conformance Determination, a copy of which shall be filed with the Office of the Town Clerk within thirty (30) days of the HVCRC vote. In the event that the HVCRC denies a Conformance Determination pursuant to this Section 5.06.4.k.12, the HVCRC shall specify in writing all of its reasons for determining that the HVOD Project, or portion thereof, does not conform to the requirements of this Section 5.06.4.k, and the Proponent may, at its option: (i) withdraw the request for such Conformance Determination or waiver; or (ii) modify its plans to bring them into conformance with the HVCRC's findings, and resubmit the plans in accordance with Section 5.06.4.k.12.a above (provided, however, for any plans resubmitted in accordance with this Section 5.06.4.k.12.e, the time period for completion of Conformance Review specified in Section 5.06.4.k.12.d shall be reduced to thirty (30) days from the date the plans are resubmitted). If, after completion of any of (i) or (ii), above, a Conformance Determination does not issue, the Proponent may seek review under G.L. c. 249, §4.

f) A Conformance Determination and the full plan set associated therewith shall be timely recorded with the Norfolk County Registry of Deeds and shall run with the affected land. The Proponent shall provide evidence of such recording to the HVCRC and to the Building Commissioner, and no building permit shall issue for an applicable component of the HVOD Project prior to receipt of such evidence.

g) As part of its Conformance Review, the HVCRC, in its discretion, may waive minor variations from the site layout and building footprints depicted on the Master Development Plan, if it determines that such waiver is not inconsistent with the intent of this Section 5.06.4.k. In making this determination, the HVCRC shall consider whether:

i) The purposes of this Section 5.06.4.k, will be protected;

ii) Strict application of the requirement to be waived would undermine the public interest;

iii) Specific substitute requirements can be adopted that will result in substantial protection of the public health, safety, convenience and welfare; and

iv) Any building or structure made possible by the waiver will not violate the provisions of any state or federal law or local by-law or be materially inconsistent with the Master Development Plan.

13) The HVOD Project may be constructed in one or more phases, in accordance with an applicable Conformance Determination. Upon the granting of a Conformance Determination for the HVOD Project and any phase or portion thereof, the plan referenced in such Conformance Determination shall be deemed to be in compliance with the requirements of this By-Law at the time such finding is made, notwithstanding the status of any other phase or portion of the HVOD Project or any noncompliance of such other phase or portion with the requirements of this Section 5.06.4.k.

14) The owner of any portion of the land within the HVOD shall be entitled to lawfully divide such portion, including, without limitation, by virtue of plans endorsed by the Planning Board pursuant to M.G.L. c. 41, §81P or by ground lease pursuant to §2.12(5) of this By-Law; and to sell, finance or place under separate non-common ownership any such portion or portions of land, without modifying the approved Master Development Plan and without the need for other approvals or compliance with other provisions of this By-Law, except as set forth in Section 5.06.4.k. To the extent consistent with the Subdivision Control Law, M.G.L. c. 41, §81K, et seq., portions of land within the HVOD may be separated by a public or private way.

15) More than one (1) building shall be allowed on any parcel of land within the HVOD.

16) Prior to issuance of any certificate of occupancy for any building or other improvement, or any portion thereof, within the HVOD, the Proponent shall comply with the Public Works Department's Site Plan Review Checklist and with the Building Department's Certificate of Occupancy Process.

17) In the event of any conflict or inconsistency between the other provisions of this By-Law and this Section 5.06.4.k, the provisions of this Section 5.06.4.k shall prevail.

(iv) To approve the Master Development Plan, entitled, "Hancock Village Master Development Plan," dated October 31, 2017, and filed with the Town Clerk as of that date, for the Hancock Village Overlay District;

For reference, we have provided a "redline" version of the differences between the original article and the motion voted by the Board:

VOTED: That the Town will amend its Zoning By-Law and to approve a Master Development Plan for the Hancock Village redevelopment project, as follows:

(v) Amend the Zoning Map to include a new HVOD overlay district, the boundaries of which are shown on the plan entitled, "Hancock Village Overlay District Boundary Map," prepared by Stantec, ~~as most recently~~dated October 31, 2017, and filed with the Town Clerk as of that date; and

(vi) Amend Section 3.01.4 to add the following new zoning overlay district to the list of previously identified zoning overlay districts: Hancock Village Overlay District.

(vii) Amend Section 5.06.4 to create Section 5.06.4.k "Hancock Village Overlay District ("HVOD")" as follows

k. *Hancock Village Overlay District*

18) The Hancock Village Overlay District (HVOD) is the site of an established residential development in the Garden Village model that has been identified as an appropriate site for a limited amount of new mixed-income housing, coupled with a limited scope of expansion and interior alteration of the existing improvements, all as shown on the Master Development Plan and otherwise specifically addressed herein.

19) As used in this Section 5.06.4.k, the following terms shall have the following meanings, except where the context clearly indicates otherwise:

r) ADDITION — An expansion of an existing building that increases the exterior massing of such building.

s) ADDITION PLANS – Architectural plans and elevations submitted in connection with one or more Additions pursuant to Section 5.06.4.k.4.b.ii.H.

t) CONFORMANCE REVIEW — The process and standards set forth in Section 5.06.4.k.12 to determine conformance of the HVOD Project or any proposed phase or portion thereof with the Master Development Plan and the standards and requirements set forth in this Section 5.06.4.k.

u) CONSTRUCTION ACTIVITY – The construction of new structures, roadways, driveways, parking areas or Additions, or site work associated with such construction. Construction Activity shall not include: (i) site work not associated with the construction of new structures, roadways, driveways parking areas or Additions; (ii) the installation of utilities; (iii) restoration and improvement of land within the Open Space Areas (HVOD Buffer Areas) depicted on the Master Development Plan; (iv) improvements solely to the interior of structures that do not increase floor area, footprint or bedroom count; or (v) activities involving uses and structures referred to in M.G.L. c.40A §3, to the extent allowed under said section of the General Laws. Construction Activity shall include the reconstruction of any structure within the HVOD voluntarily demolished (wholly or partially) other than in the event of damage or destruction by fire, explosion or other catastrophe.

v) DESIGN CERTIFICATE – A certificate issued by the Planning Board pursuant to Section 5.06.4.k.4.b.ii.H, below.

w) DESIGN GUIDELINES – The Design Guidelines set forth in Section 5.06.4.k.4.b.ii.G, below.

x) DISTRICT FLOOR AREA RATIO (DFAR) —The ratio of the combined gross floor areas of all buildings within the HVOD to the total area of the HVOD.

y) FINAL PLANS — The plans and materials submitted in connection with the Conformance Review pursuant to Section 5.06.4.k.12.

z) GRADE PLANE — The average of finished ground level adjoining a building at the exterior walls. Where finished ground level slopes away from the exterior walls, the grade plane shall be established by the lowest points within the area between the building and a point 6 feet from the building. For purposes of calculating building height within the HVOD, this definition shall be used in place of the level specified in Section 5.30.

aa) HANCOCK VILLAGE CONFORMANCE REVIEW COMMITTEE (HVCRC) — The Committee appointed by the Planning Board pursuant to Section 5.06.4.k.12.b to determine conformance of the HVOD Project or any proposed phase or portion thereof with the Master Development Plan and the standards and requirements set forth in this Section 5.06.4.k. The HVCRC shall consist of nine (9) members, and shall include among the membership two (2) members of the Neighborhood Conservation District Commission and one (1) member of the Preservation Commission, allowing for a single person with dual memberships to serve in both roles, if appropriate. Said members of the Neighborhood Conservation District Commission and Preservation Commission shall be appointed to the HVCRC by the Chairs of their respective Commissions. The Planning Board shall ~~also~~ establish rules and regulations governing ~~the number of members of the HVCRC,~~ what constitutes a quorum~~,~~ and other matters related to the conduct of the HVCRC.

bb) HEIGHT OF BUILDING — The vertical distance of the highest point of the roof beams in the case of a flat roof, or the top of the rafters at the ridge in the case of a sloping roof above the grade plane. For purposes of calculating building height within the HVOD, this definition shall be used in place of the definition specified in Article II of this By-Law, and the provisions of Sections 5.30-5.32 shall not apply; provided, however, that, within the HVOD: (i) structures or facilities normally built or installed so as to extend above a roof and not devoted to human occupancy, such as transmission towers, chimneys, smokestacks, flag poles, masts, aerials, elevator penthouses and water tanks or other structures normally built above the roof and not devoted to human occupancy shall be excluded from the computation of building height as long as they would not if counted cause the applicable maximum Building Height to be exceeded by more than 10 feet, except as authorized by a special permit granted by the Board of Appeals; (ii) any rooftop mechanical feature, heating or air conditioning unit, vent, stack, or mechanical penthouse shall be screened by parapet walls or similar building elements, to the extent necessary to screen such feature from view from properties outside of the HVOD, and shall comply with the provisions of the Noise Control By-Law; and (iii) rooftop structures shall not cause the applicable maximum Building Height to be exceeded by more than 10 feet except as authorized by a special permit granted by the Board of Appeals.

cc) HVOD — The Hancock Village Overlay District, the boundaries of which are shown on a map of land entitled "Hancock Village Overlay District Boundary Map" dated ~~August 31~~September 7, 2017, prepared by Stantec Planning and Landscape Architecture P.C., filed with the Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this By-Law. The HVOD has an area of approximately 2,165,545 square feet.

dd) HVOD PROJECT — All development within the four "Development Areas" and the two "Open Space Areas~~,"~~" (HVOD Buffer Areas), as shown on the Master Development Plan, including all associated roads and site access features shown thereon, and renovations pursuant to Section 5.06.4.k.4.b.i of this By-Law and the construction of a single additional recycle center as provided for in Section 5.06.4.k.4.v. The HVOD Project does not include any Addition.

ee) MASTER DEVELOPMENT PLAN — A plan entitled "Hancock Village Master Development Plan" dated ~~August~~October 31, 2017, prepared by Stantec Planning and Landscape Architecture P.C., a copy of which is on file with the Town Clerk's Office and shall be incorporated into this By-Law and made a part hereof.

ff) PROPONENT — The proponent or developer of the HVOD Project or any proposed phase or portion thereof, or the proponent or developer of any Addition.

gg) SIGNAGE PLAN – A plan entitled "HVOD Signage Plan" dated August 31, 2017, prepared by Stantec Planning and Landscape Architecture P.C., a copy of which is on file with the Town Clerk's Office.

hh) STRUCTURED PARKING — A parking facility contained entirely within a building or structure.

Other terms used but not defined in this Section 5.06.4.k shall have the meanings set forth in Article II of this By-Law.

20) The HVOD is established as an overlay district superimposed over the underlying zoning districts. The regulations set forth in this Section 5.06.4.k shall apply to the entire HVOD land area in lieu of all other use, bulk and dimensional, parking, landscaping, screening, setback/radius, signage, affordable housing and other zoning regulations that would otherwise be applicable. Such regulations shall apply to the entire HVOD land area as if it were one lot, even if it is comprised, at any time, of more than one parcel, including parcels separated by a street or way.

21) Land within the HVOD may be developed and used as follows:

a. The HVOD Project shall be allowed in accordance with the Master Development Plan and the standards and guidelines set forth in this Section 5.06.4.k. The following structures and uses shall be allowed as components of the HVOD Project or any proposed phase or portion thereof:

i. Multiple Dwellings (but not including lodging houses, hotels, dormitories, fraternities or sororities) containing, in total, no more than 382 new dwelling units constructed in locations as shown on the Master Development Plan as follows:

Figure 5.06.4.k.1

	Total Units	**1 Bedroom Units**	**2 Bedroom Units**	**3 Bedroom Units**	**Total Bedrooms**	**Affordable Units**
Asheville Building	112	84	28	0	140	28 at 80% Adjusted Area Median Income ("AMI")[1]
Gerry Building	36	13	11	12	71	9 at 80% AMI; 18 at 100% AMI[2, 3]
Sherman Building	234	133	101	0	335	0
Total	382	230	140	12	546	37 at 80% AMI; 18 at 100% AMI[2, 3]

Footnotes to Figure 5.06.4.k.1:
[1] For purposes of this Section 5.06.4.k, the designation "at 80% AMI" shall refer to an Affordable Unit that meets the LIP Criteria laid out in the Guidelines for M.G.L. c. 40B Comprehensive Permit Projects, Subsidized Housing Inventory (Updated December 2014) or any subsequent revision or replacement guidelines adopted by the Massachusetts Department of Housing and Community Development (DHCD), available for rent to an Income Eligible Household, as defined said Guidelines.
[2] For purposes of this Section 5.06.4.k, the designation "at 100% AMI" shall refer to an Affordable Unit (as defined in Section 4.08.2.c), available for rent or sale to an Eligible Household (as defined in Section 4.08.2.d) earning less than or equal to 100% of the AMI.
[3] In lieu of providing 18 Affordable Units at 100% AMI (10 one-bedroom units, 8 two-bedroom units) within the Gerry Building, the Proponent may, at its election, instead provide 18 one-bedroom units and 8 two-bedroom units at 100% AMI (for a total of 26 units containing 34 bedrooms) within townhouse buildings that exist within the HVOD as of the effective date of this Section 5.06.4.k, and shall indicate its decision to make such election on the Affordable Housing Plan for the Gerry Building required by Section 5.06.4.k.4.a.i.I.

All Affordable Units (whether at 80% AMI or 100% AMI) included within the HVOD Project (or included within any townhouse buildings that exist within the HVOD as of the effective date of this Section 5.06.4.k, pursuant to Footnote 3 in Figure 5.06.4.k.1) shall follow the following standards and procedures:

A) Each Affordable Unit shall be indistinguishable in external appearance from market rate units located in the same building as such Affordable Unit. Affordable units shall have the same mechanical systems as market rate units, except that Affordable Units with up to two bedrooms may have only one bathroom, and Affordable Units with three

bedrooms shall have at least 1.5 bathrooms. Affordable units shall have the same level of quality of finishes and appliances as the market rate units except where the Director of Planning and Community Development specifically approves, in advance, a request for different finishes and/or appliances. All residents of the HVOD, including residents of the Affordable Units, shall enjoy equal rights to use and access the Community Center Building and related facilities.

B) The Affordable Units shall contain square footage which is no less than (1) the average size of market rate units containing the same number of bedrooms, or (2) the following, whichever is smaller:

1 bedroom:	700 square feet
2 bedrooms:	900 square feet
3 bedrooms:	1100 square feet

For purposes of this subparagraph only, square footage shall be calculated within the interior surfaces of the perimeter surfaces of the walls of the unit.

C) Floor plans for Affordable Units which differ from those of market rate units located within the same building shall not be approved without the recommendation of the Director of Planning and Community Development.

D) Initial rents, and rent increases for the Affordable Units shall be established in accordance with Guidelines established by DHCD and the Town's Department of Planning and Community Development.

E) The Town may establish a system of priorities for selecting buyers or renters, in accordance with the Town's Affordable Housing Guidelines and any applicable DHCD requirements.

F) All Affordable Units will be monitored on an annual basis by DHCD and the Town of Brookline Planning Department/ Housing Division. The

Town may require that lessees of affordable rental units meet income recertification requirements upon renewal of lease terms.

G) Affordability restrictions shall be embodied in DHCD's LIP Rent Regulatory Agreement for the 80% AMI Affordable Units and a similar Town Rental Agreement for the 100% AMI Affordable Units.

H) Covenants and other documents necessary to ensure compliance with this section shall be executed and recorded prior to the issuance of a certificate of occupancy. In addition, the execution and recording of such covenants and other documents prior to issuance of a certificate of occupancy shall be a condition of any building permit issued for an HVOD Project building (or building permit for the renovation of an existing unit intended to be rented at 100% AMI pursuant to Footnote 3 of Figure 5.06.4.k.1) containing Affordable Units.

I) Submittal of Affordable Housing Plan—The Proponent shall submit an Affordable Housing Plan form to the Planning and Community Development Department prior to making an application for a building permit for a particular HVOD Project building. This form shall provide a schedule of all project units by location, square footage, unit types, number and types of rooms, and location of Affordable Units within that building. Locations of all Affordable Units must be approved by the Director of Planning and Community Development.

J) Prior to issuance of any certificate of occupancy for any unit in the HVOD Project including Affordable Units, the Proponent shall submit to the Director of Planning and Community Development for approval a plan for marketing and selection of occupants of the Affordable Units in the building where the certificate of occupancy is sought; said plan to include the initial rents for the units designated as affordable. All Affordable Units (80% AMI and 100% AMI) within a particular building will be marketed at the same time and will

follow DHCD Guidelines for Affirmative Marketing and Tenant Selection, as outlined in Section 3 of Guidelines for M.G.L. c. 40B Comprehensive Permit Projects, Subsidized Housing Inventory (Updated December 2014) or any subsequent revision or replacement guidelines adopted by DHCD.

K) The Building Commissioner may limit, restrict or withhold the issuance of a certificate of occupancy for any market rate unit in a particular HVOD Project building until certificates of occupancy also have been issued for a corresponding percentage of Affordable Units in such building as required by this Section 5.06.4.k.a.i (for example purposes only, the Building Commissioner may withhold, limit or restrict a certificate of occupancy for a market rate unit in the Asheville Building if issuance of such certificate of occupancy would result in Affordable Units constituting less than 25% of the total number of units in the Asheville Building for which certificates of occupancy are being, or have been issued).

ii. Leasing, business and professional office uses incidental to and exclusively for the management of buildings within the HVOD; provided, however, that the aggregate gross floor area of all such uses shall not exceed ~~25~~10,000 square feet. Uses allowed pursuant to this subsection and subject to the limitation on square footage are distinct from those uses described in subsection iv, below;

iii. Parking as shown on the Master Development Plan and otherwise in accordance with Section 5.06.4.k.6;

iv. Social or community facilities, private swimming pools, health and fitness clubs, tennis courts or other amenity space incidental to one or more Multiple Dwellings within the HVOD and identified on the Master Development Plan and intended for the exclusive use of residents of the HVOD; and

v. Recycling facilities incidental to one or more allowed uses within the HVOD~~.~~, including one additional recycle center not shown on the Master Development Plan. Should the Proponent elect to construct the single additional recycle center not shown on the

Master Development Plan, that construction shall conform to the following requirements:

A) The recycle center shall not be located within the area zoned S-7.

B) The total square footage allowed for the recycle center shall not exceed 1,000 sf (excluding any covered areas not enclosed by walls).

C) The height for the additional recycle center shall not exceed 29 feet above grade.

D) The design of the recycle center shall be consistent with the design of recycling centers shown on the Master Development Plan.

E) Should the construction of the recycle center require the relocation of parking spaces, driveways or roadways, such relocation shall not result in an increase in the number of total parking spaces permitted in the HVOD pursuant to Section 5.06.4.k.6, nor an increase in the number of surface parking spaces shown on the Master Development Plan, nor a material reconfiguration of the site circulation. Surface parking relocated due to the construction of the recycle building shall not be relocated to the area zoned S-7.

F) Construction of the recycle center cannot result in any change in the location or footprint of any building shown on the Master Development Plan.

G) Construction of the recycle center shall be subject to Conformance Review pursuant to Section 5.06.4.k.12. With respect to that review, the Final Plans shall be reviewed for conformance with the conditions of this Section and all other relevant Sections of 5.06.4.k.

b. The residential use of those existing structures shown on the Master Development Plan but not included within the HVOD Project, and the structures themselves, are allowed by right in the manner, form, dwelling unit and bedroom counts and configurations, and with the structural dimensions that exist as of the effective date of this Section 5.06.4.k. The existing residential use and structures shown on the Master Development Plan may be expanded, altered and changed as follows:

i. The renovation of existing dwelling units within the HVOD by converting laundry or utility rooms to bedrooms, creating up to 13 new bedrooms, is allowed exclusively in the locations shown as "Laundry/Storage Room Conversion" on the Master Development Plan, provided such renovations do not increase the footprint of the existing buildings.

ii. An Addition shall be allowed by right; provided, however, that the following conditions shall be satisfied:

A) The DFAR, including the proposed Addition, shall not exceed 0.48. For purposes of this Section 5.06.4.k, the DFAR shall be computed using the entire gross floor area of: (i) the HVOD Project, regardless of whether construction thereof has been completed at the time of such Addition; and (ii) any other building existing within the HVOD at the time of such Addition. The total square footage allowed for Additions pursuant to this section shall not exceed ~~25,000 square feet~~18,000 square feet, measured from the exterior faces of the walls or from the centerlines of the of the walls for adjoining buildings.

B) Additions will only be added to units that have half baths on the first floor and modernized, reconfigured kitchens. No Addition shall add more than ~~175~~60 square feet of gross floor area, measured from interior wall to interior wall, to any individual dwelling unit. The Additions will include no more than 3 exterior walls and no wall closing it off from the adjacent living space. No Addition shall extend more than 6 feet from the previously existing footprint of the unit being modified, excluding any roof overhangs and the thickness of the exterior wall of the Addition. No Addition shall have a lateral width of more than 10 feet.

C) The Addition shall only serve to extend the habitable space of the first story of the existing buildings to which they are attached and shall not extend past the height of the first story except as is necessary to conform to the design guidelines delineated below in Section 5.06.4.k.4.b.ii.G.

D) The Addition shall not involve the construction of new structures, the addition of new dwelling units, or the addition of new bedrooms or lofts.

E) No new structures shall be constructed, except as shown on the approved Master Development Plan.

F) At least ten (10) years have passed since the issuance of the first building permit for a building within the HVOD Project.

G) The Planning Board has reviewed such Addition Plans in accordance with the process set forth in Section 5.06.4.k.4.b.ii.H below, and confirmed the Addition conforms to the following Design Guidelines:

i. Additions shall be compatible with the character of the building and earlier Additions in terms of size, scale, massing, material, location and detail. Additions shall be designed so that the primary elevations of the original building remain clearly delineated.

ii. Each Addition shall respect the existing historic streetscape. The historic relationship of buildings to the street, including setbacks and open spaces, shall be maintained.

iii. Building materials shall conform to the requirements of Section 5.06.4.k.10.a, below.

iv. Additions shall maintain the spatial organization ~~of~~between the existing buildings.

H) Prior to submitting an application for a building permit in connection with an Addition, the Proponent shall submit Addition Plans to the Planning Board. Within ~~thirty (30~~forty-five (45) days of such submission, the Planning Board shall review the Addition Plans at a regularly scheduled meeting, for the sole purpose of determining whether such Addition Plans conform to the Design Guidelines set forth above in Section 5.06.4.k.4.b.ii.G. Within fourteen (14) days of said meeting, provided the Addition Plans conform to the Design Guidelines, the Planning Board shall issue a Design Certificate, a copy of which shall be filed with each of the Office of the Town Clerk and the Building Department, stating that such Addition Plans conform to the Design Guidelines. In the event the Planning Board does not issue such Design

Certificate pursuant to this Section 5.06.4.k.4.b.ii.H, the Planning Board shall specify in writing all of its reasons for determining that the Addition does not conform to the Design Guidelines and the Proponent may, at its option: (x) withdraw the request for such Design Certificate; or (y) modify the Addition Plans to bring them into conformance with the Planning Board's findings, and resubmit the Addition Plans for review in accordance with this Section 5.06.4.k.4.b.ii.H. If, after completion of either of (x) or (y), above, a Design Certificate does not issue, the Proponent may seek review under G.L. c. 249, §4. In the event the Planning Board fails to act within any of the time periods specified in this Section 5.06.4.k.4.b.ii.H, the conformance of the Addition Plans to the Design Guidelines shall be deemed confirmed by the Planning Board.

c. Prior to the commencement of any Construction Activity for the HVOD Project, or any portion thereof, under this Section 5.06.4.k, the land within the HVOD shall remain subject to the underlying zoning then in effect. Upon a Proponent's election to pursue development of the HVOD Project, or any portion thereof, as shown on the approved Master Development Plan, a notice to such effect shall be recorded in the Norfolk Registry of Deeds and filed with the Town Clerk and the Building Department prior to issuance of any building permit for the HVOD Project pursuant to this Section 5.06.4.k. From and after the filing of such notice, all Construction Activity within the HVOD shall be in accordance with the approved Master Development Plan or pursuant to Section 5.06.4.k.4.b.ii in the case of an Addition. Activities that do not constitute Construction Activity may be undertaken, if otherwise permitted by applicable provisions of this By-law, prior to, or following, the filing of the notice described in this Section.

22) The following dimensional regulations shall apply to the HVOD:

e) Building Footprint: All buildings shall be limited to the two-dimensional building footprint shown on the Master Development Plan, with the exception of an Addition satisfying the requirements of Section 5.06.4.k.4.b.ii.

f) Maximum Building Height: Asheville Building: 60 feet above Grade.

Gerry Building: 47 feet above Grade.

Sherman Building: 69 feet above Grade.

Community Center Building: 47 feet above Grade.

~~Recycling~~Recycle Center ~~Building~~Buildings: 29 feet above Grade.

An existing structure shown on the Master Development Plan but not included within the HVOD Project, and any structure reconstructed on the footprint of such existing structure (whether due to voluntary demolition or due to damage or destruction by fire, explosion or other catastrophe), shall have a maximum Building Height equal to the height of the existing structure as of the effective date of this Section 5.06.4.k.

g) Setbacks: All buildings shall be subject to the setbacks from the boundaries of the HVOD (excluding the boundary line that is also a municipal boundary line) as shown on the Master Development Plan.

h) Maximum DFAR: The DFAR for the entire HVOD shall not exceed 0.48.

23) The parking and traffic circulation requirements set forth in this Section 5.06.4.k.6 shall apply within the HVOD, rather than the requirements set forth in Sections 6.01 through 6.03 and Sections 6.05 through 6.09 or elsewhere in this By-Law; provided, however, that Section 6.04 shall apply to the design of all parking in the HVOD in all respects except for the requirements as to setbacks, interior landscaping, and common driveways. Prior to the issuance of any Conformance Determination pursuant to Section 5.06.4.k.12, the Director of Engineering and Transportation shall find that the HVOD Project has met all applicable standards related to parking and traffic circulation.

i) The Master Development Plan establishes a schedule of total parking spaces to be provided within the HVOD. At no time shall the total number of parking spaces within the HVOD exceed 1,439. If and to the extent construction of the entire HVOD Project is completed, no fewer than 1,375 parking spaces shall be provided within the HVOD. For any phase of the HVOD Project that includes the construction of a new building, as part of the Conformance Review conducted pursuant to Section 5.06.4.k.12, the Proponent shall submit to the HVCRC a phasing schedule describing the number of parking spaces to be constructed as part of such phase.

j) Parking locations shall be as shown on the Master Development Plan; provided that additional parking spaces may be provided in structured parking facilities within both the Asheville, Gerry and Sherman Buildings. Such spaces shall count toward the maximum total number of parking spaces allowed within the HVOD in Section 5.06.4.k.6.a.

k) To the extent consistent with the Master Development Plan, parking may be provided through on-street spaces on private roadways within the HVOD, ground-level paved areas, Structured Parking or any combination thereof.

l) Parking spaces within the HVOD shall be used only by HVOD residents and their guests, and employees or agents of the owners or managers of property within the HVOD. The entire HVOD shall be treated as one lot for the purpose of providing the required number of parking spaces, subject to the provisions of this Section 5.06.4.k.6.d. All tenants within the HVOD shall have the right to lease or otherwise license or use parking spaces within the HVOD on such terms and conditions as may be established by the owner or owners from time to time, provided that there shall be no discrimination between tenants within any particular building with respect to their ability to lease or otherwise access and use parking spaces within the HVOD. The owners of adjacent parcels within the HVOD, as applicable, ~~may~~shall establish the rights of such owners and their tenants, guests and invitees to use the parking spaces within the HVOD pursuant to one or more easement agreements, which shall be duly recorded at the Norfolk County Registry of Deeds or filed with the Norfolk County District of the Land Court, as applicable.

m) All parking areas and facilities shall be set back from the boundaries of the HVOD as shown on the Master Development Plan.

n) Sidewalks or multipurpose pedestrian ways and facilities shall connect each parking area or facility to buildings, public spaces, or other destination points within the HVOD as shown on the Master Development Plan. Except as shown on the Master Development Plan, no vehicular access to the HVOD over the frontage sidewalks shall be permitted.

o) All streets within the HVOD shall be designed and maintained so that fire lanes are unimpeded by obstacles and landscaping, as shown on the Master Development Plan.

p) Any of the specific requirements set forth in this Section 5.06.4.k.6 may be waived by the HVCRC in accordance with Section 5.06.4.k.12.g, below, with the exception of the minimum and maximum total number of parking spaces specified in Section 5.06.4.k.6.a.

24) Signs, to the extent visible from public ways, shall conform to the Signage Plan.

25) There shall be a buffer area, delineated as “HVOD Buffer Area” on the Master Development Plan, from the boundary of the HVOD (excluding the boundary line that is also a municipal boundary line). Said buffer may be:

c) Landscaped in accordance with the requirements set forth in Section 5.06.4.k.9 to minimize visual impact on adjacent residential uses through the use of plantings, berms, or fencing; or

d) Developed as open space with play areas as shown on the Master Development Plan.

26) Landscaping and Screening of Parking and Buffer Areas.

g) Landscaping within and around parking areas in the HVOD shall be substantially as shown on the Master Development Plan; provided, however, that a detailed landscaping plan shall be submitted for review and approval by the HVCRC as part of its Conformance Review.

h) In reviewing the landscaping plan, the HVCRC shall consider whether:

i. Proposed plantings include both trees and evergreen shrubs, including those existing within the HVOD.

ii. Trees are proposed to be two and one-half inches (2 ½") caliper four feet (4') above ground level, of a species common to eastern Massachusetts, and likely to reach an ultimate height of at least thirty feet (30').

iii. Shrubs are at least thirty inches (30") in height at the time of planting, and of an evergreen species common to eastern Massachusetts, and likely to reach an ultimate height of at least four feet (4'), except where a lower height is necessitated for egress visibility as determined by the Building Commissioner.

iv. Plantings are grouped, not evenly spaced, and located or trimmed to avoid blocking egress visibility.

i) Screening shall be required to obscure the visibility of parking areas of seven (7) or more spaces from within fifty feet (50') beyond the boundaries of the HVOD at normal eye level. Such screening shall consist of plantings of species, size and spacing to provide effective screening within three (3) years of planting, and shall be supplemented by an opaque fence or wall at least six feet (6') tall but no higher than seven feet (7') tall.

j) Whenever possible, the landscaping and screening requirements set forth in this Section 5.06.4.k.9 shall be met by retention of existing plants.

k) All plant materials required by this Section 5.06.4.k.9 shall be maintained in a healthful condition. Dead limbs shall be promptly removed and dead plants

shall be promptly replaced at the earliest appropriate season. Any fences required for screening shall be properly maintained.

l) Proposed changes to landscaping within the HVOD from the detailed landscaping plan reviewed and approved by the HVCRC pursuant to Section 5.06.4.k.12 shall be submitted to the Planning Department for review and approval by the Assistant Director of Regulatory Planning.

27) The following design and performance standards shall apply to all Construction Activity within the HVOD. These standards shall be reflected in the final plans and materials submitted for review and approval by the HVCRC as part of its Conformance Review:

c) Exterior Finish Materials:

v) Building exteriors shall be ~~consistent~~ compatible with the character, style, materials and details of the existing Hancock Village and constructed of durable and maintainable materials.

vi) Buildings shall include operable windows of metal or vinyl-clad wood and shall meet or exceed the minimum thermal resistant requirements of the State Building Code.

vii) The design, layout and color of doors and windows shall reflect the style and character of existing buildings within the HVOD.

iv) Finish materials shall not be susceptible to rapid staining, fading or other discoloration.

d) The provisions of Section 7.04 shall apply to the HVOD Project. Without limiting the foregoing, all exterior lighting shall be designed and maintained so that no direct light or glare shines on any street or abutting residence located outside the HVOD. No exterior lights shall be mounted higher than fifteen (15) feet.

28) Prior to any Conformance Review for a building within the HVOD, the Proponent shall submit a rubbish and recycling plan and schedule to the Chief of Environmental Health for review and approval. Such approval shall be based on a determination that:

g) All rubbish generated within the HVOD shall be handled and disposed of in compliance with all applicable regulations by the Proponent;

h) The Proponent has provided sizes, number, and location of recycling buildings, dumpsters, trash compactors, and recycling containers;

i) The Proponent has provided a schedule for trash and recycling pick-up demonstrating compliance with applicable Town by-laws;

j) Dumpsters are fully screened on three sides with solid walls of a sufficient height with a solid front gate;

k) Trash compactors are enclosed; and

l) The Proponent has provided a rodent and insect control plan.

29) Development of the HVOD Project or any phase or portion thereof shall be allowed, subject to a Conformance Review by the HVCRC as provided herein.

h) A request for a Conformance Review shall be filed with the Town Clerk, and copies shall be submitted to the Planning Board and the Zoning Coordinator. The application shall include, as applicable, the following Final Plans and related materials:

10. Locus Map showing boundaries of the subject property
11. Existing Conditions Plan
12. General Layout Map
13. Site Development Plans identifying building locations including all accessory structures, site circulation, location of trash receptacles, location of parking and all other site components. These shall include Landscaping, Utility and Stormwater Plans (which Utility and Stormwater Plans shall be reviewed and approved by the Director of Engineering and Transportation prior to submission to the HVCRC and shall be provided to the HVCRC for informational purposes only)
14. Architectural Floor and Elevations Plans
15. Transportation Access Plan (reviewed and approved by the Director of Engineering and Transportation and provided to the HVCRC for informational purposes only)
16. Exterior Lighting Plan
17. Table of development data, including building height, setbacks, gross floor area, number of dwelling units, number of bedrooms per dwelling, number of affordable housing units, number of parking spaces (including designated handicapped spaces), and number of bicycle parking spaces/racks.
18. A computation, prepared by a licensed professional engineer, of the current DFAR of the HVOD and the impact of construction of the HVOD Project or phase or component thereof on that DFAR.

i) As soon as practicable after receipt of a request for a Conformance Review, the Planning Board shall appoint the HVCRC to conduct the Conformance Review.

j) Within fourteen (14) days of receiving the request, the Director of Planning and Community Development (or her designee), shall send a letter, with a copy to the Town Clerk, notifying the Proponent that its request is either complete or incomplete. Any determination that the request is incomplete shall state what additional information is required to complete the request. If the Director of Planning and Community Development (or designee) does not issue a letter within the 14-day period, the request shall be deemed complete.

k) The Conformance Review shall be completed within sixty (60) days of the determination that the request is complete, presuming that the Proponent has made timely submissions of materials in response to reasonable requests of the HVCRC that are consistent with its powers under this By-Law, except with the written consent of the Proponent. During the Conformance Review period, the HVCRC shall hold one or more public meetings, (i) notice of which shall be posted in accordance with the Open Meeting Law, M.G.L. c. 30A, §§ 18 through 25 and its implementing regulations; and (ii) which shall be conducted in accordance with rules and regulations to be adopted by the Planning Board. The HVCRC may consult with relevant Town boards and departments, which may submit comments or recommendations in writing or at a meeting of the HVCRC. The affirmative vote of a majority of a quorum of the HVCRC shall be required to complete the Conformance Review and issue a Conformance Determination authorizing the HVOD Project, or any phase or portion thereof, to proceed. Submission of any of the information or materials listed above in Section 5.06.4.k.12.a may be waived by the HVCRC if such information or materials would not be relevant to the phase (or portion thereof) for which Conformance Review has been requested, or is duplicative of information previously provided in connection with the HVOD Project or prior phases thereof.

l) Provided the request for Conformance Review submitted pursuant to Section 5.06.4.k.12.a is complete and the Final Plans for the proposed HVOD Project, or any phase or portion thereof, conform to the Master Development Plan and the requirements set forth in this Section 5.06.4.k, the HVCRC shall issue a Conformance Determination, a copy of which shall be filed with the Office of the Town Clerk within thirty (30) days of the HVCRC vote. In the event that the HVCRC denies a Conformance Determination pursuant to this Section 5.06.4.k.12, the HVCRC shall specify in writing all of its reasons for determining that the HVOD Project, or portion thereof, does not conform to the requirements of this Section 5.06.4.k, and the Proponent may, at its option: (i) withdraw the request for such Conformance Determination or waiver; or (ii) modify its plans to bring them into conformance with the HVCRC's findings, and resubmit the plans in accordance with Section 5.06.4.k.12.a above (provided, however, for any plans

resubmitted in accordance with this Section 5.06.4.k.12.e, the time period for completion of Conformance Review specified in Section 5.06.4.k.12.d shall be reduced to thirty (30) days from the date the plans are resubmitted). If, after completion of any of (i) or (ii), above, a Conformance Determination does not issue, the Proponent may seek review under G.L. c. 249, §4.

m) A Conformance Determination and the full plan set associated therewith shall be timely recorded with the Norfolk County Registry of Deeds and shall run with the affected land. The Proponent shall provide evidence of such recording to the HVCRC and to the Building Commissioner, and no building permit shall issue for an applicable component of the HVOD Project prior to receipt of such evidence.

n) As part of its Conformance Review, the HVCRC, in its discretion, may waive minor variations from the site layout and building footprints depicted on the Master Development Plan, if it determines that such waiver is not inconsistent with the intent of this Section 5.06.4.k. In making this determination, the HVCRC shall consider whether:

i) The purposes of this Section 5.06.4.k, will be protected;

ii) Strict application of the requirement to be waived would undermine the public interest;

iii) Specific substitute requirements can be adopted that will result in substantial protection of the public health, safety, convenience and welfare; and

viii) Any building or structure made possible by the waiver will not violate the provisions of any state or federal law or local by-law or be materially inconsistent with the Master Development Plan.

30) The HVOD Project may be constructed in one or more phases, in accordance with an applicable Conformance Determination. Upon the granting of a Conformance Determination for the HVOD Project and any phase or portion thereof, the plan referenced in such Conformance Determination shall be deemed to be in compliance with the requirements of this By-Law at the time such finding is made, notwithstanding the status of any other phase or portion of the HVOD Project or any noncompliance of such other phase or portion with the requirements of this Section 5.06.4.k.

31) The owner of any portion of the land within the HVOD shall be entitled to lawfully divide such portion, including, without limitation, by virtue of plans endorsed by the Planning Board pursuant to M.G.L. c. 41, §81P or by ground lease pursuant to §2.12(5) of this By-Law; and to sell, finance or place under separate non-common ownership any such portion or portions of land, without modifying the approved Master

Development Plan and without the need for other approvals or compliance with other provisions of this By-Law, except as set forth in Section 5.06.4.k. To the extent consistent with the Subdivision Control Law, M.G.L. c. 41, §81K, et seq., portions of land within the HVOD may be separated by a public or private way.

32) More than one (1) building shall be allowed on any parcel of land within the HVOD.

33) Prior to issuance of any certificate of occupancy for any building or other improvement, or any portion thereof, within the HVOD, the Proponent shall comply with the Public Works Department's Site Plan Review Checklist and with the Building Department's Certificate of Occupancy Process.

34) In the event of any conflict or inconsistency between the other provisions of this By-Law and this Section 5.06.4.k, the provisions of this Section 5.06.4.k shall prevail.

~~(viii)~~
~~(ix)~~
~~(x)~~
~~(xi)~~
~~(xii)~~
~~(xiii)~~(viii) To approve the Master Development Plan, entitled, "Hancock Village Master Development Plan," dated ~~August~~October 31, 2017, ~~prepared by Stantec, as most recently~~and filed with the Town Clerk as of that date, for the Hancock Village Overlay District;

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Articles 10 through 15, as well as Article 1 of the Second Special Town Meeting, which is intended to replace Article 15, are collectively referred to herein as the Hancock Village (HV) Articles. Taken together, they are an interrelated group of Warrant Articles that seek a comprehensive solution to an ongoing dispute among the Town, Chestnut Hill Realty (CHR), and certain neighbors regarding CHR's proposed 40B development of Hancock Village, located in South Brookline.

Article 10 seeks to amend the Town's Zoning By-Law to create the Hancock Village Overlay District (HVOD) and approval of a Master Development Plan for the Hancock Village redevelopment project, in order to allow the construction of three residential rental buildings, structured and surface parking, roadway improvements, a community

center building, and new recycling/trash buildings. The HVOD prohibits the property owner from accessing the underlying zoning once a building permit is issued for a new building or parking. The Master Development Plan together with the HVOD of which it will be a part, will establish the final and complete build-out of the Brookline component of Hancock Village. The total Floor Area Ratio (FAR) for the entire district is limited to 0.48 (down from 0.50 under current zoning).

These articles are the fruit of a long negotiation involving the Town, CHR, and neighborhood representatives to reach a solution to this expensive and contentious dispute. The Advisory Committee is fully aware that some neighbors are not entirely satisfied that the Town has achieved the best result possible, but after weighing both the positives and the negatives that the comprehensive solution achieves, when compared to the proposed alternative 40B projects (one approved by the ZBA and one pending), the Advisory Committee is of the considered view that Article 10 represents the best possible outcome for both the Town and the Hancock Village neighbors and, therefore, **recommends FAVORABLE ACTION** on the amended language.

BACKGROUND:
Hancock Village, which consists of 530 residential units in South Brookline and an additional 261 units in Boston, was constructed during the late 1940s as modest "garden apartments" for returning war veterans. In addition to the internal courtyards and green space, a strip of green space was retained along its northern edges to serve as a buffer from the single-family homes abutting the development.

For many years, the Town and residents of South Brookline had believed that an agreement made between the John Hancock Insurance Company and the Town foreclosed any additional development within the Brookline portion of the Hancock Village site. However, after the property was acquired by CHR, CHR took the position that the earlier agreement was no longer operative and indicated its intention to pursue substantial additional development. The Town unsuccessfully engaged in litigation against CHR with respect to that agreement.

The Town has been discussing redevelopment of Hancock Village with its owner CHR for over 10 years. In 2011, Town Meeting designated the Brookline section of Hancock Village to be its first Neighborhood Conservation District (NCD), requiring most changes to buildings and landscaping to secure prior approval from the newly-created NCD Commission. The NCD was designated over the objection of CHR, which was at that time and remains the sole property owner in the NCD.

In 2013, CHR sought to override the Town's Zoning By-Law and NCD regulations by applying for a comprehensive permit under Chapter 40B, which was ultimately approved by the Town's Zoning Board of Appeals (ZBA) for 161 units, including 11 multi-family buildings within the buffer zone. The Town and a named group of abutters appealed the issuance of the permit by filing suit against the developer, Mass Development (the state agency subsidizing the project), and the ZBA. Subsequently, in April 2017, CHR applied

for a second, separate comprehensive permit (presently pending) for an additional 226 units. The combination of both 40B's would yield 387 units, of which 77 would be affordable. However, under 40B, because the market rate units are rental units, upon the granting of comprehensive permits, all 387 units would initially be included in the Town's inventory for purposes of 40B (its Subsidized Housing Inventory or SHI), subject to being dropped out under certain circumstances. If a community's SHI is below 10% of its total year-round housing stock, as currently exists in Brookline, the ability to deny a comprehensive permit for a 40B is extremely limited. Brookline's SHI is presently 9.34%.

All parties involved, the Town, CHR and the neighbors, given the size, cost and potential impact of the redevelopment, realized that it made sense to enter into negotiations to explore reaching a comprehensive solution addressing CHR's desire to construct new units and parking, while at the same time addressing concerns of the Town and neighborhood posed by 40B. In November 2016, the parties ultimately entered into a Memorandum of Agreement (MOA) attempting to reach a comprehensive solution. Pursuant to the MOA, the lawsuit was dismissed upon the condition that the dismissal could be vacated if Town Meeting did not approve the Master Development Plan for Hancock Village, which differs in certain respects from the MOA.

DISCUSSION:
The Advisory Committee was sympathetic to the concerns raised by abutters and neighborhood representatives, but believes several aspects of Article 10 represent significant improvements over the 40B projects:

- Number of Units, Affordable Units and SHI Considerations. Under Article 10, CHR will be able to build 382 units, of which 55 (which can increase to 63) would be affordable. But, given the way that the affordable units will be distributed in two of the three buildings (the third building is 100% market rate), 148 of the 382 units would be includable in the Town's SHI. Under the two 40B projects, CHR would be able to build 387 units (161 approved and 226 proposed), of which 77 would be affordable, with all 387 units included in the Town's SHI.

	Article 10	**40B projects**
total units added	382	387
affordable units added	55 / 63	77
units added to SHI	148	387
total bedrooms	524	763

There are also important considerations with respect to timing: Unlike a 40B project, which adds units to the Town's SHI upon issuance of a comprehensive permit, units added to the Town's SHI outside of 40B are not added until a building permit is issued, which could result in a delay depending on how the

construction is phased. However, if the HV Articles fail and the litigation were to continue (either funded by the Town or the neighbors), a comparable or greater delay with respect to the first 40B may take place because the units that were added to the Town's SHI as a result of the first 40B project have since dropped out of the SHI, due to a building permit not being issued within one year. These units can only come back into the Town's SHI upon the issuance of a building permit, which CHR would have no incentive to seek during litigation. The second, pending 40B filing could be reinstituted if the HV Articles fail, but lengthy proceedings before the ZBA will be required before the issuance of a comprehensive permit for those units and their inclusion in the Town's SHI.

Furthermore, even if the litigation were ultimately successful with respect to the first 40B, CHR could, depending upon the terms of the ruling, refile for a new 40B with respect to the same location.

- Bedrooms. Although the number of units that would be constructed pursuant to Article 10 will be roughly the same as under the 40B (382 units vs. 387 units under 40B), there will be 239 more bedrooms added under 40B, which will thereby have a much greater impact on the school population.

- Buffer Zone. Although the original "Hancock Village Master Development Plan" referenced in Article 10 showed a new recycling/trash center within the buffer area, CHR has since agreed to relocate this building to the interior of the HV development, so that no buildings will be constructed in the buffer zone under this proposal, although surface parking will impact its size. Fencing and landscaping will also be required to screen the parking spaces from abutters. All of the original buffer zone, less the parking area, approximately 3.5 acres, will be transferred to the Town, thereby protecting it from future development. CHR will be required to provide regular landscape maintenance for a period of 30 years. This is all in sharp contrast to the 40B proposals, which would result in 11 multi-family buildings with surface parking.

- Relocation of Asheville Building. The proposed 4-story Asheville building will be further removed from abutters and located on lower ground to make it not as visually impactful as planned under the proposed 40B proposals.

- $1 Million Payment. CHR will make a one-time payment to the Town of $1 million for improvements to the Brookline community in the vicinity of the project.

- Litigation. Costly pending litigation between CHR and the Town and specified abutters concerning the proposed 40B projects will be permanently dismissed.

Further, as part of the public hearing process, there are several aspects of Article 10 that have been improved significantly as compared to the version as it appears in the Warrant:

- Trash Management. CHR will add three new trash and recycling centers as part of the development improvements. One of these centers was originally proposed to be located in the buffer zone and very close to abutting homes, but CHR has now agreed to relocate that building to the interior of the development, away from abutting properties. Each of the three new buildings to be constructed will also contain internal trash/recycling rooms. The Development Agreement contains detailed provisions for the management of trash and recycling, including video monitoring and key card access. However, it should be noted that many neighbors report that the current management of existing facilities by CHR has been unacceptable.

- Office Space. Also negotiated after the MOA was the provision for CHR to build up to 25,000 square feet of office space within the HVOD, but this has been negotiated down to 10,000 square feet. The purpose of this space is exclusively to provide for the support the Hancock Village development.

- Additions to Existing Townhouses. Not part of the MOA, but added later, as a result of a negotiation in which the Town received certain concessions, was the right of CHR to build additions to existing townhouses, after a period of 10 years, which in the aggregate could not exceed 25,000 square feet. These additions are allowed under current zoning due to unmet FAR, although subject to NCDC approval, but would be subject to review by the Planning Board for conformance with design guidelines as part of Article 10. The original language in Article 10 also stipulated limitations on these additions in order to prevent them from becoming de facto bedrooms, which are specifically precluded in the zoning. These limitations initially provided that an addition could only be added to the first floor and could not exceed 175 square feet in interior area.

After hearing public comment and receiving feedback from the Advisory Committee, CHR agreed to the following revisions:

- Stipulate that only units that are to be renovated for half-baths and modernized kitchens are eligible to have an addition (due to impact on existing dining area).
- Reduce the size of the additions to a maximum size of 60 square feet, as measured from interior walls, which is much smaller than a bedroom and more appropriately sized to address the interior plan changes that CHR proposes as a result of the interior renovation.
- Limit the maximum interior projection of the addition to 6 feet max.
- Limit the maximum interior length of the addition to 10 feet.
- Reduce the aggregate of all additions from 25,000 to 18,000 square feet, which more closely aligns with the number of units slated for renovation, as well as the smaller footprint for each addition.

- Clarify that the addition must be formed by "no more than three exterior walls and no interior wall closing it off from the adjacent living space" to prevent the use of these additions as potential bedrooms.

The following chart summaries these negotiations:

	Article 10 original language	**Article 10 final negotiation**
purpose of addition	(not stipulated)	for units to receive modernized kitchens and half-baths
max interior area for a single addition	175 SF	60 SF
max bump out for addition	(not stipulated)	6 feet
max length of addition	(not stipulated)	10 feet
aggregate area of all additions	25,000 SF	18,000 SF
location of addition	(not stipulated)	first floor
other requirements	n/a	formed by no more than 3 exterior walls, with no internal wall separating from interior living space

The Advisory Committee considered three amendments to Article 10 as follows:

- Section 4.a.i.A, submitted by Betsy DeWitt, stating: "*All residents of the HVOD, including residents of the Affordable Units, shall enjoy equal rights to use and access the Community Center Building and related facilities.*"
  - Section 5.06.10.a)i), submitted by Dennis DeWitt, stating: "*Building exteriors shall be ~~consistent~~* ***compatible*** *with the character,* ***style, materials, and details*** *of the existing Hancock Village and constructed of durable and maintainable materials"* to reflect similar language with respect to Planning Board review of additions.
  - Section 2).j), submitted by Dennis DeWitt, stating: "and that said members of the Neighborhood Conservation District Commission and Preservation Commission shall be appointed to the HVCRC by the Chairs of their respective Commissions."

CHR was amenable to all of the above amendments and revisions to the original warrant language, which are incorporated into the motion. The Advisory Committee believes these modifications represent improvements to the original language of Article 10.

The Advisory Committee heard and considered extensive testimony from the neighborhood, including its TMMs, some of which raised objections regarding process and transparency, as well as specific objections with respect to certain aspects of the project itself. That testimony and the public process has been productive and has resulted in significant concessions from CHR that are now reflected in the revised language for the HV Articles.

Rationale for the Advisory Committee's Recommendation

In reaching its recommendation, the Advisory Committee weighed the positives and negatives of Article 10 and the related Articles, as compared to the approved and pending 40B projects, both from the standpoint of the Town as a whole and the neighborhood, which was well represented by its TMMs.

The Advisory Committee has concluded that the provisions articulated in Article 10 out-weigh the benefits of adding a greater number of units to the Town's SHI under 40B. The Advisory Committee believes that the concerns about additions to existing townhouses resulting in de facto bedrooms have been addressed through the amended language, but trash management remains a significant concern that will require constant monitoring by the Town. A 40B will not solve this problem–in fact, more units and increased density would further exacerbate the issue.

The Advisory Committee also believes that the neighborhood, by opposing Articles 10–15/Article 1 of the Second Special Town Meeting and pinning its hopes on the ongoing litigation to prevent the development of Hancock Village, is taking a gamble that is fraught with risk and problematic at best. As a consequence, a majority of the Advisory Committee is of the considered view that HV Articles as amended represent the best possible outcome for both the Town and the Hancock Village neighbors.

It should be noted that some members of the Advisory Committee have voiced the concern that the Town did not sufficiently negotiate for more favorable terms and that, if HV Articles were to fail, it was likely that CHR would be open to future negotiations, that the transaction reflected in HV Articles could possibly be more imaginatively structured, and that the documentation has not been finalized until the last minute and not with sufficient time for careful analysis. As a consequence, it has been suggested that consideration of the HV Articles be postponed until the Spring Town Meeting. Although significant concessions have been made since the filing of the HV Articles, CHR has consistently stated it would not be open to further negotiation if these Articles fail to be approved.

RECOMMENDATION:
The Advisory Committee is satisfied that the amended language of Article 10 provides addresses the neighbors' specific concerns, and is in the best interest of the Town, and therefore by a vote of 17–7–1 recommends FAVORABLE ACTION on the motion offered by the Selectmen under Article 10.

ARTICLE 10

PREVESERVATION COMMISSION RECOMMENDATION ON ARTICLES 10-15

The Brookline Preservation Commission reviewed and discussed Town Meeting Warrant Articles 10-15, those pertaining to the proposed development at Hancock Village, at its public hearing on October 17, 2017. The Commission voted to form an empowered subcommittee to continue the discussion and formalize comments for Town Meeting.

At the subcommittee hearing on October 30, 2017, the Preservation Commission voted to provide the following comments related to the Conformance Review Committee outlined in Article 10:

- The Preservation Commission strongly recommends that the existing Neighborhood Conservation District Commission (NCDC) be assigned the duties of the Conformance Review Committee, should Article 10 be approved at Town Meeting. The Commission recognizes that the NCDC is thoroughly familiar with the history and significance of Hancock Village, and is more than qualified and willing to evaluate future Construction Activities within the Hancock Village Overlay District (HVOD) using the design and performance standards included in Article 10. The NCDC's involvement in Conformance Review is beneficial to the Town in regards to consistency and achieving good design.
- Should the Preservation Commission's foremost recommendation to authorize the NCDC to serve as the Conformance Review Committee be rejected, the Commission feels strongly that Warrant Article 10 should be revised to stipulate that at least one member of the Preservation Commission and at least one member of the Neighborhood Conservation District Commission be appointed to the Conformance Review Committee.

The Preservation Commission appreciates the opportunity to provide comments to Town Meeting regarding this important component of the Warrant Articles pertaining to Hancock Village.

ARTICLE 10

MOTION OFFERD BY SUSAN ROBERTS
UNDER ARTICLES 10-15, STM1 -1

MOVED: to refer the subject matter of Articles 10 through 15 and Article 1 of the Second Special Town Meeting to a committee to be appointed by the Board of Selectmen for the purpose of further negotiating an agreement with the owner of Hancock Village as to the development of Hancock Village, such agreement to be satisfactory to the committee and the owner, such negotiations to include consideration of the development under M.G.L. 40B, such committee to consist of those principal members of the Town who negotiated the above warrant articles (or their representatives) and their counsel, plus two (2) town meeting members of Precinct 16 acceptable to the Board of Selectmen as suggested by the Precinct 16 delegation, and one (1) plaintiff from the Land Court civil action, Town of Brookline v. Brookline Board of Appeals, et. al. [not sure of correct name of case], with such committee to report back to the Board of Selectmen no later than February 28, 2018 or such later date as the committee shall reasonably request that is no later than the date of the 2018 Annual Town Meeting.

ARTICLE 11

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

The Selectmen's explanation of their vote on Articles 10-15 and STM2 Article 1 is included under Article 10.

On November 7, 2017, a unanimous Board of Selectmen voted FAVORABLE ACTION on the following motion:

VOTED: That the Town authorizes the Board of Selectmen to enter into any necessary agreement(s) and/or amendments to existing agreements or other action(s) required for the negotiation and execution of a "Development Agreement" related to development within the four "Development Areas" and the two "Open Space Areas," as shown on the plan entitled, "Hancock Village Master Development Plan," prepared by Stantec, dated October 31, 2017, and filed with the Town Clerk as of that date, including all associated roads and site access features shown thereon, and to negotiate and execute such other agreements with the proponents of such development as may be deemed necessary or appropriate by the Board of Selectmen.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:
Article 11 authorizes the Board of Selectmen to enter into a Development Agreement that details the obligations and restrictions imposed upon the parties.

The Hancock Village (HV) Articles are an interrelated group of articles that seek a comprehensive solution to an ongoing dispute among the Town, Chestnut Hill Realty (CHR), and certain neighbors regarding CHR's proposed 40B development of Hancock Village, located in South Brookline.

These Articles are the fruit of a long negotiation involving the Town, CHR and neighborhood representatives to reach a solution to this expensive and contentious dispute. The Advisory Committee is fully aware that some neighbors are not entirely satisfied that the Town has achieved the best result possible, but after weighing both the positives and the negatives that the comprehensive solution achieves, when compared to the proposed alternative 40B projects (one approved by the ZBA and one pending), the Advisory Committee is of the considered view that the HV Articles represent the best possible outcome for both the Town and the Hancock Village neighbors and, therefore, **recommends FAVORABLE ACTION**.

BACKGROUND:
Refer to information provided in Article 10.

DISCUSSION:
Refer to information provided in Article 10.

RECOMMENDATION:
By a vote of 17–7–1, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen.

ARTICLE 12

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

The Selectmen's explanation of their vote on Articles 10-15 and STM2 Article 1 is included under Article 10.

On November 7, 2017, a unanimous Board of Selectmen voted FAVORABLE ACTION on the following motion:

VOTED: That the Town authorizes the Board of Selectmen to enter into any necessary agreement(s) and/or amendments to existing agreements or other action(s) required for the negotiation and execution of a "Local Action Unit (LAU) Development Agreement" related to development of 148 units of housing, as shown on the plan entitled, "LAU Development Plan," prepared by Stantec, dated September 7, 2017, and filed with the Town Clerk as of that date, which units have been designated for inclusion on the Town's Subsidized Housing Inventory maintained by the Department of Housing and Community Development (DHCD), and to negotiate and execute such other agreements with the proponents of such development and DHCD as may be deemed necessary or appropriate by the Board of Selectmen.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:
Article 12 authorizes the Board of Selectmen to enter into a Local Action Unit Development Agreement with Chestnut Hill Realty (CHR), which will secure State-certification of 148 units to be placed on the Town's Subsidized Housing Inventory (SHI).

The Hancock Village (HV) Articles are an interrelated group of articles that seek a comprehensive solution to an ongoing dispute among the Town, CHR, and certain neighbors regarding CHR's proposed 40B development of Hancock Village, located in South Brookline.

These Articles are the fruit of a long negotiation involving the Town, CHR and neighborhood representatives to reach a solution to this expensive and contentious dispute. The Advisory Committee is fully aware that some neighbors are not entirely satisfied that the Town has achieved the best result possible, but after weighing both the positives and the negatives that the comprehensive solution achieves, when compared to the proposed alternative 40B projects (one approved by the ZBA and one pending), the Advisory Committee is of the considered view that the HV Articles represent the best possible

outcome for both the Town and the Hancock Village neighbors and, therefore, **recommends FAVORABLE ACTION**.

BACKGROUND:
Refer to information provided in Article 10.

DISCUSSION:
Refer to information provided in Article 10.

RECOMMENDATION:
By a vote of 17–7–1, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen.

ARTICLE 13

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

The Selectmen's explanation of their vote on Articles 10-15 and STM2 Article 1 is included under Article 10.

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on November 7, 2017 on the following motion:

VOTED: That the Town authorizes the Board of Selectmen to accept and subsequently enforce a deed restriction from the owners of the parcels known as Hancock Village in a form substantially similar to the draft deed restriction included as an exhibit to this article for the purposes of precluding further use of M.G.L. c. 40B or similar statute by said owners for the purposes of overriding the Zoning By-Law of the Town.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:
Article 13 authorizes the Board of Selectmen to accept and enforce a deed restriction that will prevent current and future owners of Hancock Village from taking advantage of 40B or any other Massachusetts law to override the Town's Zoning By-Law.

The Hancock Village (HV) Articles are an interrelated group of articles that seek a comprehensive solution to an ongoing dispute among the Town, Chestnut Hill Realty (CHR), and certain neighbors regarding CHR's proposed 40B development of Hancock Village, located in South Brookline.

These Articles are the fruit of a long negotiation involving the Town, CHR and neighborhood representatives to reach a solution to this expensive and contentious dispute. The Advisory Committee is fully aware that some neighbors are not entirely satisfied that the Town has achieved the best result possible, but after weighing both the positives and the negatives that the comprehensive solution achieves, when compared to the proposed alternative 40B projects (one approved by the ZBA and one pending), the Advisory Committee is of the considered view that these Articles represent the best possible outcome for both the Town and the Hancock Village neighbors and, therefore, **recommends FAVORABLE ACTION**.

BACKGROUND:

Article 13 proposes that CHR enter into a deed restriction that will preclude any future use of 40B to circumvent the Town's Zoning By-Law for a period of 20 years following completion of the project, the maximum period permitted by the Department of Housing and Community Development (DHCD). This restriction will not be in perpetuity, as originally contemplated in the MOA, due to a recent and unexpected ruling by the DHCD within the past few weeks. However, as a practical matter, one can reasonably assume that the Town will be within the 40B safe harbor by 2047, assuming project completion within 10 years. If Articles 10 through15 fail, CHR will likely file for additional 40B projects.

DISCUSSION:
Refer to information provided in Article 10.

RECOMMENDATION:
By a vote of 17–7–1, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen.

ARTICLE 14

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

The Selectmen's explanation of their vote on Articles 10-15 and STM2 Article 1 is included under Article 10.

On November 7, 2017, a unanimous Board of Selectmen voted FAVORABLE ACTION on the following motion:

VOTED: That the Town authorizes the Board of Selectmen to acquire by gift or deed for general municipal purposes the land shown as "HVOD Buffer Area," on the plan entitled "Hancock Village Master Development Plan," prepared by Stantec, dated October 31, 2017, and filed with the Town Clerk as of that date, consisting of approximately 155,116 square feet in area, along with any necessary accompanying easements, with a portion of said "HVOD Buffer Area" to be subject to such retained easements as may be reasonable or necessary for the original owners to access and maintain subsurface stormwater drainage and utility systems, and landscaping.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:
Article 14 authorizes the Board of Selectmen to acquire approximately 3.5 acres of green space (the buffer zone) by gift or deed.

The Hancock Village (HV) Articles are an interrelated group of articles that seek a comprehensive solution to an ongoing dispute among the Town, Chestnut Hill Realty (CHR), and certain neighbors regarding CHR's proposed 40B development of Hancock Village, located in South Brookline.

These Articles are the fruit of a long negotiation involving the Town, CHR and neighborhood representatives to reach a solution to this expensive and contentious dispute. The Advisory Committee is fully aware that some neighbors are not entirely satisfied that the Town has achieved the best result possible, but after weighing both the positives and the negatives that the comprehensive solution achieves, when compared to the proposed alternative 40B projects (one approved by the ZBA and one pending), the Advisory Committee is of the considered view that the HV Articles represent the best possible outcome for both the Town and the Hancock Village neighbors and, therefore, **recommends FAVORABLE ACTION**.

BACKGROUND:
Refer to information provided in Article 10.

DISCUSSION:
Refer to information provided in Article 10.

RECOMMENDATION:
By a vote of 17–7–1, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen.

ARTICLE 15

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

As originally composed, Article 15 proposed the complete elimination of the Hancock Village Neighborhood Conservation District. Based on comments from various committees including the Preservation Commission, the Neighborhood Conservation District Commission and the Planning and Regulatory Subcommittee of the Advisory Committee, the Board of Selectmen executed a Special Town Meeting warrant for a revised article to allow the Neighborhood Conservation District to remain with an amended scope of review. The amendment is being proposed as Article 1 of the Second Special Town Meeting (STM2).

Because the amendment to Article 15 is proposed as a separate article, the old version of Article 15 no longer needs to proceed. Therefore, on November 7, 2017 a unanimous Board of Selectmen voted NO ACTION on Article 15

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:
Article 15 seeks to amend the Town's Zoning By-Law to restructure the Hancock Village NCD to allow it to focus solely on potential development whose scope or location has been determined not to be in keeping with the redevelopment goals of the Town.

The Hancock Village (HV) Articles are an interrelated group of articles that seek a comprehensive solution to an ongoing dispute among the Town, Chestnut Hill Realty (CHR), and certain neighbors regarding CHR's proposed 40B development of Hancock Village, located in South Brookline.

Article 15 is replaced by Article 1 of the Special Town Meeting within the Special Town Meeting. The Advisory Committee **recommends NO ACTION** on Article 15, which is intended to be replaced by Article 1 of the Second Special Town Meeting.

BACKGROUND:
Refer to information provided in Article 10.

DISCUSSION:
Refer to information provided in Article 10.

RECOMMENDATION
By unanimous vote of 25–0–0, the Advisory Committee recommends NO ACTION on Article 15.

ARTICLE 16

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

On November 7, 2017 the Board reconsidered their motion under Article 16 in order to consider the recommendation of the Committee on Town Organization and Structure (CTO&S). The Committee recommended two votes. The first would narrow the application of Article 16, while the second recommends further study of the question of website posting of documents that have not been provided to a governmental body in electronic form, and thus would have to be converted from hard copy to electronic form before website posting.

The CTO&S recommendation limits the requirement for electronic posting of meeting documents on the Town's website to documents provided to the governmental body in electronic form, and limits the requirement for posting meeting documents on the Town's website to the situation where a volunteer body has been provided staff support responsible for posting. The Committee also eliminated the fine under Article 10.3 for alleged posting violations under Section 3.21.4.

The Board was in agreement with these changes and unanimously voted FAVORABLE ACTION on the following motion:

FIRST VOTE:

(Deletions from existing General By-Law Article 3.21 shown as ~~strikethroughs~~; additions shown as **bold underline**.)

VOTED: To amend Article 3.21 of the Town's general by-laws as follows:

ARTICLE 3.21 READILY ACCESSIBLE ELECTRONIC MEETING NOTICES, AGENDAS**, INFORMATION** AND RECORDS

Section 3.21.1 Purpose and Applicability

This by-law applies to the meetings of all Brookline governmental bodies subject to the Open Meeting Law, now G.L. c. 39, §§23A et seq. (hereinafter, respectively, "meetings" and "OML"), and is intended (a) to take advantage of the internet and its increasing use; (b) to better implement the spirit of the OML; and (c) to the extent reasonably practical, to improve opportunities for broader and more meaningful citizen participation in the business of Town governmental bodies.

Section 3.21.2 Electronic Notification List(s) & Calendar

The Information Technology Department ("ITD") shall maintain one or more broadly available list(s) for the purpose of providing electronic notifications (such as by email) to Town Meeting Members and other Town residents who request to be included, prominently promoted on the Town website's Homepage, along with a link to a readily available and current Calendar of upcoming meetings.

Section 3.21.3 Meeting Notices**,** ~~and~~ Agendas **and Information**

(a) Each meeting "notice" required by OML shall not only be "posted" under the OML at least forty-eight hours before the meeting but, additionally, shall be posted in electronic format as soon as is practicable on the Town website Calendar after said meeting has been scheduled. To the extent possible, each posting shall include (i) an agenda that is reasonably descriptive of the intended business of the meeting, subject to later revisions as needed, ~~and~~ (ii) the name **and contact information** of a **primary** contact person ~~along with contact information~~ for further inquiries, for forwarding messages to the relevant governmental body, for obtaining background information to the extent readily available, and for obtaining contact information (or a website link containing such information) for all of members of the governmental body**, and (iii) such documents or portions thereof, or a website link thereto, pertinent, in the opinion of the chair of the relevant governmental body or designee, to the intended business of the meeting that have been provided electronically to the relevant governmental body. In the case of governmental bodies chaired by volunteer citizens, the person responsible for the posting of notices and documents under this section shall be the Town or School Department employee assigned as staff to the governmental body.**

(b) With the assistance and direction of the Town Clerk and ITD, the information specified above shall be disseminated in a timely manner to citizens who join the aforementioned notification list(s).

Section 3.21.4 Records

Records of meetings of all Town governmental bodies shall be reasonably descriptive of the business conducted**,** and shall include a summary of discussions **and any documents (e.g., plans, policies and procedures) that were voted upon** in addition to indicating actions taken and other requirements of the OML, and **said records and summaries, and documents that were provided electronically to the governmental body,** shall be accessible electronically from the Town website as soon as is practicable following the meeting at issue. **In the case of governmental bodies chaired by volunteer citizens, the person responsible for the recording, retention and accessibility of records and documents under this section shall be the Town or School Department employee assigned as staff to the governmental body.**

Section 3.21.5 Enforcement

As to mandates of this by-law that exceed those of state laws, including the OML, all officials, boards and committees responsible for appointing members of committees subject to this by-law shall periodically notify their appointees in writing of the requirements of this by-law. No additional enforcement powers are hereby conferred upon the Norfolk County District Attorney beyond the responsibility of such office with respect to state law, including the OML, nor shall actions taken at any meeting be held invalid due to failure to comply with any requirements of this bylaw that exceed those of state laws, including the OML. **This Article 3.21 shall not require the posting of, accessibility to, or other disclosure of documents exempt from disclosure under the OML, attorney-client or other privilege, or the Public Records law, nor shall this Article be subject to penalty under Article 10.3, Non-Criminal Disposition.**

~~Section 3.21.6 Effective Date~~

~~The requirements of this by-law shall become effective on July 01, 2008.~~

SECOND VOTE:

VOTED: To refer to a committee determined by the Moderator the issue of electronic distribution (including website posting) of documents that were not provided in electronic format to a governmental body, for reporting back to the Fall 2018 Town Meeting.

**Note: The Board will likely take up the Advisory Committee's motion to refer the entirety of Article 16 the first night of Town Meeting,*

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:
Warrant Article 16, which was placed on the Warrant by citizen petition, is intended to require that documents related to public meetings be posted, just as it is currently required that notices and agendas be posted. The Article would amend the Town bylaws to impose such a requirement. The Advisory Committee initially recommended Favorable Action on its version of Article 16. On November 7, 2017, the Advisory Committee voted 18–2–3 to recommend referral of the subject matter of Article 16 to the Committee on Town Organization and Structure (CTO&S), with a request that a report be presented to the May 2018 Annual Town Meeting. This recommendation reflects the fact that there appear to be at least four motions that have been recommended under Article 16—the petitioners' motion, a motion from the Selectmen, the motion initially voted by the Advisory Committee, and the CTO&S motion, which is actually two motions, a by-law amendment and a partial referral motion. In addition, the discussion of Article 16 has revealed additional potential problems with the Article, particular as is requirements

apply to Brookline residents who voluntarily chair public bodies without much support from Town staff.

BACKGROUND:
The purpose of Article 16 is to make certain documents available to the public by posting them on the Town's website. The article would amend Article 3.21 of the General Bylaws. That section currently requires the posting of meeting notices of all public bodies, their agendas, and the name of the chair of the public body, or a designee such as a staff member.

Article 16 is based on the belief that agenda items are frequently opaque due to their brevity. Its proponents believe that that adding a requirement to post the documents specified in the Article would make it easier for members of the public to understand the significance of agenda items and thereby be able to make an informed decision about whether to enter the public discussion of the item.

One example of such material is a copy of a Police Department policy distributed to the Selectmen prior to a meeting during which the policy was being reviewed. Another example would be significant planning documents that have been distributed in electronic format.

The proposed bylaw change provides an option to post either the entire document or a website link, which could be used for very large files.

The proposed change in the bylaw also requires that contact information be posted for the person responsible for fielding inquiries regarding the agenda item—generally the chair of the meeting.

Article 16 amends a bylaw. It does not extend the Open Meeting Law (OML). The remedies and penalties specified for violations of the OML therefore do not apply.

During the course of consideration of Article 16, many news issues arose, and the Advisory Committee concluded that these issues were too complex to address hastily and via the existing motions—including its own motion.

DISCUSSION:
The Advisory Committee amended the original Article as it appeared in the Warrant so that the chair or a designee would have discretion to decide whether a document met the criteria.

The Advisory Committee discussed Article 16 on three separate occasions. After the second discussion, the Advisory Committee voted 11–8–2 to recommend favorable action. Those opposed were concerned that staff members would feel unnecessary pressure to scan and/or post documents that did not meet all the criteria.

The discussion and one amendment that came out of the third Advisory Committee discussion allayed the concerns of some, but not all Committee members.

Before its November 7, 2017 reconsideration, the Advisory Committee by a vote of 16–4–0, recommended the following motion:

VOTED: That the Town amend Article 3.21 of the Town's General By-Laws as follows:

Bold indicates additions to the existing bylaw.
~~Strikethrough~~ denotes deletions from the existing bylaw.

ARTICLE 3.21 READILY ACCESSIBLE ELECTRONIC MEETING NOTICES, AGENDAS**, INFORMATION** AND RECORDS

Section 3.21.1 Purpose and Applicability

This by-law applies to the meetings of all Brookline governmental bodies subject to the Open Meeting Law, now G.L. c. 39, §§23A et seq. (hereinafter, respectively, "meetings" and "OML"), and is intended (a) to take advantage of the internet and its increasing use; (b) to better implement the spirit of the OML; and (c) to the extent reasonably practical, to improve opportunities for broader and more meaningful citizen participation in the business of Town governmental bodies.

Section 3.21.2 Electronic Notification List(s) & Calendar

The Information Technology Department ("ITD") shall maintain one or more broadly available list(s) for the purpose of providing electronic notifications (such as by email) to Town Meeting Members and other Town residents who request to be included, prominently promoted on the Town website's Homepage, along with a link to a readily available and current Calendar of upcoming meetings.

Section 3.21.3 Meeting Notices, and Agendas **and Information**

(a) Each meeting "notice" required by OML shall not only be "posted" under the OML at least forty-eight hours before the meeting but, additionally, shall be posted in electronic format as soon as is practicable on the Town website Calendar after said meeting has been scheduled. To the extent possible, each posting shall include (i) an agenda that is reasonably descriptive of the intended business of the meeting, subject to later revisions as needed, ~~and~~ (ii) the name **and contact information** of a **primary** contact person ~~along with contact information~~ for further inquiries, for forwarding messages to the relevant governmental body, for obtaining background information to the extent readily available, and for obtaining contact information (or a website link containing such information) for all of members of the governmental body, **and (iii) such documents or portions thereof, or a website link thereto, pertinent, in the opinion of the chair of the relevant governmental body or designee, to the intended business of the meeting**

that have been provided electronically to the relevant governmental body.

(b) With the assistance and direction of the Town Clerk and ITD, the information specified above shall be disseminated in a timely manner to citizens who join the aforementioned notification list(s).

Section 3.21.4 Records

Records of meetings of all Town governmental bodies shall be reasonably descriptive of the business conducted**;** shall include a summary of discussions **and any documents that can feasibly be provided in electronic format (e.g., plans, policies and procedures), that were voted upon (or a website link thereto)** in addition to indicating actions taken and other requirements of the OML**;** and shall be accessible electronically from the Town website as soon as is practicable following the meeting at issue.

Section 3.21.5 Enforcement

As to mandates of this by-law that exceed those of state laws, including the OML, all officials, boards and committees responsible for appointing members of committees subject to this by-law shall periodically notify their appointees in writing of the requirements of this by-law. No additional enforcement powers are hereby conferred upon the Norfolk County District Attorney beyond the responsibility of such office with respect to state law, including the OML, nor shall actions taken at any meeting be held invalid due to failure to comply with any requirements of this bylaw that exceed those of state laws, including the OML.

Section 3.21.6 Effective Date

The requirements of this by-law that were voted by the 2017 Special Town Meeting (i.e., Fall Town Meeting) shall become effective on April 1, 2018.

Some Advisory Committee members were concerned that chairs and especially staff designees would feel pressured to include documents that were not germane to the issue, or that staff members would feel compelled to scan documents. As a result, the Advisory Committee's recommended motion under Article 16 included a delay in implementation to allow for staff training.

Before voting, the Advisory Committee sought comments from the chairs and staff support people of more than 50 Brookline public bodies. We received feedback from a few chairs and from three staff members. The staff comments were particularly thoughtful and were helpful in deciding how to amend the article to make certain that it will not create an administrative burden. Both the petitioner and a member of the Advisory Committee spoke with Kevin Stokes, head of Information Technology, to be sure that the proposed change in the bylaw would not create a technical burden.

The Advisory Committee considered the Selectmen's October 17 motion under Article 16 (see pp. 16-3 – 16-5 of the Combined Reports), but, by a vote of 7–12–1 decided not to support that motion due to concern that it excessively broadened the Article by requiring the posting of documents "that can feasibly be provided in electronic format." The majority of Advisory Committee members considered the term "feasible" to be imprecise and likely to provide a basis for dispute, not clarity.

Reconsideration, Multiple Motions, and the Rationale for Referral

After the Selectmen and Advisory Committee had offered their motions, the Committee on Town Organization and Structure offered its own recommendations under Article 16, including a revised bylaw amendment and a motion to refer the question of how to deal with documents that were not in electronic form. The CTO&S motion made the important contribution of recognizing that penalties should be waived in some cases and that some documents (e.g., those of a private or confidential nature) should be exempt from the requirements of the proposed bylaw amendments. The petitioners subsequently offered an amended motion that included some, but not all, of the CTO&S recommendations.

The Advisory Committee thus voted to reconsider Article 16 on November 7, 2017

During the discussion of the CTO&S motion and the petitioners' amended motion, it became clear that many questions remained about the proposed bylaw amendments.

- Could volunteer chairs of board, committees, and commissions easily comply with the requirements of the various bylaw amendments? The motions may assume a higher level of technical proficiency than exists.

- Is current staff support sufficient to respond to the requirements of the various proposed bylaw changes? CTO&S recognized that the potential need to scan documents that were available only in hard-copy form was a significant issue and thus recommended referral of that topic for further study?

- How would any of the proposed by-law amendments regard cases in which documents were distributed to a public body as hard copies even if it would have been possible to distribute them electronically? Some motions refer to documents that have been provided electronically.

- Would chairs have any obligation or simply broad discretion to distribute relevant documents that might be pertinent to a public body's work?

Ultimately, the Advisory Committee's recommendation to refer reflected the following factors:

(1) The sheer number of existing motions was in itself evidence that a motion to refer was necessary.

(2) The various parties who had studied the subject and offered motions had made considerable advances and improvements to the original Article 9 as it had been printed in the Warrant. It is entirely possible that further discussions would yield more improvements and general agreement on how to address the remaining issues. The differences between the motions are not huge, and one of the petitioners actually is a member of CTO&S.

(3) Given the potential impact on dozens of boards, committees, and commissions, many of which have volunteer chairs and limited staff support, it is important to make sure that the Town adopts the best possible amended bylaw. We need to take the time to get this right instead of trying to revise the various motions hastily before the upcoming Town Meeting.

(4) As noted above, many questions remain and deserve attention before the Town votes on any of the proposed bylaw amendments.

RECOMMENDATION:
The Advisory Committee discussed Article 16 on four separate occasions. At the fourth meeting, on November 7, 2017, by a vote of 18–2–3 the Advisory Committee recommended FAVORABLE ACTION on the following motion under Article 16:

VOTED: To refer the subject matter of Article 16 to the Committee on Town Organization and Structure, and to request that Committee to present a report to the May 2018 Annual Town Meeting.

ARTICLE 16

RECOMMENDATION OF THE COMMITTEEE ON TOWN ORGANIZATION & STRUCTURE

The Committee on Town Organization & Structure (CTO&S), at its public hearing and meeting of October 30, 2017, reviewed original Warrant Article 16 and the Petitioners' Article Description, the version of the article voted by the Advisory Committee (AC) on October 10, and the version of the article voted by the Board of Selectmen (BoS) on October 17 along with the BoS explanation. CTO&S Member Marty Rosenthal, speaking as a proponent of Article 16 and not as a member of CTO&S, noted that the Petitioners had at that time adopted the 10/17 BoS version.

By a vote of six in favor (Berg, chair; Benka, DeWitt, Leary, Robbins, Stein), none opposed and one abstaining (Rosenthal), CTO&S recommended two votes. The first addresses specific problems raised by Article 16. The second recommends further study of the question of website posting of documents that have not been provided to a governmental body in electronic form, and thus would have to be converted from hard copy to electronic form before website posting.

Subsequently, Petitioners drafted a revised article (which Petitioners may or may not move at Town Meeting). On November 7, the BoS voted to support the attached CTO&S vote (noting a desire to further discuss some particular language), and the AC voted to make no by-law changes at this time but rather to refer the entire subject matter of Article 16 back to CTO&S.

The motion which follows essentially takes the following approach:

- It proceeds from the premise that passing a by-law is a serious matter, and the Town should not create a law with the hope that "the kinks will be worked out over time" or "to see how it works," statements of the sort made repeatedly by the Petitioners. A by-law is not a mere resolution designed to encourage action; it is a law.
- It reiterates that all documents voted on by a governmental body, even those provided only in hard copy, must be retained as a record of the meeting. In this respect the motion is more comprehensive than Petitioners' revised article and, moreover, complies with State law.
- It requires electronic posting on the Town's website of those documents that have been provided to a governmental body in electronic form but not those provided only in hard copy that would have to be scanned prior to posting.
- It calls for further study of the question of ways to address website posting of documents that have been provided to a governmental body only in hard copy and would thus have to be scanned by someone before posting.
- Because of the difficulty of a citizen volunteer posting material on the Town's website, for those committees which are chaired by volunteer citizens, the

responsibility for website posting resides with the Town or School Department employee assigned to support the committee.

- It makes clear that the Town By-Law does not supersede the exemptions from disclosure provided by the State Open Meeting Law (OML), attorney-client or other privilege, or the State Public Records Law.
- Finally, the $50 per day fines permitted under General By-Law Article 10.3 would not be applied to the posting requirements identified in Article 16.

The following analyzes the changes proposed under Warrant Article 16 to General By-Law Article 3.21 section by section.

General By-Law Section 3.21.3:
General By-Law Section 3.21.3 deals with the posting required prior to a meeting to provide notice of that meeting. Petitioners' revised article would mandate that such posting include not only an agenda but also all pertinent documents or portions of documents – or a website link to those documents – "that can, without inordinate effort, practicably and feasibly be provided in electronic format."

The problem is that virtually **any** document can, at least arguably, be "feasibly" and "practicably" provided in electronic format. "Feasible" is defined as "capable of being done or carried out" (Merriam-Webster) and as "capable of being done, effected, or accomplished" (Dictionary.com). "Practicable" is likewise defined as "capable of being put into practice or of being done or accomplished" (Merriam-Webster) and as "capable of being done, effected, or put into practice, with the available means; feasible" (Dictionary.com).

While some, perhaps at Oxford University or the Palace of Westminster in Britain, might think of "feasible" as something that is "possible and practical to do easily or conveniently" (Oxford Dictionaries), the definition is – at a minimum – ambiguous. ANY document, even one containing hundreds of pages of large scale plans for a Chapter 40B project or a new school, is "capable" of being converted to electronic format through scanning. Indeed, the quantity of documents that would have to be converted to electronic format because doing so is somehow "feasible" or "practicable" is in no way limited by the Petitioners' formulation.

Similarly, "without inordinate effort" sets forth a fuzzy standard, enabling someone unhappy with a committee action to argue that the rules were not followed and to mount an attack on a volunteer citizen chair or to seek to force the disclosure of documents. Even a volunteer who had already expended significant time could be attacked on the ground that doing even more would not rise to the level of "inordinate" effort.

Moreover, to say that "such" document or "any" document must be posted electronically if it can be provided electronically "without inordinate effort" ignores the problem of dealing with a large quantity of documents. It suggests that documents are to be looked at one by one in isolation and that if any "such" document can arguably be scanned "without

inordinate effort" it must be, regardless of whether there might be hundreds of pages of such documents. In the opinion of CTO&S a "law" should to the extent possible be clear and unambiguous as to what it is requiring citizens to do rather than being based on standards defined with fuzzy adjectives and adverbs.

Moreover, the Petitioners' version does not deal with the critical question of who is in fact responsible for converting documents to electronic form. This issue is particularly acute for committees consisting of, and chaired by, citizen volunteers, and is particularly onerous if those committees do not have Town or School Department staff supporting them.

The complications and difficulty of posting documents on the Town's website by someone who is not employed in Town Hall are significant. CTO&S does not believe that such a burden to scan documents provided only in hard copy and to post them on the Town's website can reasonably be placed on a volunteer committee chair not supported by a staff employee. In fact, placing such a burden on volunteers could actually discourage participation in Town affairs, contrary to the very purpose of General By-Law Article 3.21 "to improve opportunities for broader and more meaningful citizen participation in the business of Town governmental bodies" (By-Law §3.21.1). Since a foundation of Brookline culture and tradition is broad citizen participation in government, CTO&S believes that any requirements that potentially have a chilling effect on that participation are not in the Town's interest.

If a document is provided to the governmental body in electronic form, and if there is staff support for posting on the Town website, CTO&S agrees that even a volunteer committee chair can reasonably be expected to forward those documents electronically, with a mouse click, to the supporting Town or School employee for posting. Thus, in such a case, CTO&S would require posting by the Town or School employee. Petitioners now add in Section 3.21.3 that there should be posting "by the Town," but (a) this language, whatever it means, does not apply to the postings required by Section 3.21.4; (b) even if it were included in both sections, does not necessarily protect a citizen committee or its chair, who serve as representatives of "the Town"; and (c) does not clarify the issue of postings by the School Department and School committees.

For the foregoing reasons, Petitioners' language does not address issues of concern to CTO&S. CTO&S would narrow the warrant article with regard to Section 3.21.3 in two basic ways: (1) by limiting the requirement for electronic posting to documents provided in electronic form; and (2) by making clear that for posting to be required, a volunteer committee or other body must be provided staff support responsible for the posting.

General By-Law Section 3.21.4

General By-Law Section 3.21.4 applies to the records of meetings that have already occurred.

The Petitioners' revised motion both (a) fails to distinguish between, on the one hand, the availability in Town Hall of the records of a meeting in hard copy and, on the other, the

electronic posting of documents on the Town website and (b) uses the troublesome "feasibly," "practicably" and "without inordinate effort" language.

The CTO&S proposal is actually more comprehensive with regard to the retained written, hard-copy records of a governmental body than the Petitioners' revised article. CTO&S does not apply the "feasibility," "practicability" and "inordinate effort" exclusions to those records, but states instead that all documents voted on at a meeting are part of the official record. In this regard, CTO&S conforms to State law. The Attorney General's Open Meeting Law Guide provides that under State law "Minutes, and all documents and exhibits used, are public records and a part of the official record of the meeting." (AG OML Guide, October 6, 2017, p. 16). All such documents are already under an obligation to be retained and made available under the Open Meeting Law and the state Public Records Law.

For the reasons discussed above, however, requiring documents to be posted on the Town's website is a different matter (even if limited to documents that can "feasibly," "practicably," and "without inordinate effort" be provided in electronic format). In that case, documents that were provided only in hard copy, regardless of their quantity or physical size, would arguably have to be scanned in order to be converted into electronic format, or, at a minimum, could form the basis for attacks on volunteer committees and their chairs. The requirement would be particularly onerous for a volunteer committee or committee chair without supporting Town or School Department staff to scan and post the documents.

For the foregoing reasons, the CTO&S recommendation is designed to narrow the Petitioners' proposal with regard to Section 3.21.4 in two ways: (1) by limiting the requirement for electronic posting of meeting documents on the Town's website to documents provided to the governmental body in electronic form, while reiterating the requirement that all documents (including all those provided only in hard copy) become part of the official record of a meeting retained by the Town or School Department and available to the public in conformity to the State Open Meeting Law and Public Records Law; and (2) by limiting the requirement for posting meeting documents on the Town's website to the situation where a volunteer body has been provided staff support responsible for posting.

General By-Law Section 3.21.5

The motion below makes clear that the new disclosure requirements under Section 3.21 should not preempt State law to require disclosure of documents exempt from disclosure pursuant to the Open Meeting Law, attorney-client or other privilege, or the Public Records Law. This issue was identified after the CTO&S meeting, but is necessary to avoid conflict with State law.

Finally, although Article 16 has been treated as "basically a resolution" (AC 10/10/17 minutes), a by-law with "no penalty" (*Ibid.*) and "no sanctions" (BoS 10/17/17 minutes), and a by-law with "no consequences" (Proponent at CTO&S public hearing, 10/30/17),

those assertions overlooked Article 10.3 of the Town's General By-Laws, which provides that for

> [a] violation of **any** provision of these by-laws … [i]f not subject to a specific penalty in [a table that follows] … each violation shall be subject to a specific penalty of **fifty ($50.00) for each offense** … **Each day** such violation is committed or permitted to continue shall constitute a separate offense and **shall be punishable as a separate offense** hereunder.

The potential for fines could further chill the willingness of citizens to participate as volunteers on committees, commissions and boards. After the CTO&S meeting, Petitioners appropriately adopted the CTO&S recommendation to exclude the application of Article 10.3.

Referral Motion

CTO&S did not take lightly the goal of having governmental bodies post all pertinent documents on the Town's website, even those that have not been provided to the governmental body in electronic form. However, the burden on Town and School staff for doing so is totally unknown. The number of hard copy documents, the occurrence of very lengthy documents, the quantity of oversize documents, and the availability of scanning equipment appropriate to the kinds of documents used by various committees, to name a few issues, are simply not known. Because CTO&S believes that it is preferable to be in a position to understand the costs and benefits of a proposal before making it a by-law, CTO&S proposes to refer the question of the posting of documents that were not electronically sourced to "a committee" to be determined by the Moderator to answer the kinds of questions outlined above.

The composition of the "committee" is not specified in the proposed CTO&S vote but could in the Moderator's discretion be a Moderator's Committee, CTO&S, or a committee of some other composition. The study should involve the quantity and types of documents that would be at issue if documents related to meetings of all governmental bodies were to be made available on the Town's website, along with the "costs" of doing so, whether in additional hardware, software or staff time. The committee could also consider requiring that, absent demonstrated hardship, documents submitted to a governmental body be provided in electronic as well as hard copy form, to facilitate posting on the Town's website.

CTO&S recommends that the committee report back to the Fall 2018 Town Meeting. The CTO&S referral motion, limited solely to the treatment of documents not provided to the governmental body in electronic form, is narrower than the AC referral motion, which refers the entirety of Article 16 for further study, making no changes at the present time in General By-Law Article 3.21.

* * *

The proposed votes follow.

Motions to be submitted by Betsy DeWitt (TMM5 and a member of the Committee on Town Organization & Structure):

FIRST VOTE:

(Deletions from existing General By-Law Article 3.21 shown as ~~strikethroughs~~; additions shown as **bold underline**.)

VOTED: To amend Article 3.21 of the Town's general by-laws as follows:

ARTICLE 3.21 READILY ACCESSIBLE ELECTRONIC MEETING NOTICES, AGENDAS**, INFORMATION** AND RECORDS

Section 3.21.1 Purpose and Applicability

This by-law applies to the meetings of all Brookline governmental bodies subject to the Open Meeting Law, now G.L. c. 39, §§23A et seq. (hereinafter, respectively, "meetings" and "OML"), and is intended (a) to take advantage of the internet and its increasing use; (b) to better implement the spirit of the OML; and (c) to the extent reasonably practical, to improve opportunities for broader and more meaningful citizen participation in the business of Town governmental bodies.

Section 3.21.2 Electronic Notification List(s) & Calendar

The Information Technology Department ("ITD") shall maintain one or more broadly available list(s) for the purpose of providing electronic notifications (such as by email) to Town Meeting Members and other Town residents who request to be included, prominently promoted on the Town website's Homepage, along with a link to a readily available and current Calendar of upcoming meetings.

Section 3.21.3 Meeting Notices**,** ~~and~~ Agendas **and Information**

(a) Each meeting "notice" required by OML shall not only be "posted" under the OML at least forty-eight hours before the meeting but, additionally, shall be posted in electronic format as soon as is practicable on the Town website Calendar after said meeting has been scheduled. To the extent possible, each posting shall include (i) an agenda that is reasonably descriptive of the intended business of the meeting, subject to later revisions as needed, ~~and~~ (ii) the name **and contact information** of a **primary** contact person ~~along with contact information~~ for further inquiries, for forwarding messages to the relevant governmental body, for obtaining background information to the extent readily available, and for obtaining contact information (or a website link containing such information) for all of members of the governmental body**, and (iii) such**

documents or portions thereof, or a website link thereto, pertinent, in the opinion of the chair of the relevant governmental body or designee, to the intended business of the meeting that have been provided electronically to the relevant governmental body. In the case of governmental bodies chaired by volunteer citizens, the person responsible for the posting of notices and documents under this section shall be the Town or School Department employee assigned as staff to the governmental body.

(b) With the assistance and direction of the Town Clerk and ITD, the information specified above shall be disseminated in a timely manner to citizens who join the aforementioned notification list(s).

Section 3.21.4 Records

Records of meetings of all Town governmental bodies shall be reasonably descriptive of the business conducted**,** and shall include a summary of discussions **and any documents (e.g., plans, policies and procedures) that were voted upon** in addition to indicating actions taken and other requirements of the OML, and **said records and summaries, and documents that were provided electronically to the governmental body,** shall be accessible electronically from the Town website as soon as is practicable following the meeting at issue. **In the case of governmental bodies chaired by volunteer citizens, the person responsible for the recording, retention and accessibility of records and documents under this section shall be the Town or School Department employee assigned as staff to the governmental body.**

Section 3.21.5 Enforcement

As to mandates of this by-law that exceed those of state laws, including the OML, all officials, boards and committees responsible for appointing members of committees subject to this by-law shall periodically notify their appointees in writing of the requirements of this by-law. No additional enforcement powers are hereby conferred upon the Norfolk County District Attorney beyond the responsibility of such office with respect to state law, including the OML, nor shall actions taken at any meeting be held invalid due to failure to comply with any requirements of this bylaw that exceed those of state laws, including the OML. **This Article 3.21 shall not require the posting of, accessibility to, or other disclosure of documents exempt from disclosure under the OML, attorney-client or other privilege, or the Public Records law, nor shall this Article be subject to penalty under Article 10.3, Non-Criminal Disposition.**

~~Section 3.21.6 Effective Date~~

~~The requirements of this by-law shall become effective on July 01, 2008.~~

SECOND VOTE:

VOTED: To refer to a committee determined by the Moderator the issue of electronic distribution (including website posting) of documents that were not provided in electronic format to a governmental body, for reporting back to the Fall 2018 Town Meeting.

ARTICLE 16

MOTION OFFERED BY THE PETITIONERS

VOTED: To amend Article 3.21 of the Town's general by-laws as follows

(changes to current By-Law in bold, and strikethrough)

ARTICLE 3.21 READILY ACCESSIBLE ELECTRONIC MEETING NOTICES, AGENDAS**, INFORMATION** AND RECORDS

Section 3.21.1 Purpose and Applicability

This by-law applies to the meetings of all Brookline governmental bodies subject to the Open Meeting Law, now G.L. c. 39, §§23A et seq. (hereinafter, respectively, "meetings" and "OML"), and is intended (a) to take advantage of the internet and its increasing use; (b) to better implement the spirit of the OML; and (c) to the extent reasonably practical, to improve opportunities for broader and more meaningful citizen participation in the business of Town governmental bodies.

Section 3.21.2 Electronic Notification List(s) & Calendar

The Information Technology Department ("ITD") shall maintain one or more broadly available list(s) for the purpose of providing electronic notifications (such as by email) to Town Meeting Members and other Town residents who request to be included, prominently promoted on the Town website's Homepage, along with a link to a readily available and current Calendar of upcoming meetings.

Section 3.21.3 Meeting Notices, Agendas**, Information** and Records.

(a) Each meeting "notice" required by OML shall not only be "posted" under the OML at least forty-eight hours before the meeting but, additionally, shall be posted **by the Town** in electronic format as soon as is practicable on the Town website Calendar after said meeting has been scheduled. To the extent possible, each posting shall include (i) an agenda that is reasonably descriptive of the intended business of the meeting, subject to later revisions as needed, and (ii) the name **and contact information** of a **primary** contact person along with contact information for further inquiries, for forwarding messages to the relevant governmental body, for obtaining background information to the extent readily available, and for obtaining contact information (or a website link containing such information) for all of members of the governmental body, **and (iii) such documents or portions thereof, or a website link thereto, that -- in the discretion of the chair of the relevant governmental body or designee -- are both pertinent to the intended business of the meeting and can, without inordinate effort, practicably and feasibly be provided in electronic format.**

(b) With the assistance and direction of the Town Clerk and ITD, the information specified above shall be disseminated in a timely manner to citizens who join the aforementioned notification list(s).

Section 3.21.4 Records
Records of meetings of all Town governmental bodies shall be reasonably descriptive of the business conducted; and shall include a summary of discussions**, and any documents that can, without inordinate effort, practicably and feasibly be provided in electronic format (e.g., plans, policies and procedures) (or a website link thereto),** that were voted upon in addition to indicating actions taken and other requirements of the OML; and shall be accessible electronically from the Town website as soon as is practicable following the meeting at issue.

Section 3.21.5 Enforcement
As to mandates of this by-law that exceed those of state laws, including the OML, all officials, boards and committees responsible for appointing members of committees subject to this by-law shall periodically notify their appointees in writing of the requirements of this by-law. No additional enforcement powers are hereby conferred upon the Norfolk County District Attorney beyond the responsibility of such office with respect to state law, including the OML, nor shall actions taken at any meeting be held invalid due to failure to comply with any requirements of this bylaw that exceed those of state laws, including the OML**. Nor shall this by-law be subject to penalty under Town By-Law §10.3, Non-Criminal Disposition.**

Section 3.21.6 Effective Date

The requirements of this by-law that were voted by the 2017 Special Town Meeting (i.e., Fall Town Meeting) shall become effective on April 1, 2018.

ARTICLE 16 – PETITIONERS' SUPPLEMENTAL EXPLANATION

Petitioners' amended motion on Article 16 addresses several issues raised by CTOS, but retains some important, broader provisions:

1 – Petitioners' motion now reads, "Each meeting "notice" required by OML shall not only be "posted" under the OML at least forty-eight hours before the meeting but, additionally, shall be posted **by the Town** in electronic format …"

Adding "by the Town" responds to issues raised by CTOS regarding volunteer bodies that are not directly supported by Town staff. The added language puts the burden on "the Town" to provide infrastructure, staff support or training, to ensure compliance with the bylaw. The Petitioners believe that it is a sufficient, and more flexible provision than that proposed by CTOS.

2 – Petitioners have added in "(iii), "… and can, **without inordinate effort, practicably and feasibly be provided in electronic format.**"

The addition of further qualifying language mitigates the concern of CTOS of undue burden. Documents would only need to be posted if, at the discretion of the Chair, the following conditions exist: (i) the document* is pertinent to the intended business of the meeting, (ii) can be posted

electronically without inordinate effort (whether or not they've been distributed electronically), (iii) electronic posting is practicable, and (iv) electronic posting is feasible.

*If the entire document isn't pertinent, and posting would require inordinate effort, etc., "a portion thereof" could be posted, as provided in the Petitioners' motion.

3 – Petitioners adopted the CTOS recommendation for language re: no penalty for non-compliance, i.e., reference to bylaw 10.3, to 3.21.5, "enforcement."

Petitioners' believe that the concerns expressed by CTOS are sufficiently addressed in the revised motion offered by the Petitioners, which has as its base a motion previously approved, 5-0, by the Selectmen.

ARTICLE 18

PLANNING BOARD REPORT AND RECOMMENDATION

This warrant article, submitted by citizen petitioner Michael A. Burstein, proposes to:

> To see if the Town will vote to amend the Town's General By-Laws and Zoning By-Law as follows:
>
> Replace the word "Selectmen" in all places in the bylaws where it appears with the word "Selectwomen";
>
> and replace "Selectman" in all places in the bylaws where it appears with the word "Selectwoman".

The Planning Board supports policies that promote diversity, especially among positions of leadership and authority. Using inclusive language would reinforce these policies and be more consistent with this goal. Since the original submittal of Article 18, modifications have been suggested by the Advisory Committee and Board of Selectmen, and the following gender neutral terms were recommended and agreed to by the petitioner: Select Board in place of Board of Selectmen, and Select person(s) in place of Selectman/Selectmen. The Planning Board supports making these substitutions in the Town By-Law and Brookline Zoning By-Law.

Therefore, the Planning Board voted (4-0-1) on October 26, 2017 to recommend **FAVORABLE ACTION** on the motion offered by the Board of Selectmen on a revised Article 18.

ARTICLE 19

PLANNING BOARD REPORT AND RECOMMENDATION

This warrant article, submitted by citizen petitioner Alex Coleman, proposes to:

> "(a) amend the Town By-laws to substitute the term "board of selectmen" with the term "select board" and the words "selectman, selectmen, selectwoman, or selectwomen" with the words "select board member(s)" or "member(s) of the select board" in each and every place they appear in the Town By-laws and in all currently active and future Town documents and communications, and
>
> "(b) amend the Town By-Laws to require the use of gender-neutral language in all currently active and future Town documents and communications."

The Planning Board acknowleges the importance of language in promoting policies of inclusiveness and diversity and that there can be a broad spectrum of gender identity. Article 19 initially proposed a warrant article requiring gender-neutral language in all documents and communications in the Town. After discussion of Arts. 18 and 19, the Board of Selectmen and Advisory Committee recommended that with the revisions to the wording of Art.18, Art. 19 should be changed to a resolution. This resolution urges the use of gender-neutral language in all documents and communications related to Town business. The Planning Board supports the terminology proposed in the revisions to Art. 18 to use Select Board in place of Board of Selectmen and Select person(s) in place of Selectman/Selectmen.

Therefore, the Planning Board voted (4-0-1) on October 26, 2017 to recommend **FAVORABLE ACTION** on the motion offered by the Board of Selectmen on the revised Article 19 as a resolution.

ARTICLE 20

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

Article 20 is a resolution to establish that the second Monday of October be recognized as Indigenous Peoples Day in Brookline (on the same date as the federal and Massachusetts holiday of Columbus Day). This recognition is an acknowledgement of the failures in character and actions of Christopher Columbus, and is a counter-celebration to promote Indigenous cultures and commemorate the history of Indigenous Peoples. Similar changes have been made in Seattle, WA, Cambridge, MA, Denver, CO, Portland, OR, Berkeley, CA, and Albuquerque, NM. Passage of resolution would result in the creation of an Indigenous Peoples Day Celebration Committee and Town Meeting's encouragement of the Brookline Public Schools to provide instruction surrounding the topic.

The Board agrees with the purpose of the resolution. There was discussion concerning the reactions of other nationality groups and the nature of the celebration committee, but there was consensus concerning the necessity to promote and celebrate indigenous people and their cultures. The Board acknowledged that Columbus Day is not observed in many parts of the country, and that there is a need to connect the youth of Brookline with the indigenous populations that once resided in Brookline.

In addition, Board members expressed their concerns that the workload on both Board members and staff is heavy and that creation of another Board-led committee is not prudent at this time. However, the language of the resolution specifies that the committee can be led by a Board designee and, on that basis, Board members support the resolution.

VOTED:

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on October 31, 2017 on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:
By a vote of 12 in favor, 2 opposed, and 3 abstentions, the Advisory Committee recommends FAVORABLE ACTION on the motion below under Article 20. This motion also will be the petitioners' motion.

Warrant Article 20 seeks Town Meeting approval of a resolution establishing the second Monday in October as Indigenous Peoples Day in Brookline, as many U.S. cities and states have already done. The resolution calls for the Town to reflect upon the dispossession of

indigenous populations from their lands and to celebrate their survival, their culture, and their values. It further calls upon the Board of Selectmen to appoint an Indigenous Peoples Day Celebration Committee, specifying that such committee include representatives of local indigenous groups as well as members of the Brookline community, and to aid in resourcing the commemoration. The Public Schools of Brookline are urged to observe the day with appropriate exercises and instruction, and the Town is urged to encourage recognition of Indigenous Peoples Day by local businesses and institutions.

While supportive of the general intent of the resolution, the Advisory Committee raised concerns about the language and tone of the "whereas" clauses. Questions revolved around the focus on Columbus and the lack of reference to the subsequent suppression and marginalization of indigenous cultures that continues through today. It was also suggested that emphasis on the accomplishments of indigenous populations rather than just on Columbus would establish a more positive tone. As a result, several alternate versions of the resolution were considered. The petitioners added a final "whereas" clause to the resolution that refers to some of the many contributions of the Indigenous People of the Americas. The Advisory Committee recommends Favorable Action on the petitioners' revised resolution.

DISCUSSION:
The petitioners believe that the Town should not celebrate a holiday dedicated to a man who sponsored the genocide of indigenous populations and initiated the transatlantic slave trade. Columbus' journals document his intention to conquer and enslave the native Caribbean populations. Rape, torture, and punishments such as cutting off hands at sword point were common under his governance.

The Advisory Committee was supportive of the resolution and the opportunity to celebrate the contributions of indigenous populations to our history and culture. However, many questions were raised about the focus on Columbus. For good or ill, Columbus' arrival in the Americas changed the world. The abuses he is guilty of are common throughout history. There is no mention of the suppression and marginalization of indigenous cultures which continues in this country through today. Shouldn't the resolution make reference to those injustices as well?

Several Advisory Committee members spoke of Americans' lack of awareness of the contributions Indigenous Peoples have made. For example, the model for our federal form of government is based on the governance system of the Iroquois Nation. Perhaps some of this detail could be added to provide a more balanced and positive tone.

The petitioners indicated that the "whereas" clauses in their resolution were carefully researched and worded and had been included in similar resolutions which have been passed in other Massachusetts municipalities. The language focuses on Columbus because, while others have committed similar crimes, he is the only one who has a holiday named for him. Placing all the information about Columbus in front of people is the only way to teach them about why he should not be celebrated. Students in Brookline hear only positive

things about Columbus until they reach fifth grade, when they have to unlearn what they have been taught previously. By focusing on Columbus, the resolution addresses how it all began, and has more significant impact.

The Advisory Committee discussed three alternatives to the petitioners' original language. One removed all references to Columbus except for his name on the holiday as it now exists. The second replaced "whereas" clauses 3–7 with a clause that acknowledges the consequences of Columbus' occupation, but did not enumerate his specific actions. The third, from the petitioners, included a new "whereas" clause listing some of the many contributions Indigenous Peoples of the Americas have made to the world. In addition, the petitioners' final version clarifies the language in the third resolved clause so that the list of participants on the Indigenous Peoples Day Committee is not too proscriptive. After some additional discussion of the accuracy of some of the statistics, the Advisory Committee settled on the petitioners' language.

RECOMMENDATION:
By a vote of 12–2–3, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: THAT THE TOWN ADOPT THE FOLLOWING RESOLUTION:

RESOLUTION TO SUPPORT THE ESTABLISHMENT OF INDIGENOUS PEOPLES DAY IN BROOKLINE

WHEREAS, Columbus Day has been celebrated unofficially since the early 18th century, and was officially made a federal holiday in 1937 to be celebrated on the second Monday of October, with M.G.L. Part I, Title I, chapter 4, section 7, clause 18 setting aside the second Monday of October as a Massachusetts state holiday, and M.G.L. Part I, Title II, chapter 6, section 12V providing that the Governor declare that day to be Columbus Day; and

WHEREAS, Columbus Day commemorates the landing of Christopher Columbus in the Americas specifically on the Caribbean islands of The Bahamas on October 12, 1492 and, later, on Hispaniola (present-day countries of the Dominican Republic and Haiti); and

WHEREAS, the first voyage of Columbus to the Americas initiated the transatlantic slave trade, journal entries from Columbus show his desire to enslave the Indigenous populations of the Caribbean, and he subsequently imprisoned and transported many hundreds of people to this end; and

WHEREAS, Columbus' second voyage of 1493 was one of conquest, wherein seventeen ships were led by him to the New World, and his governorship of the Caribbean instituted systematic policies of slavery and extermination of Indigenous populations, especially the Taino/Arawak people whose population was reduced from approximately 8 million to

100,000 during Columbus' reign, being further reduced by the continuation of his policies until near-extinction in 1542; and

WHEREAS, the example of the Taino/Arawak people is merely indicative of the policies of Columbus and his men, and all told some historians estimate that more than 15 million Indigenous persons were exterminated in the Caribbean Basin alone; and

WHEREAS, though the introduction of European diseases may account for some of these deaths, starvation and overt extermination policies were mostly to blame, and thus these atrocities cannot be reasonably attributed to forces outside of the control of European colonialists; and

WHEREAS, the devastation of Indigenous populations would lead to the enslavement of at least 10–12 million African people, and the profound effects of the transatlantic slave trade and African diaspora continue to be felt to the present day; and

WHEREAS, the cultures of the Indigenous Peoples of the Americas are worthy of being promoted, their history is rich, diverse, and worthy of celebration, and the actions and policies of European colonizers of the Americas actively destroyed and suppressed parts of those cultures; and

WHEREAS, Indigenous Peoples of the lands that would later become known as the Americas have occupied these lands since time immemorial; and

WHEREAS, the Town of Brookline, Massachusetts (the "Town") has a history of opposing racism towards Indigenous Peoples in the United States, this racism serving to perpetuate high rates of Indigenous poverty and leading to inequities in health, education, and housing; and

WHEREAS, the Town wishes to honor our nation's Indigenous roots, history and contributions; and

WHEREAS, the State of Alaska and other localities including Seattle WA, Cambridge MA, Denver CO, Portland OR, Berkeley CA, and Albuquerque NM have adopted Indigenous Peoples Day as a counter-celebration to Columbus Day, to promote Indigenous cultures and commemorate the history of Indigenous Peoples; and

WHEREAS, Indigenous Peoples Day was first proposed in 1977 by a delegation of Native Nations to the United Nations-sponsored International Conference on Discrimination Against Indigenous Populations in the Americas; and

WHEREAS, in 1990, representatives from 120 Indigenous nations at the First Continental Conference on 500 Years of Indian Resistance unanimously passed a resolution to transform Columbus Day into an occasion to strengthen the process of continental unity

and struggle towards liberation, and thereby use the occasion to reveal a more accurate historical record.

WHEREAS, Indigenous Peoples of the Americas have contributed to the world in countless ways, and continue to do so. These contributions are too numerous to set forth here, but include:

-During World War I and II, Choctaw, Cherokee, Navajo and other Indigenous code talkers played a key role in US communications, displaying bravery and intelligence as they sent signals based on their languages that the German and Japanese were unable to decipher. Their actions are credited with saving thousands of US and Allies' lives.

-Agricultural and culinary techniques for tomatoes, pumpkins, potatoes, maize, cacao, many varieties of beans and much more, including the development of non-edible plants such as cotton, tobacco, and rubber.

-Medical advances using plants, such as using Vitamin-C based foods to avoid scurvy, discovering the medical use for quinine, and discovering the medical uses of willow bark (the basis for aspirin).

-The Maya of Mexico appear to have been the first to use the zero in mathematics.

-Indigenous government systems in North America, particularly that of the Haudenosaunee (Six Nations Iroquois Confederacy), served as models of federated representative government for the United States, although the US excluded some key components such as the leadership role of women in the Haudenosaunee systems.

-Internationally known Indigenous people from the US have included Massasoit, Sacagawea, Sitting Bull, Crazy Horse, Geronimo, Pontiac, Tecumseh, Sealth (Seattle), Wilma Mankiller, Diane Humetewa, Dave Archambault, Winona LaDuke and many more. Olympic athletes have included Jim Thorpe and Billy Mills. Prominent modern Indigenous artists include writers Louise Erdrich and Sherman Alexie; the prima ballerina Maria Tallchief; actors such as Irene Bedard, Floyd Red Crow Westerman, and Adam Beach; musicians John Trudell, Joanne Shenandoah, Carlos Nakai and Robbie Robertson; and artists Jaune Quick-To-See Smith, RC Gorman and Fritz Scholder.

NOW, THEREFORE, BE IT RESOLVED THAT TOWN MEETING URGES:

1. The Board of Selectmen to establish that the second Monday of October henceforth be commemorated as Indigenous Peoples Day in Brookline, in recognition of the position of Indigenous Peoples as native to these lands, and the suffering they faced during and after the European conquest,

2. The people of Brookline to observe Indigenous Peoples Day by reflecting upon the dispossession of the homelands and villages of the Massachusett people of this region,

without which the building of the Town would not have been possible, and to celebrate the survival of Indigenous Peoples against all odds, as well as the thriving cultures and values that Indigenous Peoples have brought and continue to bring to our Town and the wider community,

3. The Board of Selectmen to appoint an Indigenous Peoples Day Celebration Committee to develop and implement the Town's commemoration of Indigenous Peoples Day. This Board or its designee shall invite representation on the Indigenous Peoples Day Celebration Committee from Town citizens, schools, non-profit organizations, businesses and its Commission for Diversity, Inclusion & Community Relations as well as the North American Indian Center of Boston, United American Indians of New England, Cultural Survival and IndigenousPeoplesDayMA.org, with an emphasis on obtaining as much Indigenous representation as possible,

4. The Board of Selectmen or its designee to assist the Indigenous Peoples Day Celebration Committee with identifying and obtaining possible funding and resources necessary for the commemoration of Indigenous Peoples Day in the Town,

5. The Public Schools of Brookline to observe this day, with appropriate exercises and instruction in the schools around the time of Indigenous Peoples Day, to the end that the culture, history and diversity of Indigenous Peoples be celebrated and perpetuated,

6. The Board of Selectmen to encourage businesses, organizations, and public institutions to recognize and observe Indigenous Peoples Day, and

BE IT FURTHER RESOLVED that the Town Clerk shall ensure that the Massachusetts Commission of Indian Affairs, North American Indian Center of Boston, IndigenousPeoplesDayMA.org, United American Indians of New England, Massachusetts Center for Native American Awareness, the Mashpee Wampanoag Indian Tribal Council, the Wampanoag Tribe of Gay Head (Aquinnah), the Nipmuc Nation Tribal Council (including the Hassanamisco and Natick), the Assonet Band of Wampanoags, the Chappaquiddick Wampanoags, the Chaubunagungamaug Nipmuc, the Pocasset Wampanoag, the Ponkapoag, and the Seaconke Wampanoag, all of which include descendants of those people indigenous to Massachusetts, as well as the Brookline School Committee and Brookline TAB, receive a suitably engrossed copy of this Resolution.

ARTICLE 20

COMMISSION FOR DIVERSITY, INCLUSION AND COMMUNITY RELATIONS RECOMMENDATION

SUMMARY:
Warrant Article 20 seeks to establish Indigenous Peoples Day on the 2nd Monday of October. Christopher Columbus' voyage from Europe in 1492 was not one of discovery but rather one of conquest, exploitation, and genocide. In fact, it was Columbus who initiated the first trans-Atlantic slave trade by capturing and sending hundreds of the indigenous Taínos people to Europe as slaves as early as 1494. Just six years later in 1501, it was Columbus who also began the African slave trade to the Americas.

There are now three states and more than 60 municipalities and universities nationwide including three in Massachusetts (Cambridge, Amherst, and Northampton) that celebrate Indigenous Peoples Day instead of Columbus Day.

Seattle City Council member Kshama Sawant put it well when she explained Seattle's decision to abandon Columbus Day: "Learning about the history of Columbus and transforming this day into a celebration of Indigenous people and a celebration of social justice … allows us to make a connection between this painful history and the ongoing marginalization, discrimination, and poverty that Indigenous communities face to this day."

RECOMMENDATION:
On October 18, 2017, the Commission held a public hearing on Warrant Article 20. A unanimous Commission voted FAVORABLE ACTION on Article 20 including whatever the petitioners accept for their final motion.

ARTICLE 21

COMMISSION FOR DIVERSITY, INCLUSION AND COMMUNITY RELATIONS RECOMMENDATION

SUMMARY:
John Wilson, a resident of Brookline for over 50 years until his death in 2015 was a renowned artist. It recently came to the attention of several town residents that a bronze study of the head of Martin Luther King, Jr., was available for purchase. The original sculpture stands in the U.S. Capitol Rotunda. The citizens' intention is to raise the funds necessary to purchase this study and install it in our Town Hall lobby to honor both this great artist and the man it portrays.

RECOMMENDATION:
On October 18, 2017, the Commission held a public hearing on Warrant Article 21. A unanimous Commission voted FAVORABLE ACTION on Article 21 including whatever the petitioners accept for their final motion. We encourage them to include a plaque that will enlighten us all about the significance of this work of art and the artist who produced it.

ARTICLE 21

MLK CELEBRATION COMMITTEE RECOMMENDATION

The MLK Celebration Committee wishes to express its support for "A Resolution to Honor John Wilson" and urges Town Meeting to vote for its adoption.

Each year on MLK Day our committee provides an opportunity for Brookline residents to remember Martin Luther King, Jr. who was martyred in the effort to achieve equality in America. The first MLK Day in 1986 was marked by the dedication in the U.S. Capitol Rotunda of a bronze bust of Dr. King designed by an artist chosen from more than 200 applicants. That artist was Brookline resident John Wilson. On that day in the Capitol he stood at the side of Coretta Scott King as she remembered her husband.

John Wilson, who lived on Harris Street with his family, was a devoted teacher at Boston University and highly accomplished in his long career with a national reputation. His work was about social justice, human connection and family. His portraits of Dr. King, prints on paper or cast in bronze, are among the best ever made of Dr. King.

In 1982 John created a different sculpture of Dr. King, a magnificent monumental bronze head, for a park in Buffalo. A group of residents proposes to raise funds to purchase the 30-inch high bronze model for that piece, which is highly evocative of Dr. King's spirit.

We feel that the Town of Brookline would be proud to accept this gift of John Wilson's sculpture and agree that it should be placed in the seat of our local government. In the Town Hall lobby it will serve to remind us of the strength and moral authority of Dr. King; it will serve as an expression of the Town's commitment to racial equity; and, placed along the wall between the solemn list of Brookline men who died in the war to end slavery and the plaque with the names of three Brookline slaves that marched into battle in 1775, it will remind us, in the words of Dr. King, that "the arc of the moral universe is long, but it bends towards justice."

The sculpture will also honor the Brookline artist who created it, a person of humility and perseverance whose art could convey deep emotion and human understanding and could leave an inspiring impression on the viewer.

We would like to thank the Wilson family, the Committee to Commemorate John Wilson and, in advance, those who will support and contribute to this worthy effort.

ARTICLE 22

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

Article 22 is a resolution concerned with sentencing reforms and diversion programs within Massachusetts. The petitioner presents the issues pertaining to mandatory minimums in sentencing, incarceration spending, demographic information, and incarceration comparisons across the world. Although Massachusetts has made meaningful progress towards sentencing reforms, there is a perceived need to expand the scope beyond mandatory minimums for drug offenses and the guidance of the Council on State Governments.

The Board is cognizant of the issues associated with incarceration within Massachusetts. There is a race-based contrast in the incarceration rates across the state. The edits that were presented after multiple hearings and discussions are clearer than the original article, and provide four clear topics of review. The Board had questions about some of the whereas clauses, but the petitioner felt that they were necessary to add context to the resolution. The original bill at the state level recently moved out of committee, but the resolution should be communicated with state level elected officials prior to their vote on the floor.

Ultimately, the Board agreed with the language proposed by Advisory Committee and unanimously recommended FAVORABLE ACTION, by a vote of 5-0 taken on November 7, 2017 on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:
Warrant Article 22 seeks Town Meeting approval of a resolution in support of meaningful state legislation for sentencing reform and diversion. The petitioners consider the resolution to be advocacy directed at the criminal justice community. As originally submitted, the Article included technical terminology the Advisory Committee could not understand and asserted factual claims the committee could not independently verify. The Advisory Committee felt that the lengthy and emotion-laden content of the "Whereas" clauses tended to detract from the important message that the Warrant Article seeks to convey. A motion to substitute a simplified version of the resolution, which reduced these clauses to a simple statement of the importance of sentencing reform as a civil rights issue, failed when the Advisory Committee initially considered Article 22.

An informal working group of several Advisory Committee members and Selectman Greene, who shared the Advisory Committee's concerns, consulted with the petitioners to reach compromise language to be submitted for reconsideration. Although the parties could not agree, all felt the process improved upon the original Warrant Article. Upon

reconsideration, the Advisory Committee recommended Favorable Action on the revised version of the resolution.

By a vote of 11–6–5, the Advisory Committee recommends FAVORABLE ACTION on the motion below.

DISCUSSION:
Petitioner Marty Rosenthal explained that he has long opposed mass incarceration and advocated for sentencing reform and diversion. Current law imposes mandatory minimum sentences on the assumption that knowledge of the consequences will act as a deterrent to crime. This has greatly increased the prison population in Massachusetts and the country as a whole.

Massachusetts spends over $1 billion per year on incarceration, absorbing funds which might otherwise be used for crime prevention, such as rehabilitation, mental health services, and community policing. Minority groups are disproportionately incarcerated: African Americans at eight times the rate of Caucasians and Hispanics at five times. Rather than giving judges the authority to reduce sentences in open court, the mandatory minimums encourage prosecutors to negotiate charges and plea bargains behind closed doors which coerces defendants to avoid trial in exchange for leniency.

Meaningful reform failed to pass the state legislature in the mid-1990's and has languished ever since. In 2014, Governor Deval Patrick reconstituted the Sentencing Commission which was charged with creating legislative guidelines for sentencing reform (such as diversion) and Safety Valves (criteria for judges to depart downwards from mandatory minimums), but the Commission has not yet acted. Despite several proposed reforms now pending in the state legislature, including bills which address drug mandatory minimums, no current proposal addressees overall sentencing or diversion for non-serious offenses.

The Advisory Committee felt that the lengthy and emotion-laden content of the "Whereas" clauses tended to detract from the important message that the Warrant Article seeks to convey. Although the petitioners are comfortable in the role of advocates, they are asking the Town to accept as facts assertions that cannot be independently verified. Some members considered the issue too complex to be able to offer any opinion. Nonetheless, there was a desire to support sentencing reform as an important social justice issue and a motion was made to replace the "Whereas" clauses with the statement: "Whereas mass incarnation is a serious civil rights issue." That motion failed, resulting in an initial recommendation of No Action.

Subsequently, a small group of Advisory Committee members, joined by Selectman Greene, who shared their concerns, worked with the petitioners to revise the Warrant Article. Though both the petitioners and the working group felt this process improved the language, they did not reach consensus. After a second public hearing, both the petitioners' revised resolution and a revised resolution proposed by the Advisory Committee subcommittee were presented to the full Advisory Committee for a vote.

The petitioners removed some of the language the Advisory Committee found objectionable but did not feel they could make any further changes. In their view, the only way to move the legislature to action is to stand up and make noise especially in light of pending statehouse bills which do not go far enough to achieve reform. The Advisory Committee felt that relying on logic and morality is more persuasive than emotion, and that a more moderate tone is the appropriate one for Town Meeting.

RECOMMENDATION:
By a vote of 11 in favor, 6 opposed, and 5 abstentions, the Advisory Committee recommends FAVORABLE ACTION on the following motion.

VOTED: That the Town adopt the following Resolution:

A Resolution Regarding Massachusetts Criminal Justice Reform

1. WHEREAS: Beginning in the 1970's, the United States experienced a steadily progressing rate of incarceration. With 5% of the world's population, the US has 25% of the world's inmates, and many consider mass incarceration the most important civil rights issue of our generation; and

2. WHEREAS: Massachusetts incarcerates about 20,000 inmates- five times the 1970's rate, averaging $50,000 per inmate per year (even more for aging inmates), costing in total over $1 billion a year; and

3. WHEREAS: The Massachusetts incarceration rate is 2.5 times Spain's, 3 times Canada's, 5 times Germany's, and 7 times Japan's; with only 6 countries -- Cuba, Russia, Thailand, Panama, Azerbaijan, and El Salvador having higher incarceration rates. Meanwhile, our state and local governments' crime prevention social services (including jails and prisons), remain seriously underfunded; and

4. WHEREAS: While some Massachusetts District Attorneys have broken ranks to support a few of the recent Senate proposals, almost all DAs have for decades supported the foregoing "tough-on-crime" trends, and opposed almost all meaningful sentencing reform; instead, they, like Gov. Baker, often tout Massachusetts' lesser (than most states') incarceration rate as justification, and

5. WHEREAS: US Criminal Justice racial disparities impose disproportionate consequences on individuals, families and communities of color, with Massachusetts' incarceration rate for Blacks and Hispanics being eight times and five times respectively that of Whites, and

6. WHEREAS: Across the country, both "blue" and "red" states have embraced a "Smart on Crime" paradigm shift of resources, prioritizing crime prevention over purely punitive incarceration, for example: Texas by 2014 closed three prisons, reducing by 6% its 2009 jail rate; Connecticut by 2016 closed 3 prisons, lowering inmate totals from near 20,000 in 2008 to under 15,600; and Louisiana will soon reduce inmate totals by 10%, saving $262 million over the next decade; and

7. WHEREAS: Mandatory minimum sentences, which have proliferated for four decades despite little evidence that they deter crime, (which is their stated purpose), impede in-prison and post-release treatment and shift discretion from judges in open court to prosecutors who, behind closed doors, decide charges and attempt to coerce defendants to enter into plea bargains and trial waivers; and

8. WHEREAS: Despite many good proposed reforms of specific problem areas at the federal and state levels, such as loosening many drug mandatory minimum sentencing guidelines and making 18 the age of adulthood, and Gov. Baker's bill based on the Council on State Governments "Justice Re-Investment" project, few efforts address big picture issues like non-drug mandatory minimum sentencing, overall sentencing reform, or wider diversion options for misdemeanor offenses that would keep defendants out of court and without CORI records, and would save court resources; and

9. WHEREAS: Only about 8% of Massachusetts inmates are serving mandatory minimums for drug crimes, and the worst racial disparities for sentencing are related to guns, with about 80% of these inmates being minorities, and

10. WHEREAS: State and national polls show strong preference for rehabilitation, drug and mental health treatment, and community policing over jails and prisons; and a burgeoning grassroots-community movement, has been pushing for sentencing reform, racial justice, diversion, and smartness-on-crime practices; and

11. WHEREAS: The Sentencing Commission, reconstituted by Gov. Patrick in 2014 should propose sentencing guidelines by legislation and other reforms like diversion, and should propose bills circumventing mandatory minimum sentencing beyond drugs, e.g. Safety Valves (criteria for judges to selectively depart downward from mandatory minimums) instead of merely changing the (c. 1996) administrative guidelines, which are only sometimes consulted and only in superior court, thereby lacking broad systemic impact,

Therefore, Be It Resolved That Brookline, By Vote of Its Elected Town Meeting Urges:

The State to enact substantial sentencing reform and diversion that is much broader than the now pending state house bills, with appropriate procedures for prosecutors' and defense attorneys' input, with appeals when dissatisfied, and including:

1. reallocating funds to meaningful, evidence-based, safety-focused prevention initiatives from our over $1 billion annual incarceration spending which warehouses many minorities, still-formative youths, and aging inmates;

2. allowing deserving defendants charged with misdemeanors and lesser felonies to avoid court, get needed treatment, and retain clean CORI's;

3. establishing mandatory minimum Safety Valves for more than just drug crimes, allowing DA's and defense lawyers to then appeal; and

4. comprehensive sentencing guidelines legislation proposed by the Sentencing Commission for broad but tightly-defined mandatory minimum Safety Valves and significant "diversion";

And that The Board of Selectmen (1) convey this Resolution to our legislators, statewide elected officers, the Norfolk County District Attorney; and (2) request our state Senator and Representatives to update them on significant General Court developments relative to criminal justice reform.

ARTICLE 22

MOTION OFFERED BY THE PETITIONERS

Moved that the Town adopt the following Resolution Urging Broad Sentencing Reform, Diversion, and Real Re-Investment:

1. WHEREAS: Beginning in the 1970's, the United States began a steadily escalating addiction to incarceration, fueled by bipartisan political fear-mongering and prioritizing of "retribution," also causing unconscionably disparate racial impacts. Now, with 5% of the world's population, the US has 25% of its inmates, and many consider mass incarceration the most important civil rights issue of our generation; and

2. WHEREAS: Massachusetts now incarcerates about 20,000 inmates-- five times the 1970's per capita rate, costing an average of $50,000 per inmate per year (even more for aging inmates long past their likely recidivism) -- overall costing taxpayers over $1 billion a year. Meanwhile, our crime prevention social services (including inside jails and prisons), remain shockingly underfunded. MA's incarceration rate is 2.5 times Spain's, 3 times Canada's, over 5 times Germany's, and 7 times Japan's. Only Cuba, Russia, Thailand, Panama, Azerbaijan, and El Salvador have higher rates than our Commonwealth; and

3. WHEREAS: While several MA District Attorneys have broken ranks to support a few of the recent (below) Senate proposals, almost all MA DAs have for decades supported the aforementioned "tough-on-crime" trends, and have generally opposed almost all meaningful sentencing reform. Instead, the DAs, like Governor Baker, often tout MA's lesser (than most states') incarceration rate -- i.e., that we're among the best of the world's worst; and

4. WHEREAS: USA incarceration has horrible racial disparities, also , inflicting disproportionate "collateral consequences" on families and communities of color, with MA worse than many -- an incarcerating Blacks and Hispanics, respectively, eight times and five times the per capita rate for Whites; and

5. WHEREAS: Across US, both "blue" and "red" states have embraced a "Smart on Crime" paradigm shift of resource reallocation, now prioritizing crime prevention over purely punitive incarceration. Texas by 2014 closed three prisons, reducing by 6% its 2009 jail rate; Connecticut by 2016 closed 3 prisons, lowering inmate totals from near 20,000 in 2008 to under 15,600; even Louisiana will soon reduce inmate totals by 10%, saving $262 million over the next decade; and

6. WHEREAS: Mandatory minimum sentences ("*man-mins*") have proliferated for four decades despite no evidence they deter crime, but clear evidence that they impede in-prison and post-release treatment and they merely shift discretion from judges in open court to prosecutors -- who, behind closed doors decide the charges and then pressure defendants to plea bargain (and waive trials); and

7. WHEREAS: Some good reforms of specific problems are now being debated at the MA statehouse -- e.g., (A) Sen-2185, loosening many drug man-mins and making 18 the age of adulthood, and (B) Gov. Baker's "consensus" bill from the Council on State Governments "Justice Re-Investment" project). However, those efforts do not address far broader issues, like non-drug man-mins, overall sentencing reform, or far wider diversion options for lesser offenses, which would keep defendants out of court and without CORI records, and which could re-direct wasted court resources; and

8. WHEREAS: Drug man-mins seem the most insidious, but are merely the "low-hanging fruit" of mass incarceration, which is mostly for property and "violent" crime (from "serious" to purse-snatching). Only about 8% of Mass. inmates are for man-min drug crimes; Sen-2185 would likely make only 400 "parole eligible," thus releasing well under 400 -- itself only 2% of MA inmates! The worst man-min racial disparities (80% being minorities) are for guns. Some may deserve jail, and most/many need treatment. But who, how much, and who -- DA or judge -- should decide?; and

9. WHEREAS: MA and national polls show a strong preference for rehabilitation, drug and mental health treatment, and community policing over jails and prisons; and a burgeoning grassroots-community movement, including religious groups, has been pushing for sentencing reform, racial justice, broader diversion, and "smart-on-crime" practices; and

10. WHEREAS: The MA Sentencing Commission, reconstituted by Gov. Patrick in 2014, under M.G.L. c. 211E (A), should be proposing by *legislation*: (a) evidence-based sentencing reform by guidelines that judges must consult, (b) bills circumventing man-mins beyond drugs, e.g. by "Safety Valves" (criteria for judges to selectively depart downward from man-mins), and (c) broader diversion procedures; but the Commission has not done so, instead merely changing the 1996 administrative guidelines which are now sometimes consulted, but only in superior court, thereby lacking broad impact,

, **Therefore, Be It Resolved That Brookline, By Vote Of Its Elected Town Meeting Urges**:

A. Sentencing reform, expanded diversion, and resource re-investment that are significantly broader than the now-pending statehouse bills, with appropriate procedures for prosecutors' advocacy -- and appeals if they are dissatisfied, including:

1. reallocating funds to meaningful, evidence-based, safety-focused prevention initiatives from our over $1 billion annual incarceration spending which now warehouses too many minorities, still-formative youths, and aging inmates;

2. allowing deserving defendants charged with misdemeanors and lesser felonies to avoid court, get needed treatment, and retain clean CORI's, and also to stop wasting court resources needed re-investment in prevention;

3. establishing broad man-min Safety Valves --,-for more than just drug crimes; and

4. a comprehensive Sentencing Guidelines bill, proposed by the Sentencing Commission, and including such broad Safety Valves, overall evidence-based sentencing reforms, and diversion procedures broader than the pending bills;-and

B. the Board of Selectmen to (a) convey this Resolution to our legislators, statewide elected officers, and the Norfolk County DA; and (b) request the Diversity Commission to periodically apprise them on General Court developments relative to criminal justice reforms.

EXPLANATION

This revised Motion, sponsored by PAX, has benefitted from considerable -- appreciated -- feedback from the Advisory Committee and selectmen (particularly Bernard Greene); and we hope is now clearer, and has less redundancies. The A/C on Nov. 2nd voted -- and the selectmen might (though we urge not to) agree -- for a what we see as a watered-down (milquetoast) version, mostly by taking out some sound-bites that some argue are both unnecessary and too opinionated, inflammatory, and/or strident; and by -- maybe unintentionally --changing some substance. Being engaged in these hard issues, some of us for decades, we urge: (a) we can answer any factual (or opinion) questions; and (b) these hot-button political issues need forceful advocacy addressed to -- and getting the attention of -- the target audience: outside media, legislators, & activists. A slingshot will not overcome the Goliaths we're up against.

Even the narrower and less comprehensive Sen-2185, which we support, is now facing fear-mongering by Republicans and the DA's, whose *real fear* is giving back to judges their centuries' old discretion to give a sentence appropriate for both the accused and the public -- with checks and balances (including appeals) -- instead of the DAs' absolute man-min discretion. See, e.g., 10/23 MDAA letter (link in # 3 below) and two *Herald* editorials, 11/1/17, "Sen. bill falls short" (e.g. "inmates running the asylum," "supporters have lost sight of crime victims… [and] *argue* the system is tilted against minorities," etc.); and 10/10/17, "Sen. effort too soft" (e.g. "some sections ripe for trashing").

Please join he Diversity Commission and support this stronger (and now clearer) motion -- rejecting substitutes. The Nov. 2 AC version is slightly easier to read (less abbreviations & dividing our Whereas #2 -- confusing the below Explanation's #'s), but *not* the same substance -- maybe unintentionally, with changes, some politically harmful and some factually off. For the latter, see e.g. (A) their #7, man-mins actually had 3-fold purposes (also "retribution" & false promises of "uniformity"; and, this AC sentence has confused syntax); (B) what "good" "federal" changes in (their) #8? More *substantively*, the 400 & 2% figures in our #8 are most important #'s; & why delete S-2185 (AC #9, our #8)?; why (their #8, our #7) limit diversion to misdemeanors, not lesser felonies like vandalism or stealing an I-pod?; and, why not let Diversity Comm'n stay (very mildly) involved, as they've agreed (also highlighting racial issues)? We hope -- before T/M-- to reconcile the versions.

To our original Explanation, we now add a few updates, reiterating that these issues are very complex -- and timely, indeed urgent. The legislative session ending July 2018 might be the last CJ reforms for a while. For questions email PAX co-chair, Marty Rosenthal [martyros@world.std.com] For some WHEREAS facts, here is some background:

1. 1990 Wm. Weld, "reintroduce inmates to the joys of busting rocks"; Wm. Clinton, 1994 crime bill.

2. SJC CJ Gants to Judiciary Committee 6/9/15; and https://www.prisonpolicy.org/global/2016.html

3. One longtime Mass. DA at a 11/24/15 public hearing in Gardner Auditorium said:

> [As for] global comparison … there are places … that don't have the incarceration rates. Their penalties for certain activities are much more Draconian than incarceration… [T]hey kill people. They cut off the hands of people who deal with drugs for example in certain parts of the world.

See also https://www.documentcloud.org/documents/4116035-DA-Letter-to-Senate-10-23-17.html

4. See #10, below; & CJ Gants, MassInc., (3/16/15); & Michelle Alexander, *The New Jim Crow*, (2010)(p. 180: "More African Americans [2.4 million] are [now] under correctional control … [including] probation or parole than were enslaved [1.7 mill.] before the Civil War")

5. http://www.sfgate.com/opinion/article/Texas-an-unlikely-model-for-prison-reform-5256894.php; http://www.nytimes.com/2016/01/04/opinion/connecticuts-second-chance-society.html; LA (WSJ, 5/26/17)

8. See (e.g. Nyt/Wsj) John Pfaff, Fordham Law School. Re **8%:** **drugs** ~ **12%** of **all** inmates, see Sent'g Comm'm, Sent'g Stats (Survey '13, Tables 7-8). ~**70% = mm's**, see CSG Rpt #3 Research Addendum, @ 13, 22, 35; & "Crime, Cost & Consequences: Time to Get Smart?" Mass Inc, '13. **2%** = Oct. 21st Globe, "Sen bill could let drug dealers out of prison early" [= **400** (of 20k total) inmates!]

9. e.g. https://massinc.org/wp-content/uploads/2017/06/Public-Opinion-on-Criminal-Justice-Reform-in-Massachusetts.pdf

10. http://www.mass.gov/courts/court-info/trial-court/sent-commission/; e.g. "Selected Race Statistics"

ARTICLE 1

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

Article 1 seeks to re-appropriate funds previously approved by Town Meeting to study site alternatives for a new (9th) elementary school. The prior appropriation of $1.5 million was limited to feasibility study and schematic design services at the Baldwin School site at 490 Heath Street. However, it has been determined that, due to land use restrictions imposed by Article 97 of the Articles of Amendment to the Massachusetts Constitution, the October 2017 "Smith v. City of Westfield" Supreme Judicial Court case, and recently identified federal Land, Water and Conservation Fund grant restrictions, the scope of a project at the Baldwin site requires additional consideration. In addition, the Board of Selectmen and School Committee has expanded consideration to land at Pine Manor College on Heath Street. The proposed vote seeks funds to study other sites including, but not limited to, the Baker School site at 205 Beverly Road, and the Pierce School site at 50 School Street. It seeks a total appropriation of up to $1,000,000 that is sequenced/conditioned as follows; 1.) $300,000 may be expended for comprehensive site evaluation services including legal, environmental engineering, architectural, land appraisal and related services on all possible sites under consideration. 2.) Following a public process, the boards may expend an additional $400,000 for feasibility design services. 3.) If, following the public process the boards determine multiple sites are preferred, it may expend an additional $300,000 (for a total of $700,000) for feasibility design services.

It is anticipated that the Town may hire a project manager to coordinate this complicated and time sensitive process. The study process will be strategic in order to spend the funds wisely and timely in order to make a decision to meet the Annual Town Meeting timeframe and to inform the Fiscal Year 2019 budget process (including a potential tax override proposal).

The Motion originally proposed for this purpose under Article 5 of the Special Town Meeting is no longer required and the Board of Selectmen recommend NO ACTION under Article 5.

Brookline's 9th Elementary School – Update November 6, 2017

Brookline's eight elementary schools are all overcrowded, and we share the feelings of need, hope, frustration and urgency that are being felt throughout our community, and particularly by our school families and educators. Much has been done to address the dramatic enrollment growth in our schools – passing two operating overrides in 2008 and 2015, hiring new teachers and staff, and adapting and enlarging our existing school buildings so that they continue to serve as well as possible. But more needs to be done and we need another elementary school as soon as possible.

I. The Urgent Need for a 9th Elementary School: 40% Enrollment Growth and Still Growing

Ten years ago only two of our elementary schools served more than 550 students. Now they all do. We have absorbed more than 1,500 elementary students over a dozen years and we are expecting hundreds more. This 40% growth to date is the equivalent of more than three schools' worth based on the average enrollment at the beginning of the expansion, all squeezed into our existing eight schools.

Class sizes have grown significantly- by an average of 10% - and we now have 80 classrooms with 22 or more students by [X date]. Hallways, cafeterias, and gyms are all overcrowded. Children eat lunch starting before 10:30 a.m. and they take physical education at the Teen Center. Children are learning in hallways and stairwells and every kind of available space throughout our buildings.

We have added 58 classrooms at our eight schools. We have built classrooms, divided classrooms, made classrooms out of hallways and locker rooms and libraries and offices. We are renting space for classrooms. We've leased modular classrooms. At this point, we have no more room for classrooms. More importantly, while we've been adding all these classrooms and teachers we haven't been adding all of the other spaces that are essential to schooling. Gyms, cafeterias, auditoriums and libraries are all now way too small for the number of kids in our buildings. The same is true for smaller spaces: In the 2015 override we added many much-needed math and literacy specialists, guidance counselors and nurses, but we didn't add any place for them to work with their students.

Here are just a few examples of what this looks and feels like:

- At Baker, we have a music room and two art rooms directly beneath the gym, which means students are trying to play music with loud basketballs and footfalls thumping above.
- At Baker we also have the Principal and one Vice Principal sharing office space, which means they can't have simultaneous confidential conversations with parents (or about students).
- At Driscoll, we have 5 lunches, starting as early as 10:15 and as late as 12:50.
- At Pierce, we have a second grade classroom in a key tunnel between two buildings, meaning that some 200 students from Pierce Primary (10 classrooms) need to walk through that classroom to get to lunch and specials (art etc.) every day.
- At Heath, students need to walk through an active Spanish class to get to another classroom. The room is so small that there isn't space for enough desks, so kids sit on the floor.
- At Lawrence, we have begun to carve up the Library -- adding a middle school classroom into that space.

II. The Response: What Has Been Done So Far

Over the past decade we have had two site location studies, four enrollment projection studies, two site selection processes, and hundreds of public meetings. All of this work is readily available online and catalogued at https://www.brookline.k12.ma.us/school9. The first two major studies – the School Facilities Master Plan (2009) and B-SPACE (2013) both carefully considered the difficulty of finding a 9th school site and recommended the

"expand-in-place" strategy that has been actively and successfully implemented but has now run its course.
It has been clearly understood that the current and projected enrollment growth is throughout Brookline, and that an ideal solution would be to build both a new north Brookline school and a new south Brookline school. This was often discussed but not seriously considered because the cost would be very difficult to support, particularly along with the Devotion School expansion/renovation and the BHS expansion projects. Facing the need to add facilities for 600-800 more elementary students, the Board of Selectmen and the School Committee opted to invest in one new excellent facility in order to maximize quality and minimize cost, fully understanding that this would mean significantly more transportation of students than a two school solution no matter what location is chosen.

Many, many possible sites have been identified, studied and evaluated in the course of all of this work. The 2015 Civic Moxie study canvassed the entire town and identified a preliminary list of 26 sites of interest, including town-owned and privately-owned sites, open sites and sites with buildings on them. That list was eventually narrowed down to three sites and in October, 2016 the Board of Selectmen, together with the School Committee, chose one preferred site – the Baldwin School – and set aside all of the other sites for a variety of reasons. Baldwin was selected over Stop & Shop and Baker School for three reasons: because it is an underutilized school property, because it is adjacent to a magnificent town park, and because it would not significantly impact the Baker School campus.

III. Sites That Have Been Investigated and Set Aside

Here is an overview of concerns associated with some of the most interesting and heavily discussed sites that were considered and set aside:

Baker School:

- Adjacent wetlands restricts buildable area on southwestern edge of property;
- Doubles the number ofstudents on one campus;
- The effect of the Westfield decision on the Town's use of the playground portion of the site is under review.

Stop & Shop:

- Significantly more complex than Baker or Baldwin;
- Significantly more expensive than Baker or Baldwin;
- Disparate ownership of parcels;
- Environmental concerns relating to gas station, the car wash, and even the supermarket which had once been a manufacturing building;

The need to plan and execute a mixed-use public/private project that includes all the aspects of a major supermarket with an international corporation. **Parks including Larz Anderson Park**, **Putterham Meadows Golf Course**, **and Amory Playground:**

- Protected under Article 97/LWCF grant so could only be built on after providing replacement land for the entire parcel along with a unanimous vote of the Park and Recreation Commission.

Skyline Park:
- Protected under Article 97;
- A capped solid waste landfill.

Transfer Station:
- Fully utilized operational facility;
- Capped landfill;
- Soils issues;
- Wetlands area restrictions.

Municipal Service Center:
- Fully utilized, operational (and recently renovated) facility;

Centre Street Parking Lot:
- Fully utilized supporting all Coolidge Corner merchants;
- Limited size, lack of open space;
- Impact on business during construction;
- Heavily congested area;
- Very close proximity to recently expanded Devotion School.

The Kent Street and Webster Place Parking Lots:
- Less than ½ acre each
- Fully utilized supporting all Brookline Village merchants;
- Assembling three, four or more adjacent private parcels would approach the complexity of Stop & Shop and still result in a marginally sized site of under two acres.

The Old Lincoln School:
- Too small (approx. 450 capacity without assembling private property as contemplated in the Civic Moxie Report);
- Critical ongoing use as swing space facility for all town projects;
- Needed for BHS enrollment growth as well as swing space to support BHS Expansion Project;
- After the BHS Expansion Project is complete then it will be critical as swing space to make a renovation of the Pierce School possible.

Pierce School: Pierce is and has been the next school building in line for modernization. Evaluation of Pierce as a site for two co-located schools as part of a demolition/replacement/expansion project will need to consider:
- Site adequacy, including Pierce Playground and the limited bridge access;
- Technical feasibility of this small, tight, steeply sloping site and integrated with the town's four interconnected underground parking garages.

- Site accessibility with several hundred additional students;
- Cost including ability to take on a major renovation/replacement at the same time as the addition of the 9th school, complexity factors, and potential acquisition costs for purchased/eminent domain parcels;
- Time considerations relating to complexity, phasing, and longer project duration associated with a potential MSBA partnership;
- Meeting the enrollment capacity need if a four- or five-section Pierce works, but the site won't accommodate two schools.

Other Schools – Driscoll, Lincoln, and/or Heath:

- None of these sites would accommodate a 9th school.
- The effect of the Westfield decision on the Town's use of these playgrounds will need to be reviewed.

Privately Owned Sites: While building on town-owned land was always a first option because it asks less of the taxpayers, purchasing private property (either through finding a willing seller or utilizing the power of eminent domain) has been vigorously investigated. Many sites have been considered, and the town has had numerous meetings with many landowners. To date no landowner has ever offered to enter into any serious discussions that might lead to acquiring a site for the 9th elementary school. Every landowner has said that they are not interested in selling, including those listed below – all of them were approached and asked. These include:

TJ Maxx:

- Location on the edge of town in an area without projected growth was relatively undesirable in relation to the expanded capacity coming on line at Edward Devotion School.

Amory Street/Cottage Farm:

- Local Historic District bylaw and review process would highly restrict the scale and character of what can be built and increase uncertainty;
- Would have required purchase/ lease from an unwilling private owner;
- Due to concerns of the already overused Amory Park, would need for all of the play space to also be squeezed on the small site.

30 Webster Street:

- Too small;
- Poorly configured on eight separate small floorplates;
- No outdoor play space other than a partially underground parking area;
- Close to recently expanded Edward Devotion School.

Parsons Field (owned by Northeastern University):

- Located on the edge of town and only a block from the Lawrence School.

Bournewood Hospital

- Treatment hospital serves an essential public purpose that cannot be readily moved or replicated elsewhere;
- Safety concerns rule out co-locating a school with the hospital.

Sears Road subdivision adjacent to Buttonwood Village:

- Limited street frontage and vehicular access;
- Substantial wetlands on the site parcels.

Allandale Farm:

- Brookline's only working outdoor farm;
- Most of land in active cultivation;
- Numerous streams and wetlands across the site.

IV. Where We Stand Today

Three sites are under current consideration for the 9th Elementary School:

- Move forward with our current plans to build on the Baldwin site by pursuing a land swap that would provide the town with new park land to replace Baldwin Playground and for the portions of Soule Recreation area required for access or other school use.;
- Acquire land from Pine Manor College through purchase or the power of eminent domain, and build the 9th Elementary School on that site;
- Build the 9th Elementary School on the smaller Baldwin School (north) parcel and continue to use Baldwin Playground as the school playground.

We have developed preliminary plans for a truly excellent new school on the Baldwin School property. It remains a great design that we would be thrilled to build, and the 9th Elementary School at Baldwin would benefit from its adjacency to the wonderful Soule Recreation Center. However, two legal considerations have changed since a year ago, relating first to a small federal grant that was received in 1976 and second to a recent Massachusetts Supreme Judicial Court (SJC) decision in the case of Smith v. the City of Westfield.

The Baldwin design has maintained the paved play area as recreational open space because of a modest federal Land and Water Conservation (LWCF) grant that was used to improve the paved play area. However, in April 2017 the National Parks Service opined that the entire Baldwin Playground is protected from development by the Land and Water Conservation Fund Act. This means that we would either have to challenge NPS's determination or provide equal replacement property for the Baldwin Playground. This process would be lengthy and uncertain in outcome.

Last month, the SJC published its decision in the Smith v. the City of Westfield, reversing earlier decisions of the trial and appeals courts that had previously ruled in favor of the City. While the Westfield decision is grounded in the specific facts of that case, it has the effect of calling into question a municipality's freedom to develop a school on any property that has been in use as a park.

The playgrounds at our elementary schools have different levels of protection from school development. For example, Pierce Park and the Lawrence Playground were improved with LWCF grant funds and therefore are considered to be protected. Additionally, these playgrounds are under the jurisdicition of the Parks & Recreation Commission. Other school playgrounds are not likely to be protected from school development and are under the jurisdiction of the School Committee. However, each of these sites, including those of the Baker, Driscoll, Heath, Lincoln and Runkle Schools, will need to be analyzed in the wake of the Westfield decision.

Acquiring new property for a 9th elementary school may be the only clear path to getting a new school built in a reasonable time frame and without significant legal delays. We have been looking for a long time and have not found any suitable sites that are for sale. Consequently, the Board of Selectmen decided that they will consider using the power of eminent domain to acquire a suitable site.

Pine Manor's property at the corner of Woodlawn and Heath Streets drew the Boards' attention because the college has a recent history of selling off pieces of land for residential development, and because they have, in fact, subdivided three buildable house lots on land that is directly adjacent to Soule Recreation Center. We note that representatives of Pine Manor College have stated that the College is not interested in selling land to the Town and that they will oppose an Eminent Domain taking.

JLA, the 9th School architects, were asked to look at that corner property and do a preliminary "test fit" exercise to see if the 9th School at Baldwin program would fit, and how much land would be required. JLA provided a diagrammatic site plan that shows the entire program on a 7.2 acre parcel such that it respects the height, area, and setback requirements of the existing single-family zoning. The concept also sets back the building 100' from the pond.

The Pine Manor site would provide an excellent school, supporting the same exciting and wonderful 140,000 square foot school program as developed for Baldwin. The layout would be at least as good and possibly more advantageous because the site is larger.

The Pine Manor site would provide a timely way forward. By acquiring private land the town would avoid the challenges and potential delays associated with Article 97 and the Westfield decision. This assertion of a timely way forward has been challenged by a group of attorneys representing Pine Manor College and a number of local residents.

The Pine Manor site may have a lower construction cost than the current Baldwin plan because it would not include extensive improvements to the Soule Recreation Center facilities (new gym, new environmental classroom and public bathrooms, field expansion and reconstruction, etc.). However, the cost of land acquisition at Pine Manor is unknown and could make the total project cost higher at Pine Manor than at Baldwin (because the town would end up with more land and more facilities).

The Pine Manor site is likely to have lesser traffic impacts than Baldwin because it is further away from the heavily trafficked intersections of Hammond Street, Heath Street, and Route 9.

The third option is to develop a design on the north portion of the Baldwin property which has a land area of 63,851 square feet. This site is slightly larger than the Lawrence School site (63,051 square feet), and the 9th School at Baldwin program is being planned for about 100 fewer students than Lawrence accommodates as a full four-section-per-grade school. Both are next to big parks and Baldwin actually has its own school playground (in addition to Soule Recreation Center) – something that Lawrence doesn't have. The full 140,000 square foot building program would require a five story building if no encroachment into property line setbacks was allowed. No building planning for this option has been carried out to date.

V. The Way Forward

Completing Feasibility and moving forward with Schematic Design and a building project requires additional study. Warrant Article 1 enables this work and requires study of several sites. The goal will be to complete site evalulation as quickly and efficiently as possible (within an overall 90-120 day time frame). Much of the additional study will be undertaken simultaneously.

Because some of the critical information that will inform decision making will relate to potential litigation and to real estate acquisition negotiations, and because the town's litigation and negotiating poitions might be compromised if these materials were made public at present or in the near future, it is anticipated that some but not all of the study results may need to be reviewed in executive session of the Boards.

The scope of study has not been prepared but may include:

Baldwin – full site (Scheme D)

- Preliminary plans complete;
- Update cost analysis to include land acquisition/swap;
- Assess risk and cost associated with acquiring land and completing a land swap to satisfy Article 97 and LWCF requirements;
- Update comparative cost analysis.

Baldwin – north site

- Confirm that the 1.46 acre parcel is free of Article 97/LWCF constraints;
- Develop concept building plan alternative(s);
- Revisit traffic and site circulation study.
- Develop comparative cost analysis.

Pine Manor

- Complete preliminary land appraisal;
- Complete legal analysis;

- Develop comparative cost analysis.

Baker

- Further assess legal and other site constraints including conservation restrictions and Article 97 considerations in light of the SJC Westfield decision;
- Revisit programming assumptions including number of total students on site and at each of the two proposed schools;
- Revisit programming assumptions as to level of improvements needed at Baker relative to placing a completely new school adjacent.
- Revisit previously developed two-school site plans and revise as needed;
- Update comparative cost analysis.

Pierce

- Conduct a concept study including preliminary comparative cost estimates of several scenarios including:
    - Co-locate a 9th K-8 elementary school with a total two-school capacity of six- or seven-sections per grade (1,200 to 1,400 students), with or without acquisition of additional parcels;
    - Renovate and expand Pierce to a full five-section-per-grade school with a program similar to Devotion;
    - Renovate and possibly expand Pierce to a full four-section-per-grade school – fewer than are currently enrolled but more than the building was designed to serve.
- Develop comparative cost analysis.

Other Sites

- Evaluate additional privately owned sites for feasibility and cost if any site or sites identified by the town or offered by landowners demonstrate viability when compared to the sites being studied or previously set aside.

RECOMMENDATION:
On November 7, 2017, a unanimous Board of Selectmen recommended FAVORABLE ACTION on the following vote:

VOTED: That the Town re-appropriate up to $1 million in funds previously appropriated under Section 13, Special Appropriation No. 67 of Article 9 of the 2017 Annual Town Meeting, to be expended under the direction of the Building Commission, with any necessary contracts greater than $100,000 to be approved by the Board of Selectmen and the School Committee, as follows: (1) $300,000 for the purpose of further site evaluation services, including legal services, at the Baldwin/Pine Manor sites and site evaluation services, including legal services, at alternate sites, which shall include but not be limited to the Pierce School and adjacent properties, and the Baker School; (2) an additional $400,000, for further feasibility study; and (3) a further additional $300,000 (or a total of $700,000 for feasibility studies), for further feasibility study on a multi-site

solution should a multi-site solution be chosen. The evaluation and determination of a single- site or a multi-site solution prior to the expenditure of funds for feasibility studies referred to in (2) and (3) above shall include the options of constructing a new school and of demolishing, renovating, and expanding existing schools, with the determination of a single-site or multi-site solution made by the Board of Selectmen and School Committee with the advice of the Ad Hoc Subcommittee of the Advisory Committee, after evaluation information has been received by the Board of Selectmen, School Committee and Ad Hoc Subcommittee and publicly presented for discussion to the extent advised by Town Counsel.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

Article 1 of the First Special Town Meeting to be held within the Fall Special Town Meeting at 7:30 p.m. on November 14, 2017 ("STM 1") offers needed flexibility in seeking a successful approach to address the increased student enrollment in the Brookline Public Schools. The First Special Town Meeting was requested by citizen petitioners so that they could propose a modified version of Article 5 of the Fall 2017 Special Town Meeting.

By a vote of 23–1–0, the Advisory Committee recommends FAVORABLE ACTION on a motion that provides that a portion of the funds appropriated by the 2017 Annual Town Meeting be used to continue investigating feasibility at Pine Manor College/Baldwin and to undertake site evaluation services (pre-feasibility) at a number of other sites, including, but not limited to, the Pierce and Baker Schools, as well as to engage in full feasibility at one or two "final" sites to build a ninth school or to expand, replace, or substantially reconstruct an existing school or schools as a means to expand enrollment capacity.

The language of the recommended motion can be found at the end of this report.

BACKGROUND:

Since 2005, the Brookline Public Schools have witnessed enrollment growth of 28% district-wide. Preliminary projections anticipate additional growth of more than 10% from FY2018 through FY2022. These enrollment increases, coupled with School Committee policies, have led to the need to expand educational facilities at both the K–8 and high school levels. "Expand-in-place" has added 54 classrooms for the elementary schools. A major capital project at Devotion is creating some additional classrooms. Private space has been leased for pre-K programs and the Pierce School's upper grades as well as for administrative purposes. Finally, new classrooms and offices have been created from existing spaces within the eight K-8 schools, sometimes with unsatisfactory results, including a principal and vice-principal sharing an office, students walking through an

active classroom to get to their class, and a classroom created in the passageway between two buildings.

The chair of the School Committee has noted that common spaces–gymnasiums, libraries, and cafeterias–have not kept pace with the growing numbers of students. As a consequence, in some schools the first lunch period starts at 10:15 a.m., and this year, at the Pierce school, gym space has been leased off-campus. The May 2015 operating override allowed the Public Schools of Brookline (PSB) to respond to the growing number of students by adding staff, but the PSB has not been able to add right-sized spaces in the schools.

In the spring of 2017, Town Meeting authorized $1.5 million to advance the design of a ninth K–8 school to address capacity in the schools. At that time, the location for the ninth school was thought to be the Baldwin School site, with access and parking in the Soule Recreation area. However, Town Meeting's vote was conditioned so that $1.4 million of the total could not be expended until a favorable vote by a subsequent Town Meeting and until such time as the Board of Selectmen, School Committee, and an Ad Hoc Subcommittee of the Advisory Committee had received the opinion of Town Counsel and/or outside counsel hired to review land use limitations and protections on both the Baldwin and Soule parcels.

When, subsequent to the May 2017 Town Meeting, the legal and procedural implications of building on a portion of the Baldwin site became clearer, the possibility of the purchase or taking by eminent domain of property belonging to Pine Manor College (PMC) came under consideration. As a result, the Board of Selectmen filed Article 5 for the Fall 2017 Special Town Meeting to be held at 7:00 p.m. on November 14, 2017 ("Article 5") to preserve the option of siting a ninth elementary school at an alternate site.

Discussions between Pine Manor and the Town regarding the use of a 7-acre site at the college were initiated by the Town in late May 2017. At a meeting between Town officials and PMC President Thomas O'Reilly, the latter expressed little interest in exploring a strategic collaboration with the Town. In early September, Town officials informed Mr. O'Reilly that the Town was considering expanding the sites under consideration for the ninth school to include use of its eminent domain authority to acquire approximately seven acres of Pine Manor-owned land along Heath St and Woodland Road.

On September 26, 2017, the Board of Selectmen announced the decision to expand consideration of ninth school sites to include the Pine Manor land. Mr. O'Reilly had been informed that the announcement was coming. Approximately one week later, on October 3rd, the Board of Selectmen and the School Committee held a joint public meeting for the presentation by JLA, the project architect, of site alternatives for a ninth school, including high level site planning for the PMC parcel to determine if a school could be built on that site.

Also in October 2017, a petition with more than 200 signatures was presented to the Board of Selectmen requesting that the Board call a Special Town Meeting to consider a proposal

(STM 1) that would expand the scope of Article 5 by examining more than one alternate site for a ninth school; by exploring the renovation and expansion of an existing K–8 school; and by contemplating a two-site solution.

DISCUSSION:

Article 5

Advisory Committee members found Article 5 lacking because of the limitations it imposes on seeking options to address school capacity challenges. The Article offers only three options, all of which were perceived to have potential disadvantages, or at least unknowns. The first option would be to build on the Baldwin and Soule sites, which would require embarking on the land conversion process mandated by both the National Park Service and Article 97 of the Massachusetts Constitution. Use of the Baldwin playground site, which lies south of the existing Baldwin School, is restricted to recreational purposes, because that site was improved with a federal Land and Water Conservation Fund grant. The National Park Service has informed the Town that the terms of the grant mandate that the entire Baldwin parcel be devoted to recreational uses. Using the Baldwin playground site for school purposes would require that the Town acquire land not currently used for public park and recreational purposes and convert it to those purposes, creating a "swap" for the land at Baldwin and Soule that would be converted for school purposes. Assuming "swap" land is available and deemed acceptable to both the Massachusetts Executive Office of Energy and Environmental Affairs and the Park Service, this approach could take considerable time to wend its way through the conversion process and ultimately would need the approval of the Park and Recreation Commission, Town Meeting, the Massachusetts Legislature, the governor of Massachusetts, and the U.S. secretary of the interior.

The second option under Article 5 would be to pursue building "Baldwin North," an up-to five-story school on the one and one-half acres of unrestricted Baldwin land. Such a small site would be unlikely to accommodate the pick-up and drop-off of students; would be almost certain to generate considerable traffic tie-ups on abutting streets; and would involve building underground parking, a costly endeavor.

The third choice under Article 5 would be to take steps to acquire PMC land and build the school on that site. To date the college and its attorneys have made clear that PMC is not interested in selling off any more of its property. They have also made clear that they are determined to fight a taking and have identified possible impacts of such action, including, at a minimum, significant time delays in proceeding with any construction project due to legal challenges under the State and local Wetlands Protection Acts.

The attorney representing 18 families who live near PMC has contended that the parcel under consideration includes a pond that is actually larger than JLA had underestimated in its site planning. Because of this miscalculation, the buildable portion of the site is actually smaller than had been assumed. The attorney also has claimed that if the development plan

failed to satisfy both the Massachusetts and Brookline wetland protection regulations, that plan would be legally challenged and resolving the issue could take up to ten years. Finally, he pointed out that due to a recent order by President O'Reilly, the Town would not be able to go on to the land to further investigate the wetlands issues.

The attorneys for PMC and for the neighboring families also warned the Town about the expenditure of considerable sums of money for court costs as well as land acquisition (the fair market value of the seven acres under consideration) and compensation for the diminution of the entire property. In the words of one of the lawyers, if the Town pursued taking Pine Manor land, it could very well be signing "a blank check with the blank filled in by a jury in Norfolk County Superior Court."

It should be noted that the Town's outside counsel have not yet opined as to the validity of the assertions made by the two attorneys, nor has outside counsel submitted a written report on the implications of the "Westfield" decision.

Most recently, it was observed by President O'Reilly that building a school on PMC land would fail to meet eight of the nine Climate Action Committee's standards for building a new school.

Some members of the Advisory Committee opposed Warrant Article 5 because they believe that building a ninth school at Baldwin or at Pine Manor is poor planning and poor policy, due to the paucity of public school students living in this part of town. Building a ninth school on either site would mean that the school would not be "walkable." Currently over 80% of K–8 students Town-wide live within reasonable walking distance of at least one school and no individual school has less than roughly 45% of its students living within such a walkable radius. A walkable school, in addition to creating and maintaining a sense of community, results in lower busing costs and reduces the overall carbon footprint of the community, with resulting financial as well as environmental implications. Other members opposed an eminent domain taking of Pine Manor property and/or building on green space.

STM 1

A vast majority of Advisory Committee members expressed a strong preference for STM 1 over Article 5 because the former offers increased flexibility in continuing the search for a solution (or solutions) to the classroom capacity issue. Although, as stated above, the assertions of the college's attorney and the neighbors' attorney regarding the legal and monetary consequences of attempting to build at Pine Manor have not yet been thoroughly vetted by the Town and its outside counsel, it would, in the opinion of almost all Advisory Committee members, be prudent to investigate additional options.

STM 1, as amended by the Advisory Committee, expands the scope of Article 5 to include an examination of more than one alternate site (in addition to Baldwin and PMC) and specifies the Pierce School and abutting Harvard Street buildings as well as the Baker School as two of those alternate sites. In addition, if, after public presentation and discussion, one "finalist" is chosen by the Selectmen and School Committee with input

from the Advisory Committee's Ad Hoc Subcommittee on a Ninth School, up to $400,000 can be expended for feasibility for that final site, but if there is more than one "finalist," up to $700,000 can be expended for feasibility for the final sites.

Under the Advisory Committee's motion, an expansion of the Baker School could occur either with the construction of another building or with an addition/additions to the existing building, along with the enlargement of common spaces. The language of the Advisory Committee's motion also makes it clear that the list of properties eligible for further investigation would not necessarily be limited to just the Baker and Pierce Schools. Finally, legal services are specifically mentioned as part of "site evaluation services." Other services, while not spelled out in the motion, are expected to include site planning, analyses of legal and/or physical limitations of the site, construction and project cost estimates, estimated project completion date, and traffic studies, when appropriate.

STM 1 allows the Town to pursue a two-site solution to the challenges of school enrollment growth, one in North Brookline and one in South Brookline. The Pierce School, built in the 1970s, would be studied as part of the two-site solution because it is located in what many residents regard as the "epicenter of school capacity need," is in serious need of complete renovation (or replacement), and has been on the waiting list for capital improvements for many years, only to be "bumped" every time by expenditures needed for classroom capacity at other K–8 schools, most recently Driscoll. The Pierce School lacks ADA-compliant bathrooms and an elevator in one of its buildings. It has space deficits, as defined by Massachusetts School Building Authority (MSBA) standards, in many of its specialized spaces. Pierce's other deficiencies include inadequate electrical wiring, an undersized cafeteria, a classroom in a tunnel, an off-campus gym, and dark and dim hallways. Because of its interior layout, the school is noisy and distracting for a number of students to the point that some of them wear noise reduction headphones.

Renovating and expanding Pierce would help to tackle overcrowding in North Brookline schools and would address the current inequity issue among the elementary schools. This approach also would be a green solution to classroom capacity shortages because it would not take up any significant amount of existing open space and would be walkable for a large number of families, thereby reducing car trips and traffic congestion. The petitioners believe that Pierce can be enlarged to accommodate an additional 390 students, or two more sections of each grade, but of course, whether such expansion could be accomplished is not known at this time. Appropriating funds to study these questions would be a first step toward obtaining answers.

Under STM 1, the Town would also continue both to do due diligence for the three options under Article 5 and to seek a feasible South Brookline site that could add capacity in that part of the community, so no time would be lost in pursuing the goal of identifying a solution to the challenge at hand. In addition to further investigating the potential of the Baker School site, other possibilities south of Route 9 could include a two-section school at Baldwin or buying or taking private land in South Brookline, preferably in or near the southeast corner of the Town in the Buttonwood/Putterham area, where sizable numbers

of students live. In addition, under the STM 1 scenario, if no South Brookline site proved to be feasible at this point in time, a North Brookline site could still be pursued, and if no North Brookline site proved to be feasible at this point in time, the Town would still have gathered important information for the future renovation of Pierce, presumably supported with funding from the MSBA.

At least one School Committee member has publicly stated that Pierce is too complex and costly a project to undertake now, and further investigating it at this point in time will slow down the process of identifying a ninth school site and building a school. Advisory Committee members acknowledge that there are many questions related to the Pierce project, including whether the costs would be too exorbitant to consider for a debt exclusion override ballot question; whether adequate expansion could take place on top of four underground garages; and whether re-locating Pierce students and High School students during the same time period would be possible. Nevertheless Advisory Committee members recognize the current inequity among Pierce and other K-8 schools, are impressed by the community's support of the project, and believe that the concept has sufficient merit to explore further. The assertion by some that "Pierce would not solve the current capacity problem" was viewed as lacking sufficient evidence.

Similarly, members of the Advisory Committee agreed that there should be further research as to the Baker School site's potential in being part of the solution for classroom capacity, especially since Baker was one of three "finalists" in last year's deliberations in selecting a site for a ninth school. Proponents for Baker's inclusion on the list for site evaluation studies emphasized that they were in no way suggesting that an additional 800-student school be built at Baker, as suggested by last year's feasibility study. Rather, their question was whether the Bake site could accommodate the projected student growth in just that school's part of Brookline, both in terms of new classrooms and right-sizing other spaces such as offices, the library/media center, gymnasium, cafeteria, and other dedicated spaces.

While a minority of Committee members favored eliminating PMC and/or the Baldwin School site from further consideration for a ninth school because of concerns that taking land from Pine Manor would cause an override to fail and that siting a school in this particular area raises significant open space and environmental concerns, the vast majority voted to keep the two properties in contention.

There was also a suggestion that if there continues to be significant enrollment growth, the METCO and Materials Fee programs could be suspended (while retaining currently enrolled students) and/or class size be slightly increased until such time as capacity can be successfully addressed. The School Committee/METCO policies for these programs call for enrolling nonresident students on a space-available basis and there is currently no space available. School Committee guidelines for class size recommend 21–23 students in kindergarten through third grade. It was noted that as of October 6, 2017, in the 122 sections of grades K–3, 80 had fewer than 22 students. School Committee guidelines also recommend up to 25 students in grades four through eight. As of October 6, 2017, 108 of the 146 sections of those grades had fewer than 22 students.

There was also considerable discussion as to whether any existing school site should be specified in the vote, with a couple of Committee members asserting that the sites that should be examined, would be, and that no suggestions from Town Meeting were necessary because all potential sites would be examined without that direction. In response, it was stated that the only guaranteed way to have the Baker and Pierce sites evaluated for their potential to address student enrollment was to include them in the vote of Town Meeting. Without that, there would be no obligation—other than a political one—to proceed with such analyses. It was also stated that specificity was important since it identified the places on which further study should focus. The phrase "but not limited to" addressed any concern that the Committee was trying to limit or control options.

Advisory Committee members firmly believe that the Board of Selectmen and School Committee should make available to Town Meeting members, either in writing or on the floor of Town Meeting, more detailed information on how sites for evaluation services would be selected; what, besides legal analysis, those services would entail; and what the anticipated timeline would be for the process leading up to the decision of going forward with a single-site or multi-site solution. There was also consensus that the Override Study Committee (OSC) should be apprised and consulted, either as a group or via the two OSC chairs, Select Board members Franco and Hamilton, as to the cost projections of the "finalists" in the selection process.

The Advisory Committee initially recommended Favorable Action on the following motion:

VOTED: That the Town re-appropriate the following amounts out of funds previously appropriated under Section 13, Special Appropriation No. 67 of Article 9 of the 2017 Annual Town Meeting, to be expended under the direction of the Building Commission, with any necessary contracts greater than $100,000 to be approved by the Board of Selectmen and the School Committee, as follows: (1) $300,000 for the purpose of further site evaluation services, including legal services, at the Baldwin/Pine Manor sites and site evaluation services, including legal services, at alternate sites, which shall include but not be limited to the Pierce School and adjacent properties, and the Baker School; (2) an additional $400,000, for further feasibility study on a single-site solution; and (3) a further additional $300,000 (or a total of $700,000 for feasibility studies), for further feasibility study on a multi-site solution should a multi-site solution be chosen. The evaluation and determination of a single- site or a multi-site solution prior to the expenditure of funds for feasibility studies referred to in (2) and (3) above shall include the options of constructing a new school and of demolishing, renovating, and expanding existing schools, with the determination of a single-site or multi-site solution made by the Board of Selectmen and School Committee with the advice of the Ad Hoc Subcommittee of the Advisory Committee, after evaluation information has been received by the Board of Selectmen, School Committee and Ad Hoc Subcommittee and publicly presented for discussion to the extent advised by Town Counsel.

After further review of the language of the motion, it was determined that minor revisions should be made in order to ensure that the appropriated funds could be spent in accordance with the intent of the motion. The motion below includes the necessary revisions to the previous motion. Deletions are shown in ~~strikethrough~~; addition in **bold**.

RECOMMENDATION:

By a vote of 23–1–0 the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town re-appropriate ~~the following amounts out of~~ **up to $1 million in** funds previously appropriated under Section 13, Special Appropriation No. 67 of Article 9 of the 2017 Annual Town Meeting, to be expended under the direction of the Building Commission, with any necessary contracts greater than $100,000 to be approved by the Board of Selectmen and the School Committee, as follows: (1) $300,000 for the purpose of further site evaluation services, including legal services, at the Baldwin/Pine Manor sites and site evaluation services, including legal services, at alternate sites, which shall include but not be limited to the Pierce School and adjacent properties, and the Baker School; (2) an additional $400,000, for further feasibility study ~~on a single site solution~~; and (3) a further additional $300,000 (or a total of $700,000 for feasibility studies), for further feasibility study on a multi-site solution should a multi-site solution be chosen. The evaluation and determination of a single- site or a multi-site solution prior to the expenditure of funds for feasibility studies referred to in (2) and (3) above shall include the options of constructing a new school and of demolishing, renovating, and expanding existing schools, with the determination of a single-site or multi-site solution made by the Board of Selectmen and School Committee with the advice of the Ad Hoc Subcommittee of the Advisory Committee, after evaluation information has been received by the Board of Selectmen, School Committee and Ad Hoc Subcommittee and publicly presented for discussion to the extent advised by Town Counsel.

ARTICLE 1

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

Based on comments from various committees including the Preservation Commission, the Neighborhood Conservation District Commission and the Planning and Regulatory Subcommittee of the Advisory Committee, the Board of Selectmen has amended Warrant Article 15, which proposed the elimination of the Hancock Village Neighborhood Conservation District (NCD). Since the amendment may have exceeded the original scope of the Article, the amendment is being proposed as Article 1 of the 2nd Special Town Meeting within Special Town Meeting.

In contrast to the Town's eight Local Historic Districts and the Greater Toxteth Neighborhood Conservation District, the Hancock Village NCD, which applies solely to the Hancock Village property, was established by Town Meeting without the owner's consent. The ill-will this engendered has continued to this day, and the property owner initially made the complete elimination of the Hancock Village NCD one of its priorities when it began engaging in negotiations with the Town and neighbors regarding the Memorandum of Agreement.

Thankfully, this initial hardline stance has softened over time, due in large part to the steady and unwavering commitment by the Town's citizens, boards and commissions to finding a way the Hancock Village NCD could be retained and allowed to continue its mission of protecting the historic, architectural and cultural integrity of Hancock Village.

The Memorandum of Agreement states with respect to the NCD:

> "The NCD Amendments shall provide that no NCD review shall be required for the construction of the revised project and shall contain such other limitations on the application of the NCD to Hancock Village as shall be mutually agreeable to the Town and CHR."

Rather than an a complete elimination of the Hancock Village NCD, Chestnut Hill Realty has agreed to the compromise represented in Warrant Article I, wherein the Town's General By-law would be amended so as to:

- Retain the Hancock Village NCD designation.
- Provide the NCDC authority over reconstruction of the existing buildings if and when they are ever demolished. (Note: the proposed Zoning By-law limits the size of replacement buildings to the footprint and height of existing buildings; the

NCDC review provided for here allows the Commission to also address the replacement buildings' design.)

- Provide for NCDC control over the sections of Buffer Area to be deeded to the Town in order to protect it prior to being deeded.
- Retain NCDC control over landscaping in excess of 2.5% of the total land area (approximately 55,000 square feet). The trigger was initially established at 5%, and was decreased during recent negotiations.

Again, the Board of Selectmen acknowledges and appreciates the efforts of boards, commissions and committees as well as the public in effecting these improvements to the original warrant article.

On November 7, 2017, a unanimous Board of Selectmen voted FAVORABLE ACTION on the following motion, contingent on Town Meeting votes in favor of Articles 10-14: (Note that should Articles 10-14 fail, the recommendation would be NO ACTION.)

VOTED: That the Town amend Section 5.10.3(d)(1) of the Town's General By-Laws as follows:

(language to be deleted from Section 5.10.3(d)(1) appearing in ~~strikethrough~~, and new language appearing in **bold underline**)

d. Specific districts and guidelines.

1. There shall be a Neighborhood Conservation District, to be entitled the "Hancock Village Neighborhood Conservation District", the boundaries of which are shown on the map entitled "Hancock Village Neighborhood Conservation District", a copy of which is on file with the Town Clerk's office, which is hereby declared to be part of this By-law.

The first and largest garden city apartment complex in Brookline, Hancock Village (1946-1949) is significant as a far-sighted, historically important collaboration between the town of Brookline and the Boston-based John Hancock Mutual Life Insurance Company to provide both employment and housing for returning World War II veterans. The development, which straddles the Brookline-Boston line, consists of 789 two-story attached townhouses, most of which are located in Brookline. In consideration of a zoning change by the Town which allowed the development to proceed, the development was designed and built as a high-quality development in the "garden village" style, meaning that each dwelling unit had a separate entrance to the exterior; the units were town-homes of two stories with peaked roofs; there was substantial open space; and there was a "greenbelt" serving as a buffer between the development and adjacent single-family homes. Such elements were embodied in commitments made on behalf of John Hancock Insurance by its president Paul F. Clark, including an agreement with the Town of Brookline executed March 11, 1946. The landscape design was by Olmsted Associates, a Brookline firm with international experience and reputation. Significantly,

Hancock Village remains the quality housing development conceived in those commitments and original design, and therefore remains internally coherent in design and compatible in scale, siting and impact with the adjacent neighborhood of single-family homes and with the D. Blakely Hoar Wildlife Sanctuary, especially due to the retention in Hancock Village of open lawns, courtyards and common areas, pedestrian paths, consistent town-house style buildings of modest scale, unobstructed sky planes, buffer zones, and significant landscape features such as puddingstone outcrops. Retaining integrity of location, design, setting, materials, workmanship, feeling, and association, the Hancock Village Neighborhood has as such remained an important historic property in Brookline and a compatible part of the fabric of the community and the adjacent neighborhood.

Within the Hancock Village Neighborhood Conservation District, no activity comprising all or any part of the HVOD Project, as that term is defined in Section 5.06.4.k.2.m of the Town's Zoning By-Law, nor any Addition, as that term is used in Section 5.06.4.k.4.b.ii of the Town's Zoning By-Law including, without limitation, any demolition of existing buildings, construction of new buildings and other improvements or any site work, shall be considered a Reviewable Project. Further, only the following activities shall be considered Reviewable Projects, as that term is defined in Section 5.10.2.m of the Town's General By-Laws:

1) **Reconstruction of a building following complete demolition of a building if and to the extent such reconstruction does not require issuance of a Conformance Determination pursuant to Section 5.06.4.k12.e of the Town's Zoning By-Law.**

2) **A single project which will result in the disturbance of an area within the Hancock Village NCD of a size greater than two and one-half percent (2.5%) of the total surface area of the NCD.**

3) **Any disturbance of the area identified as "HVOD Buffer Area" on the plan entitled "Hancock Village Master Development Plan" dated September 7, 2017, prepared by Stantec Planning and Landscape Architecture P.C., a copy of which is on file with the Town Clerk's Office except as such disturbance is necessary to construct, repair or maintain the improvements shown on said plan:**

With respect to the Reviewable Projects defined above, the Hancock Village Neighborhood Conservation District shall be governed by the following design guidelines. Any further development shall be compatible with the existing development of the district and its relationship to the adjacent neighborhood:

i. Architectural style and character. The architectural design and building materials of any proposed Reviewable Project shall be compatible with the existing garden-village town-house architecture within the district, with, for example, each dwelling unit having a separate entrance to the exterior.

ii. Building size, height and massing. The size, height and massing of a building or other structure which is part of any proposed Reviewable Project shall be compatible with existing buildings and other structures within the district and the adjacent neighborhood, and the elements considered shall include but not be limited to the volume and dimensions of any buildings or other structure; the scale, clustering and massing of any building or other structure in relation to its surroundings, including existing buildings and other structures and nearby landscape and other open spaces; and compatibility of design and materials with existing buildings and other structures. Compatible building size, height and massing shall include, not be limited to limited to:

a. No building over 2 ½ stories in height, measured from the highest point of the finished grade of each unit, shall be constructed.

b. In relation to any abutting single-family, detached homes, any new single-family homes shall be similarly oriented, have similar rear yard depths, and similar distance between dwelling units.

iii. Façade. The number, size and location and design of windows, doors and solid elements, trim work, piers, pilasters, soffits, cornices, decks, porches and canopies, and the design of window and door details, including trim, muntins, mullion and sills, need not replicate but shall be compatible with the existing buildings within the district. Alterations necessary for handicap accessibility shall be compatible to the extent reasonably feasible.

iv. Roof treatment. The shape, pitch, style, and type of surfacing of roof areas shall be compatible with those of buildings within the district. Including buildings in any Reviewable Project, buildings with flat or approximately flat roofs will not exceed 25% of the total number of buildings in the entire NCD.

v. Streetscape, topography and landscape. Any proposed Reviewable Project (including demolition, removal, new construction or other alteration) shall maintain the spatial organization of the district and shall not have a significant negative impact on historic architectural or landscape elements, including structures, open spaces, green spaces, topography, walls and fences, circulation patterns including pedestrian circulation separated from vehicular traffic, viewsheds, park areas, play areas, courtyards and other landscaped areas previously accessible and usable in common, significant trees as defined in this by-law, and buffer areas. The existing spatial organization and land patterns of the landscape shall be preserved, including the curvilinear circulation patterns and views from roads,

sidewalks, pathways and buildings. Significant negative impacts shall include, but not be limited to:

a. Removal or alteration of rock outcroppings greater than 200 square feet in contiguous area;

b. Alteration of existing grades by more than three feet in vertical height;

c. Removal of existing pedestrian paths that separate pedestrians from vehicular traffic;

d. Addition of new impervious surfaces within 100 feet of abutting properties, including the Hoar Sanctuary or single-family homes; and

e. Loss of open space through building coverage exceeding 20% of the area of the district or through loss of the "greenbelt" now serving as a buffer to the abutting single-family detached homes.

Nothing in this Section 5.10.3.d.1 shall be construed as repealing or modifying any existing by-law or regulation of the Town, but it shall be in addition thereto. To the extent this Section 5.10.3.d.1 imposes greater restrictions upon a Reviewable Project than other by-laws, regulations or statutes, such greater restrictions shall prevail. The provisions of this Section 5.10.3.d.1 shall be deemed to be severable. If any of its provisions, subsections, sentences or clauses shall be held to be invalid or unconstitutional, the remainder shall continue to be in full force and effect.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 1 of the Second Special Town Meeting (STM2), which replaces Article 15, seeks to amend the Town's Zoning By-Law to restructure the Hancock Village Neighborhood Conservation District to allow it to focus solely on potential development whose scope or location has been determined not to be in keeping with the redevelopment goals of the Town.

Taken together, the Hancock Village (HV) Articles are an interrelated group of articles that seek a comprehensive solution to an ongoing dispute among the Town, Chestnut Hill Realty (CHR), and certain neighbors regarding CHR's proposed 40B development of Hancock Village, located in South Brookline.

These Warrant Articles are the fruit of a long negotiation involving the Town, CHR and neighborhood representatives to reach a solution to this expensive and contentious dispute. The Advisory Committee is fully aware that some neighbors are not entirely satisfied that the Town has achieved the best result possible, but after weighing both the positives and the negatives that the comprehensive solution achieves, when compared to the proposed alternative 40B projects (one approved by the ZBA and one pending), the Advisory Committee is of the considered view that the HV Article represents the best possible outcome for both the Town and the Hancock Village neighbors and, therefore, **recommends FAVORABLE ACTION**.

BACKGROUND:
In 2011, Town Meeting designated the Brookline section of Hancock Village to be its first Neighborhood Conservation District (NCD), requiring most changes to buildings and landscaping to secure prior approval from the newly-created NCD Commission. The NCD was designated over the objection of CHR, which was at that time and remains the sole property owner in the NCD. For additional background, refer to information provided in Article 10.

DISCUSSION:
As originally filed, Article 15 provided that the Hancock Village NCD was to be entirely eliminated. Article 1 of the Second Special Town Meeting, which replaces Article 15, provides for amendment of the Town's Zoning By-Law to restructure the NCD to define a reviewable project as meeting one of more of the following: (1) reconstruction of a building following demolition (as defined); (2) a single project which will result in the disturbance of an area within the NCD of a size greater than 5% of the total surface area of the NCD; or, (3) any disturbance of the buffer zone, except for construction or maintenance of the improvements shown on the Hancock Village Master Development Plan. Apart from Article 1, Article 10 provides that all new development in Hancock Village will be subject to review by the newly created Hancock Village Conformance Review Committee (HVCRC) consistent with specified guidelines.

Subsequent to the Warrant for the Second Special Town Meeting being published, CHR agreed to significantly reduce the disturbance area triggering NCD review, as many viewed the 5% area originally proposed as excessive. CHR has agreed to reduce this area in half, to 2.5% of the NCD area.

CHR has stated that passage of Article 1, like the other HV Articles, is integral to the project and they will pursue the alternative 40B projects if Article 1 is not approved.

RECOMMENDATION:
By vote of 16–6–3, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen under Article 1 of the Second Special Town Meeting, provided that Town Meeting has previously voted in favor of Articles 10–14.

ARTICLE 1

MOTION OFFERD BY JUDITH LEICHTNER, (TMM16), AND NATHAN SHPRITZ (TMM16)

Language to be deleted from the main motion appears in strikethrough.

d. Specific districts and guidelines.

1. There shall be a Neighborhood Conservation District, to be entitled the "Hancock Village Neighborhood Conservation District", the boundaries of which are shown on the map entitled "Hancock Village Neighborhood Conservation District", a copy of which is on file with the Town Clerk's office, which is hereby declared to be part of this By-law.

The first and largest garden city apartment complex in Brookline, Hancock Village (1946-1949) is significant as a far-sighted, historically important collaboration between the town of Brookline and the Boston-based John Hancock Mutual Life Insurance Company to provide both employment and housing for returning World War II veterans. The development, which straddles the Brookline-Boston line, consists of 789 two-story attached townhouses, most of which are located in Brookline. In consideration of a zoning change by the Town which allowed the development to proceed, the development was designed and built as a high-quality development in the "garden village" style, meaning that each dwelling unit had a separate entrance to the exterior; the units were town-homes of two stories with peaked roofs; there was substantial open space; and there was a "greenbelt" serving as a buffer between the development and adjacent single- family homes. Such elements were embodied in commitments made on behalf of John Hancock Insurance by its president Paul F. Clark, including an agreement with the Town of Brookline executed March 11, 1946. The landscape design was by Olmsted Associates, a Brookline firm with international experience and reputation. Significantly, Hancock Village remains the quality housing development conceived in those commitments and original design, and therefore remains internally coherent in design and compatible in scale, siting and impact with the adjacent neighborhood of single-family homes and with the D. Blakely Hoar Wildlife Sanctuary, especially due to the retention in Hancock Village of open lawns, courtyards and common areas, pedestrian paths, consistent town-house style buildings of modest scale, unobstructed sky planes, buffer zones, and significant landscape features such as puddingstone outcrops. Retaining integrity of location, design, setting, materials, workmanship, feeling, and association, the Hancock Village Neighborhood has as such remained an important historic property in Brookline and a compatible part of the fabric of the community and the adjacent neighborhood.

Within the Hancock Village Neighborhood Conservation District, no activity comprising all or any part of the HVOD Project, as that term is defined in Section 5.06.4.k.2.m of the Town's Zoning By-Law, nor any Addition, as that term is used in

Section 5.06.4.k.4.b.ii of the Town's Zoning By-Law including, without limitation, any demolition of existing buildings, construction of new buildings and other improvements or any site work, shall be considered a Reviewable Project. ~~Further, only the following activities shall be considered Reviewable Projects, as that term is defined in Section 5.10.2.m of the Town's General By-Laws:~~

1. ~~**1) Reconstruction of a building following complete demolition of a building if and to the extent such reconstruction does not require issuance of a Conformance Determination pursuant to Section 5.06.4.k12.e of the Town's Zoning By-Law.**~~
2. ~~**2) A single project which will result in the disturbance of an area within the Hancock Village NCD of a size greater than five percent (5%) of the total surface area of the NCD.**~~
3. ~~**3) Any disturbance of the area identified as "HVOD Buffer Area" on the plan entitled "Hancock Village Master Development Plan" dated September 7, 2017, prepared by Stantec Planning and Landscape Architecture P.C., a copy of which is on file with the Town Clerk's Office except as such disturbance is necessary to construct, repair or maintain the improvements shown on said plan:**~~

With respect to ~~the~~ Reviewable Projects ~~defined above~~, the Hancock Village Neighborhood Conservation District shall be governed by the following design guidelines. Any further development shall be compatible with the existing development of the district and its relationship to the adjacent neighborhood:

i. Architectural style and character. The architectural design and building materials of any proposed Reviewable Project shall be compatible with the existing garden-village town-house architecture within the district, with, for example, each dwelling unit having a separate entrance to the exterior.

ii. Building size, height and massing. The size, height and massing of a building or other structure which is part of any proposed Reviewable Project shall be compatible with existing buildings and other structures within the district and the adjacent neighborhood, and the elements considered shall include but not be limited to the volume and dimensions of any buildings or other structure; the scale, clustering and massing of any building or other structure in relation to its surroundings, including existing buildings and other structures and nearby landscape and other open spaces; and compatibility of design and materials with existing buildings and other structures. Compatible building size, height and massing shall include, not be limited to limited to:

1. No building over 2 1⁄2 stories in height, measured from the highest point of the finished grade of each unit, shall be constructed.

2. In relation to any abutting single-family, detached homes, any new single-family homes shall be similarly oriented, have similar rear yard depths, and similar distance between dwelling units.

iii. Façade. The number, size and location and design of windows, doors and solid elements, trim work, piers, pilasters, soffits, cornices, decks, porches and canopies, and the design of window and door details, including trim, muntins, mullion and sills, need not replicate but shall be compatible with the existing buildings within the district. Alterations necessary for handicap accessibility shall be compatible to the extent reasonably feasible.

iv. Roof treatment. The shape, pitch, style, and type of surfacing of roof areas shall be compatible with those of buildings within the district. Including buildings in any Reviewable Project, buildings with flat or approximately flat roofs will not exceed 25% of the total number of buildings in the entire NCD.

v. Streetscape, topography and landscape. Any proposed Reviewable Project (including demolition, removal, new construction or other alteration) shall maintain the spatial organization of the district and shall not have a significant negative impact on historic architectural or landscape elements, including structures, open spaces, green spaces, topography, walls and fences, circulation patterns including pedestrian circulation separated from vehicular traffic, viewsheds, park areas, play areas, courtyards and other landscaped areas previously accessible and usable in common, significant trees as defined in this by-law, and buffer areas. The existing spatial organization and land patterns of the landscape shall be preserved, including the curvilinear circulation patterns and views from roads, sidewalks, pathways and buildings. Significant negative impacts shall include, but not be limited to:

1. Removal or alteration of rock outcroppings greater than 200 square feet in contiguous area;
2. Alteration of existing grades by more than three feet in vertical height;
3. Removal of existing pedestrian paths that separate pedestrians from vehicular traffic;

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4. Addition of new impervious surfaces within 100 feet of abutting properties, including the Hoar Sanctuary or single-family homes; and
5. Loss of open space through building coverage exceeding 20% of the area of the district or through loss of the “greenbelt” now serving as a buffer to the abutting single-family detached homes.

Nothing in this Section 5.10.3.d.1 shall be construed as repealing or modifying any existing by-law or regulation of the Town, but it shall be in addition thereto. To the extent this Section 5.10.3.d.1 imposes greater restrictions upon a Reviewable Project than other by-laws, regulations or statutes, such greater restrictions shall prevail. The provisions of this Section 5.10.3.d.1 shall be deemed to be severable. If any of its provisions, subsections,

sentences or clauses shall be held to be invalid or unconstitutional, the remainder shall continue to be in full force and effect.