TOWN OF BROOKLINE
MASSACHUSETTS

REPORTS OF SELECTMEN AND ADVISORY COMMITTEE

on the

Articles in the Warrant

for the

SPECIAL TOWN MEETING

I hereby certify that the actions as indicated on the within pages were taken at the Special Town Meeting called for Tuesday, November 14, 2017, at 7:00 P.M. and dissolved on Wednesday, November 15, 2017 at 10:55 P.M.

ATTEST:

Patrick Joseph Ward

Town Clerk

Town of Brookline

BOARD OF SELECTMEN

Neil A. Wishinsky, Chairman

Benjamin J. Franco **Nancy S. Heller**

Bernard W. Greene **Heather Hamilton**

Melvin A. Kleckner, Town Administrator

"The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operation of its programs, services or activities. Persons with disabilities who need auxiliary aids and services for effective communication in programs, services and activities of the Town of Brookline are invited to make their needs and preferences known to Lloyd Gellineau, Town of Brookline, 11 Pierce Street, Brookline, MA 02445, 730-2328 Voice, 730-2327 TDD, or email at lgellineau@brooklinema.gov."

MODERATOR

Edward N. Gadsby, Jr.

ADVISORY COMMITTEE

Sean M. Lynn-Jones, Chair, 53 Monmouth Street 738-6228
Carla Benka, Vice-Chair, 26 Circuit Road 277-6102
Benjamin Birnbaum, 15 Feneno Terrace, ... 276-5944
Clifford M. Brown, 9 Hyslop Road 232-5626
Carol Caro, 1264 Beacon Street, #2 739-9228
Lea Cohen, 1060 Beacon Street, #11 947-9713
John Doggett, 8 Penniman Place 739-7266
Dennis Doughty, 57 Perry Street 566-5474
Harry Friedman, 27 Clafin Road 232-0122
Janet Gelbart 216 St. Paul Street #601 566-5616
David-Marc Goldstein, 22 Osborne Road 232-1943
Neil Gordon, 87 Ivy Street ..... (508)265-1362
Kelly Hardebeck, 18 Littell Road 277-2685
Amy Hummel, 226 Clark Road 731-0549
Sytske V. Humphrey, 46 Gardner Road 277-1493
Angela Hyatt, 87 Walnut Street 734-3742
Alisa G. Jonas, 333 Russett Road 469-3927
Janice Kahn, 63 Craftsland Road 739-0606
Steve Kanes, 89 Carlton Street 232-2202
Bobbie M. Knable, 243 Mason Terrace 731-2096
David Lescohier, 50 Winchester Street 383-5935
Fred Levitan, 1731 Beacon Street 734-1986
Pamela Lodish, 195 Fisher Avenue 566-5533
Shaari S. Mittel, 309 Buckminster Road 277-0043
Mariah Nobrega, 33 Bowker Street 935-4985
Susan Roberts, 69 Green Street 566-0204
Michael Sandman, 115 Sewall Ave., No. 4 232-7125
Lee L. Selwyn, 285 Reservoir Road 277-3388
Charles Swartz, 69 Centre Street 731-4399
Christine M. Westphal, 31 Hurd Road 738-7981

Lisa Portscher, Executive Assistant, Town Hall 730-2115

NOVEMBER 14, 2017
SPECIAL TOWN MEETING
INDEX OF WARRANT ARTICLES

ARTICLE NUMBER	TITLE
1.	Approval of unpaid bills. (Selectmen)
2.	Approval of collective bargaining agreements. (Human Resources Director)
3.	FY2018 budget amendments. (Selectmen)
4.	Authorize the Board of Selectmen to acquire real property at 111 Cypress Street by purchase or eminent domain, and appropriate funds for such purpose. (Selectmen)
5.	Release or re-appropriation of May 2017 Baldwin School Special Appropriation. (Selectmen)
6.	Legislation to increase qualifying income limits for senior real estate tax deferrals. (Selectmen's Committee on Senior Tax Policy)
7.	Authorize interest rate reduction on real property tax deferrals for qualifying seniors. (Selectmen's Committee on Senior Tax Policy)
8.	Accept the provisions of Chapter 60 Section 3D of the Massachusetts General Laws authorizing voluntary tax bill relief donations. (Selectmen's Committee on Senior Tax Policy)
9.	Legislation authorizing the Board of Selectmen to grant additional liquor licenses for the sale of alcoholic beverages. (Selectmen)
10.	Amend the Zoning By-law to establish a Hancock Village Overlay District (HVOD). (Selectmen)
11.	Authorize the Board of Selectmen to execute a Hancock Village Master Development Agreement. (Selectmen)
12.	Authorize the Board of Selectmen to execute a Hancock Village Local Action Unit (LAU) Development Agreement. (Selectmen)
13.	Authorize the Board of Selectmen to accept and enforce a Hancock Village deed restriction. (Selectmen)
14.	Authorize the Board of Selectmen to acquire certain real property at Hancock Village by gift or deed. (Selectmen)

15. Repeal of the Hancock Village Neighborhood Conservation District Bylaw. (Selectmen)

16. By-law amendment requiring the posting of documents associated with public meetings. (Gordon, TMM1)

17. Establish a Tree Preservation By-law. (Murphy)

18. Replace "Selectmen" with "Selectwomen" in Zoning and General Bylaw references. (Burstein, TMM12)

19. Replace gender-specific language in Town By-laws and records with gender-neutral language. (Coleman)

20. Resolution to establish Indigenous Peoples Day in Brookline. (Connors, TMM3, van der Ziel, TMM15, Halsey, Samaraweera)

21. Resolution to honor former Brookline resident John Wilson. (Daves, TMM5, Vitolo, TMM6)

22. Resolution on Sentencing Reform and Diversion. (Gordon, TMM1)

23. Reports of Town Officers and Committees. (Selectmen)

2017 SPECIAL TOWN MEETING WARRANT REPORT

The Board of Selectmen and Advisory Committee respectfully submit the following report on Articles in the Warrant to be acted upon at the 2017 Special Town Meeting to be held on Tuesday, November 14, 2017 at 7:00 pm.

Note: The following pages of this report are numbered consecutively under each article.

ARTICLE 1

FIRST ARTICLE

Submitted by: Board of Selectmen

To see if the Town will, in accordance with General Laws, Chapter 44, Section 64, authorize the payment of one or more of the bills of previous fiscal years, which may be legally unenforceable due to the insufficiency of the appropriations therefor, and appropriate from available funds, a sum or sums of money therefor.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article is inserted in the Warrant for every Town Meeting in case there are any unpaid bills from a prior fiscal year that are deemed to be legal obligations of the Town. Per Massachusetts General Law, unpaid bills from a prior fiscal year can only be paid from current year appropriations with the specific approval of Town Meeting.

SELECTMEN'S RECOMMENDATION

State statutes provide that unpaid bills from previous fiscal years may not be paid from the current year's appropriations without the specific approval of Town Meeting. As of the writing of this Recommendation, there are no unpaid bills from a previous fiscal year. Therefore, the Board recommends NO ACTION, by a vote of 5-0 taken on October 17, 2017.

ADVISORY COMMITTEE'S RECOMMENDATION

As there are no known remaining unpaid bills from the previous fiscal year, the Advisory Committee unanimously recommends NO ACTION on Article 1.

A vote of No Action was passed by a majority vote

ARTICLE 2

SECOND ARTICLE

Submitted by: Human Resources

To see if the Town will raise and appropriate, or appropriate from available funds, a sum or sums of money to fund the cost items in collective bargaining agreements between the Town and various employee unions; fund wage and salary increases for employees not included in the collective bargaining agreements; and amend the Classification and Pay Plans of the Town.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article is inserted in the Warrant for any Town Meeting when there are unsettled labor contracts. Town Meeting must approve the funding for any collective bargaining agreements.

SELECTMEN'S RECOMMENDATION

At the time of their vote there were no Collective Bargaining agreements for Town Meeting authorization. As a result, the Board recommended NO ACTION, by a vote of 4-1 taken on October 3, 2017.

ROLL CALL VOTE:

Aye:	Nay:
Wishinsky	Hamilton
Franco	
Heller	
Greene	

A Vote of No Action was passed by a majority

ADVISORY COMMITTEE'S RECOMMENDATION

BACKGROUND:
Article 2 provides for funding of the Town's collective bargaining agreements.

RECOMMENDATION:
There are no collective bargaining agreements to consider at this time. The Advisory Committee by a vote of 14–2–0 recommends NO ACTION on Article 2.

XXX

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.

Passed by a Counted Vote of 214 In Favor and 1 Opposed

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 3

THIRD ARTICLE

To see if the Town will:

A) Appropriate additional funds to the various accounts in the fiscal year 2018 budget or transfer funds between said accounts;

B) 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.

C) 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.

D) And determine whether such appropriations shall be raised by taxation, transferred from available funds, provided by borrowing or provided by any combination of the foregoing; and authorize the Board of Selectmen, except in the case of the School Department Budget, and with regard to the School Department, the School Committee, to apply for, accept and expend grants and aid from both federal and state sources and agencies for any of the purposes aforesaid.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article is inserted in the Warrant for any Town Meeting when budget amendments for the current fiscal year are required. For FY2018, the warrant article is necessary to balance the budget based on higher than projected State Aid, re-allocate funds, and provide borrowing authorization for two Water and Sewer Enterprise Fund capital improvement projects.

SELECTMEN'S RECOMMENDATION

Article 3 of the Warrant for the 2017 Special Town Meeting proposes amendments to the FY18 budget. The article is intended to address four outstanding items:

1. Appropriation of a higher state aid amount for Brookline than what was assumed in the budget approved by Town Meeting.
2. Reallocation of $80,000 budgeted in Town Clerk budget due to the lack of a special election.

3. Reallocation of outside counsel funding between the Human Resources and Town Counsel budgets.
4. Bond authorization of two previously approved Water and Sewer projects.

ADDITIONAL NET STATE AID

The final State budget resulted in an additional $94,862 of Net State Aid (without Offsets[1]), bringing the total FY18 Net State Aid (without Offsets) figure to $13,216,709, an increase of $599,054 (4.7 %) over FY17. As a result, $94,862 is available for appropriation. The table below shows how the final State budget results in $94,862 more in Net State Aid (without Offsets):

	FY17 FINAL CHERRY SHEET	FINANCIAL PLAN	Final Cherry Sheet	Final vs Fin Plan	% CHANGE FROM Fin Plan	VARIANCE FROM FY17	% CHANGE FROM FY17
RECEIPTS							
Ch. 70	12,729,627	13,147,688	13,229,766	82,078	0.6%	500,139	3.9%
Unrestricted General Gov't Aid	6,104,455	6,342,529	6,342,529	0	0.0%	238,074	3.9%
Vets Benefits	110,883	95,287	93,646	(1,641)	-1.7%	(17,237)	-15.5%
Exemptions	41,913	39,720	39,720	0	0.0%	(2,193)	-5.2%
Charter School Reimbursements	24,419	4,749	3,572	(1,177)	-24.8%	(20,847)	-85.4%
TOTAL RECEIPTS	19,011,297	19,629,973	19,709,233	79,260	0.4%	697,936	3.7%
CHARGES							
County	862,578	948,309	948,309	0	0.0%	85,731	9.9%
Air Pollution Dist.	28,747	31,070	31,070	0	0.0%	2,323	8.1%
MAPC	29,986	30,499	30,499	0	0.0%	513	1.7%
RMV Surcharge	232,380	233,480	233,480	0	0.0%	1,100	0.5%
MBTA	5,116,912	5,146,859	5,146,859	0	0.0%	29,947	0.6%
SPED	32,331	1,183	1,264	81	6.8%	(31,067)	-96.1%
School Choice Sending Tuition	20,100	20,100	27,059	6,959	34.6%	6,959	34.6%
Charter School Sending Tuition	70,608	96,626	73,984	(22,642)	-23.4%	3,376	4.8%
TOTAL CHARGES	6,393,642	6,508,126	6,492,524	(15,602)	-0.2%	98,882	1.5%
OFFSETS							
Libraries	89,197	86,983	86,983	0	0.0%	(2,214)	-2.5%
TOTAL OFFSETS	89,197	86,983	86,983	0	0.0%	(2,214)	-2.5%
NET LOCAL AID	12,706,852	13,208,830	13,303,692	94,862	0.6%	596,840	4.7%
NET LOCAL AID W/O OFFSETS	12,617,655	13,121,847	13,216,709	94,862	0.7%	599,054	4.7%
GROSS LOCAL AID	19,100,494	19,716,956	19,796,216	79,260	0.4%	695,722	3.6%

[1] Offset Aid consists of Library aid which goes directly to the Library without appropriation.

Pursuant to the Town/School Partnership, the $94,862 shall be distributed 50/50 and translates to $47,431 available for both the Town and School budgets. Recommendation for the Town appropriation is as follows:

1. Finance Department - $47,431
   The introduction of Pay-By-Cell technology has been extremely successful. There are 2,166 parking spaces using the Passport app. The Town is averaging 35,000 transactions per month with an average stay of 2 hours. We anticipate fees to cost approximately $80,000. While the Finance Department budget was increased to accommodate fees related to this app we can now see that there is a need to adjust the budget further now that we have a few months of actual experience. We also anticipate an increase in credit card charges due to the implementation of the new permitting system, which has enabled departments to promote online applications (and payments) for a variety of permits.

TOWN CLERK

The vote of Town Meeting included $80,000 in the Town Clerk's budget in anticipation of a special election related to the school projects. The Board was clear that if no such election was needed that they would re-allocate these funds during the Special Town Meeting when the need, or lack thereof, was certain. It is recommended that the $80,000 be reallocated to the Finance Department to further support the Credit Card Service item and to engage in a comprehensive review of the MUNIS payroll system. It has been three years since the Town began processing employee payroll in-house. Departmental walkthroughs are being performed concurrently with an analysis of the MUNIS software setup. The goal is to implement more uniform payroll procedures across departments and to incorporate efficiencies in the MUNIS software system.

LEGAL SERVICES

Following up on the discussion of the use of outside counsel and resources for outside counsel allocated to the HR and Legal Departments, $20K is recommended to be shifted from the HR budget to Legal Services. This recommendation is based on the HR Director's analysis of labor counsel costs and the mutual agreement that Human Resources should refer employment law claims and legal assistance to Town Counsel, whenever feasible.

WATER & SEWER ENTERPRISE FUND

The vote of $340,000 for Singletree tank improvements and a $320,000 for Singletree Hill Gatehouse improvements taken last fall did not include bond authorization language, which is necessary to fund these projects. Both appropriations have been reviewed during the CIP process and will be funded using interest free MWRA loans.

The Selectmen unanimously recommend FAVORABLE ACTION, by a vote of 5-0 taken on October 17, 2017, 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.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 3 would amend the FY 2018 budget. The Town of Brookline received a net increase of $94,862 in state aid, compared to what was projected in the FY2018 Town budget voted by Town Meeting in May 2017. The motion offered under Article 3 appropriates this amount and also amends the FY2018 budget as shown in the following table:

ITEM#	ORIGINAL BUDGET	PROPOSED CHANGE	AMENDED BUDGET
2. Human Resources	$686,579	($20,000)	$666,579
5. Finance Department	$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

These adjustments to departmental budgets reflect changes in assumptions about likely expenditures, as explained below. In addition, the motion offered under Article 3 includes language that would authorize borrowing to finance improvements to the Singletree tank and the Singletree Hill Gatehouse.

The Advisory Committee unanimously recommends FAVORABLE ACTION.

BACKGROUND:
Article 3 provides for amendments to the FY2018 budget. The Town needs to make budget adjustments that reflect additional aid from the Commonwealth of Massachusetts, changing departmental needs, and two loan authorization omissions from the November 2016 Town Meeting vote on FY2017 budget amendments. Action under Article 3 is necessary to appropriate additional State aid that was not included in the revenue estimates in the FY2018 budget voted by the May 2017 Town Meeting. Some of these adjustments involve the transfer of funds between accounts. Only the appropriation of the additional state aid increases the overall Town budget.

DISCUSSION:
The Town Administrator recommends that $94,862 in additional state aid be appropriated, as recommended by the Town-School Partnership Committee, on a 50/50 basis, to the School Department ($47,431) and to the Finance Department ($47,431) to fund a projected shortfall in the credit card fees budget, primarily due to the success of the Pay-By Cell program that uses the Passport app for parking meters. In addition, it is recommended that the FY2018 budget be adjusted by decreasing the Town Clerk's budget by $80,000, as a special election is no longer anticipated and that the Finance Department budget be increased by $80,000, of which $55,000 will fund the credit card fees budget shortfall and $25,000 will be used for a MUNIS payroll process review. Also, $20,000 would be moved from the Human Resources budget to the Legal Services budget so that the office of Town Counsel will handle employment law claims and legal assistance, wherever feasible.

Two loan approvals for the Singletree tank improvements ($340,000) and the Singletree Hill Gatehouse improvements ($320,000) are recommended. Although both items were appropriated at Town Meeting in November 2016, the loan approval language was erroneously omitted from the Warrant.

Town Clerk: Reduce by $80,000 and transfer that Amount to the Finance Department

The annual budget voted by Town Meeting in May 2017 included $80,000 in the Town Clerk's budget in anticipation of a special election to vote on one or more debt exclusion and operating overrides that would increase property taxes to finance school construction/expansion, other projects, and/or Town or school operating budgets. Such a special election is now no longer needed in FY2018, because any override questions voted on in FY2018 could be placed on the ballot for the May 2018 Annual Town Election. (If one or more override questions are placed on the ballot after May 2018, funds would come from the FY2019 budget or a subsequent budget.) It is recommended

that the $80,000 previously appropriated to the Town Clerk's office to cover the projected costs of a special election be reallocated to the Finance Department to further support the Credit Card Service line item ($55,000) and to engage in a comprehensive review of the MUNIS payroll system ($25,000).

Finance Department: Appropriate an Additional $47,431 and transfer $80,000 from the Town Clerk's Budget

The introduction of Pay-By-Cell technology for parking meters has been extremely successful. There is a need to adjust the budget now that there has been a few months of actual experience with Pay-By-Cell and the projections are more accurate. There are 2,166 meters covered by the Passport app. The Town is averaging 35,000 transactions per month with an average stay of two hours. Credit card fees are anticipated to cost more than expected and the budget needs to be increased by $102,431. This would be funded by $47,431 from the increased state aid and $55,000 of the $80,000 transfer from the Town Clerk's budget. Also, there is an anticipated increase in credit card charges due to the implementation of the new permitting system, which has enabled departments to offer online applications (and credit card payments) for a variety of permits.

The Advisory Committee discussed the need for an additional budget appropriation for credit card fees for parking and other services. There was concern expressed about the apparent subsidy that some credit card users were getting, particularly on the different parking methods. For example, some credit card fees, but not the entire amount are recovered in a surcharge for Pay-By-Cell parking users, whereas the credit card use in parking meters the charges are not recovered. The Finance Director will be undertaking a review of the credit card fee policy across all departments in the Town for all services and hopes to propose are more equitable and consistent policy across all credit card uses for May 2018 Town Meeting. This policy is anticipated to be put into effect for FY2019, however. Thus this one-time budget adjustment is necessary for the current fiscal year.

Now that MUNIS payroll system, which the Town uses for in-house payroll processing, has been implemented fully and we have some track record in its operation, it has become clear that the business processes need review, as there are significant manual corrections and adjustments that can make the process inefficient. The process also should become uniform across all departments. The Advisory Committee supports the Finance Department review effort and the $25,000 in funding for this effort for outside payroll consultants.

Legal Services: $20,000 transfer from Human Resources

In recent years, the Advisory Committee has raised the question of whether funding related to employment law should be in the budget for Human Resources or Legal Services (Town Counsel). It has been agreed that employment law claims and legal assistance will be referred to Town Counsel from Human Resources whenever feasible. A budget transfer of $20,000 from Human Resources to Legal Services should be sufficient to cover the costs incurred by the office of Town Counsel. The Advisory Committee is now satisfied with these arrangements whereby employment law claims would be handled by Legal Services.

Group Health Budget: No change

Budget amendments considered each year at the November Special Town Meeting often include changes to the budget appropriation for Group Health expenses. The FY2018 Group Health budget was built based on an assumed level of employee growth for annual turnover in the Department with the Schools, building a contingency for additional new hires pending School Committee approval of the budget plan. School employee onboarding is substantially complete. Analysis shows a current surplus of $98,000, which will be available to cover any additional remaining hires of benefits-eligible employees. Thus the Group Health budget does not need to be changed.

Public Schools of Brookline: Increase the Appropriation by $47,431

By applying the customary Town/School Partnership formula, 50% of the net increase in state aid will be allocated to the Public Schools of Brookline. Town Meeting can only appropriate the overall school budget. It cannot appropriate line items. The School Committee will decide how to appropriate these additional funds. One potential use of the increased school appropriation would be to use these funds to offset reductions in state Circuit Breaker funds, which cover some of Brookline's Special Education expenses.

Water and Sewer Enterprise Funds: Loan Authorization

The Singletree tank and Gatehouse improvements of $340,000 and $320,000 respectively were appropriated by the November 2016 Town Meeting. The loan authorization language of the appropriation authorizations was omitted. This error needs to be corrected by approving loan authorization language for the $340,000 for the Singletree tank and $320,000 for the Singletree Gatehouse. The work on the Singletree tank is important maintenance work that needs to be done, as the tank is part of the Town's drinking water supply.

RECOMMENDATION:
The Advisory Committee, by a vote of 25–0–0, recommends Favorable Action on the motion offered by the Selectmen.

XXX

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	94,862	20,368,575	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**	**94,862**	**273,062,582**	**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%
	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)	**TOTAL REVENUE-FINANCED SPECIAL APPROPRIATIONS**	**9,415,000**	**10,113,000**	**8,879,374**	**9,720,862**	**0**	**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		6,508,126		
	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**	**0**	**8,370,109**	**21,368**	**0.3%**
	TOTAL EXPENDITURES	**235,636,409**	**249,234,373**	**260,709,753**	**272,967,718**	**94,862**	**273,062,580**	**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) 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.

<u>Registered Land</u>

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

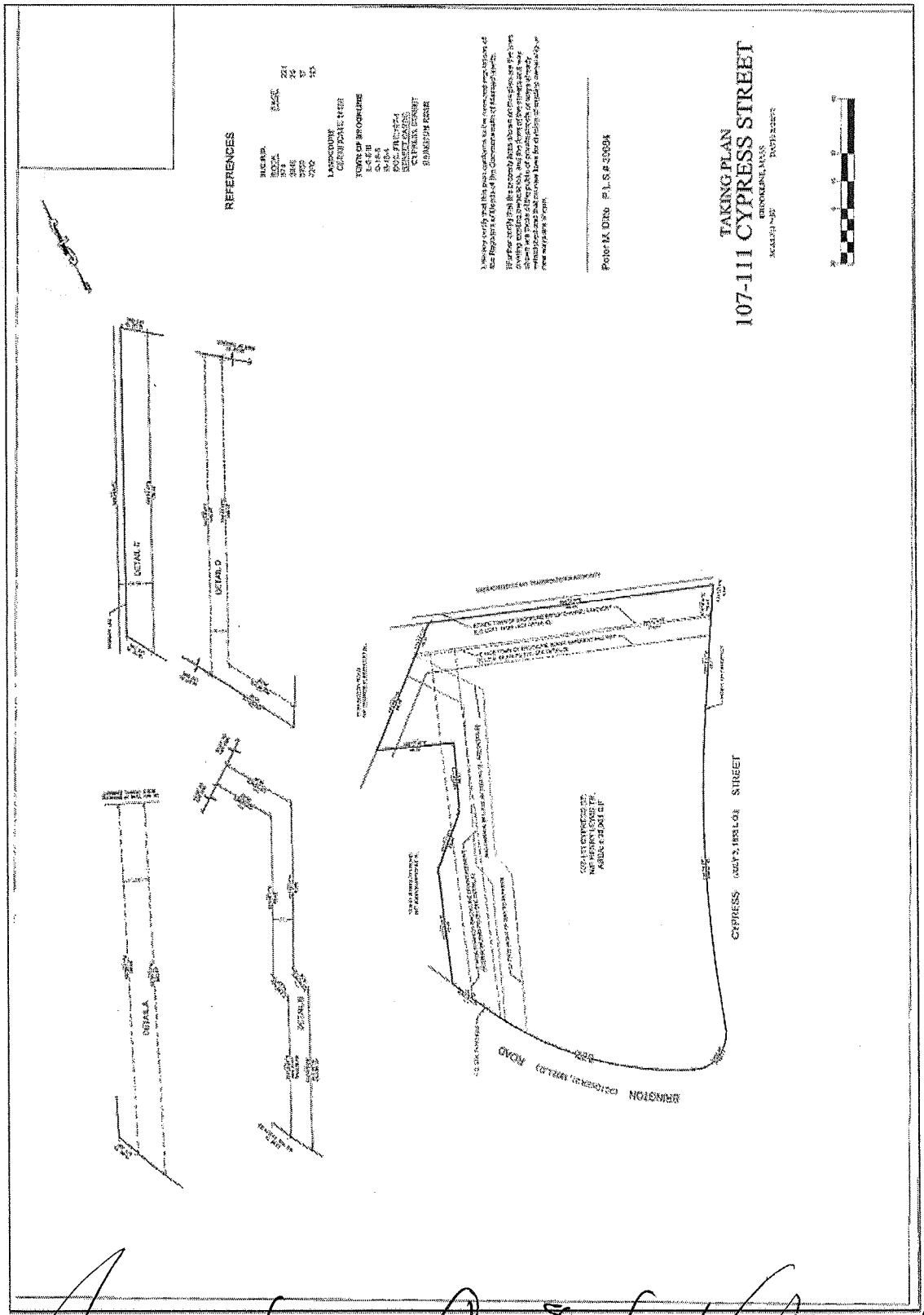
Thence turning and running N68-43-47W for one hundred seventy five and 65/100 feet (175.65') to land N/F of George K. Sioras

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)

Passed by a Counted Vote of 212 In Favor, 1 Opposed and 2 Abstentions

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 4

FOURTH ARTICLE

Submitted by: Board of Selectmen

To see if the Town will vote to authorize the Board of Selectmen 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, and that to meet such expenditure to appropriate a sum of money 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 to determine whether such amount shall be raised by taxation, transfer from available funds, borrowing or otherwise; to authorize the Selectmen to apply for, accept and expend any grants from any source whatsoever that may be available to pay any portion of this project or to take any other action relative thereto.

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Unregistered Land
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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

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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.

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

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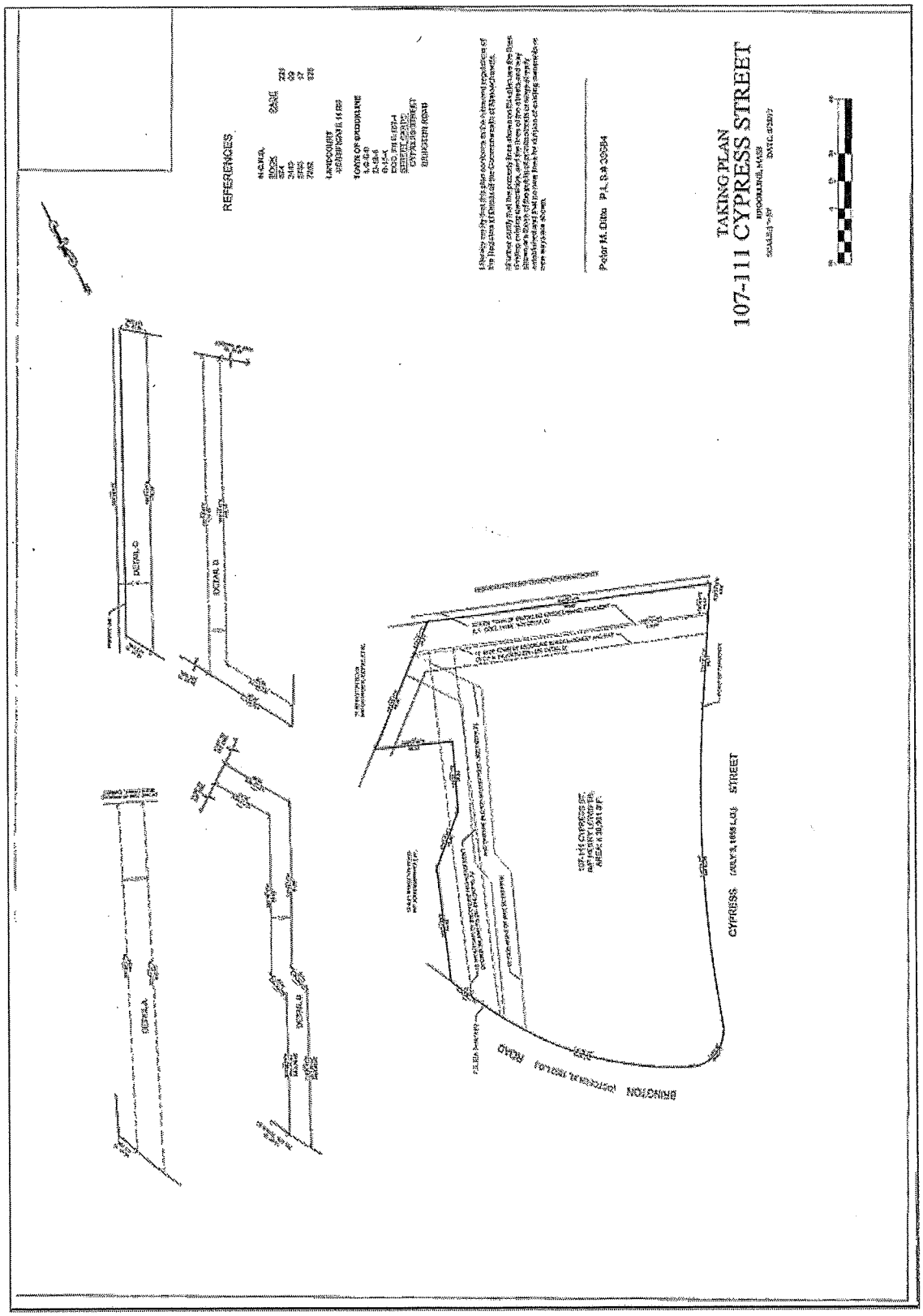

(A larger copy of this map will be available in the Selectmen's Office)

PETITIONER'S ARTICLE DESCRIPTION

This article asks Town Meeting to authorize the Selectmen to acquire 111 Cypress Street, a parcel of land near the High School, by eminent domain and appropriate the funds necessary for the acquisition of the property and attendant expenses. The Town has conducted several studies for High School expansion needs that incorporated the 111 Cypress Street property, including the Brookline School Population and Capacity Exploration (B-SPACE) Committee Final Report (September 2013), Brookline High School One Campus Options Presentation (Symmes Maini & McKee Associates, February 3, 2014), Executive Report Further Study Report, Brookline High School (Symmes Maini & McKee Associates, August 3, 2015), 9th Elementary School Brookline Schools Site Identification Study (CivicMoxie, October 2015), and the Brookline High School Feasibility Study (HMFH, June 2017). At its May, 2017 session, Town Meeting approved the expenditure of $1.85 million for further feasibility and schematic design for an expansion of Brookline High School. Included in the option selected by the BHS Building Committee was the acquisition by the Town of the property at 111 Cypress Street in order to construct a building to meet the educational needs of all 9th graders at BHS. The 9th Grade Academy would include classrooms for all subjects, art and music classrooms, a cafeteria and a library as well as collaborative learning spaces.

Town Meeting voted overwhelmingly to authorize the $1.85 million funding to pursue design of the 9th Grade Academy and this article represents the next step in the process of Town Meeting approval for this concept. The Board of Selectmen has determined that the Town may need to acquire the property by eminent domain. The Town has commissioned a professional appraisal, which will form the basis of the Town's Pro Tanto payment for the property – the initial payment made to the Owner following any taking by eminent domain. That appraisal, which will detail what the appraiser believes to be the highest and best use of the property, will be completed by November 1, 2017 in time for Town Meeting. The Board of Selectmen is initiating this eminent domain action now rather than at a Town Meeting closer to the start of construction because we need information about the property to understand fully the funding that will be needed to build a 9th Grade Academy. Since we do not currently own the property, we do not have the right to examine the building and the land for geotechnical and environmental issues. Any budget for the project would need to reflect those kinds of findings. In addition, a tenant (an administrative non-clinical office for Brigham & Women's Physicians Group) is leasing the property and action now will allow the Town additional time to assist that tenant with the relocation process.

Therefore, we request that Town Meeting authorize the Board of Selectmen to acquire 111 Cypress Street, by eminent domain and appropriate the funds necessary for the acquisition of the property and attendant expenses.

SELECTMEN'S RECOMMENDATION

Article 4 asks Town Meeting to authorize the Selectmen to acquire the property at 108-111 Cypress Street for an expansion of Brookline High School and to appropriate the funds necessary for the acquisition of the property and attendant expenses. The Town has engaged the services of a professional appraiser who determined that the valuation of the property for its highest and best use is $15,900,000. There are additional costs of $500,000 associated with site acquisition making the total requested appropriation $16,400,000.

On October 17, 2017, a unanimous Board of Selectmen voted FAVORABLE ACTION on the following motion:

VOTED: To authorize the Board of Selectmen 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, and that to meet such expenditure to appropriate $16,400,000 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 to determine whether such amount shall be raised by taxation, transfer from available funds, borrowing or otherwise; to authorize the Selectmen to apply for, accept and expend any grants from any source whatsoever that may be available to pay any portion of this project.

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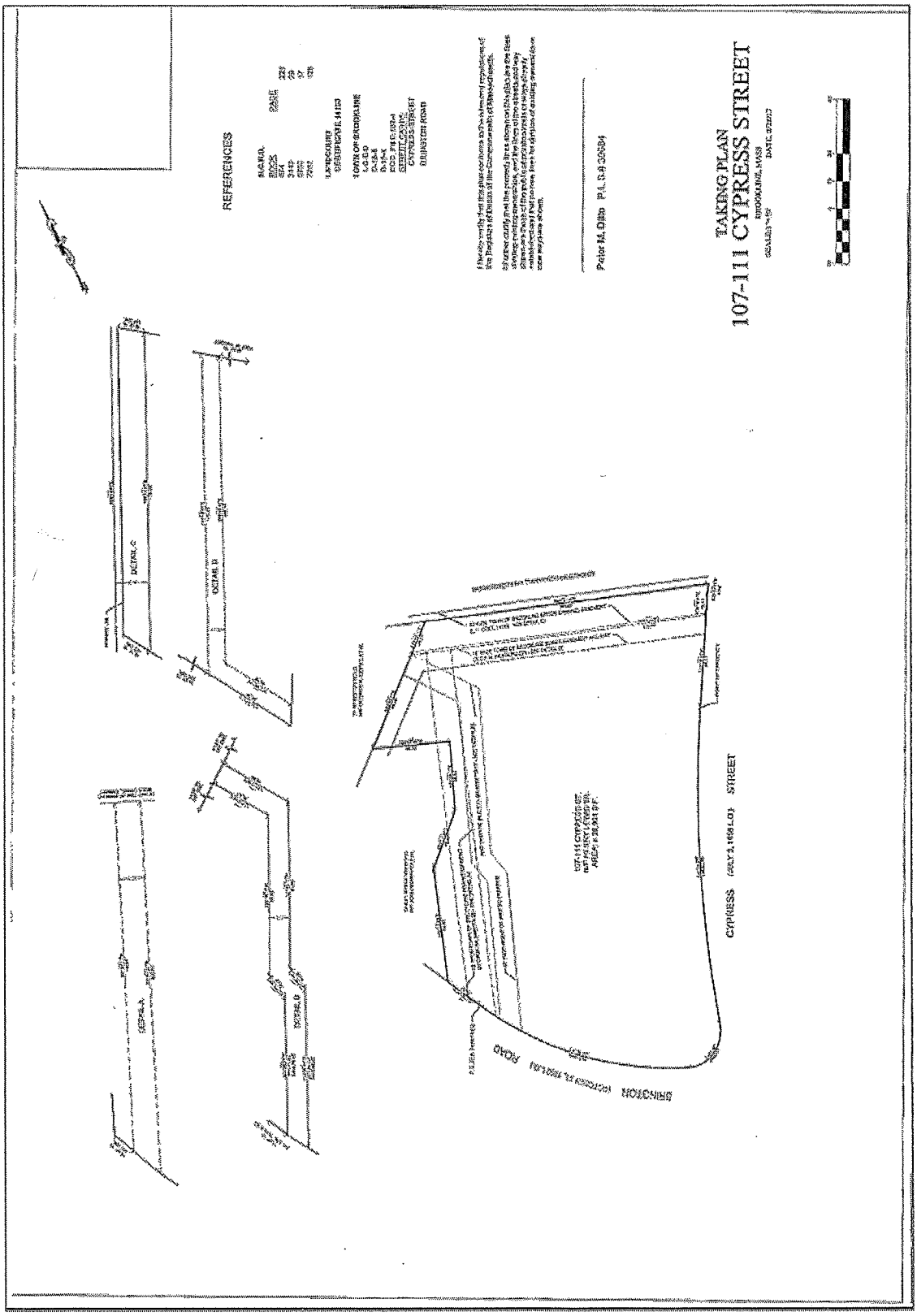

(A larger copy of this map will be available in the Selectmen's Office)

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 4 would authorize the Selectmen to utilize the sovereign power of eminent domain to acquire the property at 108–111 Cypress Street for the public purpose of constructing a building that will expand the capacity, and be an integral part, of Brookline High School (BHS). The sum of money the Selectmen shall be authorized to use for the *Pro Tanto* acquisition price and other expenses related to the acquisition shall be no more than $16.4 million ($15.9 for the property itself and $0.5m for ancillary costs). If Town Meeting does not vote Favorable Action on Article 4, the Town will be forced to pursue an expansion and renovation of existing facilities at Brookline High School that would be more expensive to the Town. After discussion, the Advisory Committee voted 21–0–1 to recommend FAVORABLE ACTION on Article 4.

BACKGROUND:
In recent years, the Brookline school system has experienced significant growth in its K–12 student population. While, to date, the increase in student population has been primarily experienced at the elementary school level, those students have already begun to migrate to the high school and will continue to do so in larger numbers in the near future. Current projections by the Public Schools of Brookline suggest that the population at the high school could reach a level equal to or exceeding 2,600 students by the year 2023. The School Committee and the central administration of the Public Schools of Brookline believe, given existing educational requirements and mandates, that the current capacity of the high school is 2,000 students. Beyond requiring additional classrooms and related facilities, the high school also requires the renovation and modernization of its science rooms, athletic facilities, and technology and other facilities to support the needs of students and to ensure adequate resources for programming to benefit the larger population.

The high school's needs were identified as long ago as 2013. At that time, and in every evaluation of possible options since, the property at 108–111 Cypress has been discussed as a potentially viable property that could help address the overall needs of the high school. This is an important point to recognize because it underscores that the taking is being done in good faith.

In the spring of 2017, the BHS Building Committee received initial estimates of what alternative expansion plans using only the existing facilities would cost. Those options included scenarios such as: (1) solely addressing the capacity issue; (2) renovating and expanding facilities to meet Massachusetts School Building Authority standards; and (3) renovating and expanding facilities to meet the School Committee's education plan. In May 2017, the cost of those options ranged from $181 million (without considering any optional projects) to $348 million.

After receiving the cost estimates above, the BHS Building Committee asked the architects to explore a fourth option—the construction of a building at 108–111 Cypress Street for the primary purpose of establishing a Ninth Grade Academy at the site. The options explored included either (1) renovating the existing science floor and adding five classrooms at BHS, or (2) constructing a new three-story science wing at BHS. Each of those options was also looked at with the proposed facility being located at 108–111 Cypress, either sited just on that property or also extending over the MBTA stop at Brookline Hills. The range of costs for these options, before any consideration for either optional projects or the cost of acquiring the property at 108–111 Cypress Street, ranged from $105.3 million to $136.6 million. The major difference between the various Cypress alternatives is the cost of building a new science wing.
It is the view of the School Committee that the preferred option, known as Option 4D, would be comparable, in terms of facilities added, to Option 2 of the original study. The cost of Option 4D, including a minimal renovation to the Tappan Gym but before land cost, is estimated at $149.9 million, while Option 2, also including a minimal renovation to Tappan Gym, is estimated at approximately $225 million. Option 4D is considered substantially different than Option 1 because of the science wing and greater collaborative work space, additional space for students to eat, and enhanced and increased performing arts space.

It is also the view of the School Committee and the BHS Building Committee that the Ninth Grade Academy will provide a programmatically superior educational environment for students at BHS. The School Committee also would prefer to construct the new science wing. According to the architect's report: *"Important considerations in the selection of the Preferred Solution included the extent of student displacement and relocation, the impact of construction on school operations, the length of the construction period, and the potential for neighborhood disruption.*

All Option 4 variations were considered more favorably for these factors than Options 1, 2, or 3. The free-standing 9th Grade Academic Building on the Cypress Street site offers flexibility in the phasing approach. Options 1, 2, or 3 involve the demolition and replacement with new construction of increasingly larger areas of the existing building. All three options require student displacement and relocation with significant impact on school operations. With Option 4, major construction occurs on an adjacent site to the existing campus, minimizing disruption to the school.

On completion, an entire grade level of the high school will occupy the new building, freeing up space in the remaining buildings of the BHS campus to facilitate the phasing of renovations."

DISCUSSION:
At the public hearing held by the Advisory Committee's Capital Subcommittee on October 3, 2017, members of the public asked many questions, most of which had to do with the process of taking the property, possible costs involved, risks to the Town, and the question of parking for any additional staff needed once the renovations and expansions are complete. There was no significant discussion about the alternative design

schemes themselves. Many of these points, plus some others, were also posed by members of the Advisory Committee. A brief discussion of these issues is below:

How the Process Would Work: Once authorized by Town Meeting, the Selectmen will determine if they wish to move forward with the taking. Assuming that they do, they will notify the property owner of the Town's intention and will provide an order of taking along with the statement of what the Town will pay. This amount is called the *Pro Tanto* amount. At the time of the order of taking, the Town will take title to the property and will have access to the property for the purpose of conducting any studies, such as environmental studies. The Town will have a limited period of time to conduct its due diligence. At the end of that due diligence period, if there are no material issues discovered, the Town will pay the previously disclosed *Pro Tanto* amount. To the extent that the Town discovers issues that are material enough to affect the value of the property, the Town will have the ability to modify the *Pro Tanto* payment to reflect those issues. The Town may not change its mind once the order of taking has been made. The then former property owner can decide to accept that amount or sue the Town for more money or sue the Town for taking the property in bad faith. Given the history of this site, and the Town's open and stated interest in the property, the argument of bad faith is not one that the Town would anticipate the owner to put forth. It is possible however, that the owner would argue that the property is worth more than what the Town pays in its *Pro Tanto* award.

If it is disputed, the determination of price is ultimately decided by either a judge or a jury and, most likely, a jury. While each side will have its own experts, one never knows what a jury will decide. Juries can be sympathetic to property owners even as they recognize the sovereign right of a government to use the eminent domain process.

The owner of 108–111 Cypress Street has filed to obtain a Comprehensive Permit to build a 40B housing development on the site with Mass Housing as the financing authority. That process is ongoing but the permit has yet to be issued. The property currently is leased to Brigham and Women's Physicians Organization (BWPO) under a lease that would allow BWPO to remain as a tenant until at least 2025 and that provides the property owner with substantial current cash flow. To move forward with a 40B, the owner would have to buy out BWPO. In his regulatory filings, the property owner has placed a value of $6 million on the land. The property is assessed for approximately $10.4 million and the appraisal conducted for Mass Housing (which included some of the financial details of the existing lease) indicated an "as-is" valuation of $12 million.

The value of the property in an eminent domain situation will be one that is based on "the highest and best use" for the land, assuming reasonable expectations of zoning allowances…in other words, if there have been special permits granted for nearby developments, the value can be based on the assumption that similar permits could be obtained for this property. While some may believe that the proposed 40B development will add enormous value to the land, this is by no means a foregone conclusion.

The appraisal conducted for the Town and on which the *Pro Tanto* award is based does

use a highest and best use approach. The conclusion of the appraiser was that the valuation of the property assuming the appraiser's opinion of highest and best use is $15.9 million.

Expansion over The MBTA Option: The concept behind building over the MBTA Green Line tracks, which are adjacent to the property, is to have a facility that is not as tall and to provide both better integration with the existing campus as well as ease of ingress and egress for students. Initial conversations with the MBTA have been encouraging, but much is unknown such as price, requirements of the MBTA to accommodate the Town, and the overall timeframe that would be anticipated to memorialize an agreement so that the Town could move forward with construction. It is expected that additional information about this option will be available by the end of October.

Risks to the Town: As alluded to above, if the owner of 108–111 Cypress decides to fight the Town in court, the suit will almost certainly be over the issue of valuation for the property. Once the Town takes title to the property, it cannot reverse its decision, no matter what the final determination of value is. Therefore, absent a negotiated deal with the owner, the Town does have, theoretically, open-ended valuation risk. However, the Selectmen, the School Committee, the Advisory Committee, and the BHS Building Committee all believe that under any rational valuation methodology, the Town will be better served, from cost, programming, ease of construction, and operational perspectives in taking the property as opposed to only pursing an expansion and renovation of the existing school. With regard to the issue of environmental considerations, the Town is currently relying on the fact that some testing was done by the owner when applying to Mass Housing, as well as the fact that the Town will have the opportunity to conduct its own environmental studies before obtaining a final determination of appraised value.

Parking: Regardless of approach, an expansion in the number of classrooms at BHS will result in additional staff and, accordingly, additional demand for parking. It is anticipated that some surface parking can be included at 111 Cypress. There are no plans to construct structured parking at the site or under Cypress Field. A long-term solution to the parking issue has yet to be determined, but a transit demand management study is expected to be concluded and to be made available soon. It is possible that the project will provide the Town the opportunity to experiment with ideas such as car-sharing incentives, T-pass incentives, guaranteed rides home, etc.

Financing: It is anticipated that the cost of acquiring 108–111 Cypress Street ultimately will be rolled into a debt exclusion tax override proposal that would require approval by Brookline's voters. The debt exclusion override also would include the cost of constructing a BHS building on the property. Because of the Town's decision to retain bond premiums earned last spring (instead of reducing the amount borrowed), the Town is believed to have sufficient capacity to meet the carrying costs of any short-term borrowing needed to buy the property and hold it until the debt exclusion vote.

Obligations to Brigham and Women's Physicians Organization (BWPO): The property is currently used by BWPO for administrative space, not medical office space. The lease between the property owner and BWPO, the full contents of which are not known to the

Town, will be voided when the Selectmen issue the order of taking. As such, the Town will not be a party to the lease terms. The Town will, however, be expected to provide moving costs for current tenants. Such costs will not include making up any rent differential between what the existing lease contains and the cost of occupancy for wherever the tenant moves. The relocation costs have been estimated at approximately $250,000 and are included in the $0.5 million for ancillary costs, to be approved by Town Meeting under Article 4. The question of whether BWPO can remain in the property until the debt exclusion vote is taken is believed to primarily be a function of whether the Town finances the acquisition using tax-exempt or taxable borrowings. Given what are believed to be the very attractive financial terms of the Brigham and Women's lease, finding a mechanism for the Town to maintain the tenant until the time of demolition is worth serious study.

Possible Debt Exclusion Failure: If a debt exclusion vote fails, or if an operating override to fund increased operating costs fails, the Town would still own the property at 108–111 Cypress Street. The Town would have options, including selling the asset on the open market to an investor or developer or keeping the property and using it for a different public purpose.

Can the Order of Taking Be Delayed Until a Debt Exclusion Vote is Completed? As of this writing, Town Counsel is not aware of any restriction on delaying the issuance of an order of taking until a debt exclusion vote is taken. However, there also is no definitive guidance that such a delay is allowable. There are many issues that suggest that opting to delay could be a fraught decision. Included among these issues are:

- The appraisal we receive in advance of Town Meeting would be stale, increasing the likelihood that a *Pro Tanto* award based on it could be successfully challenged as too low (meaning the Town would end up paying more).

- If the owner is, in the interim, able to obtain a Comprehensive Permit for the property, it strengthens any argument he can make that this taking is for the improper purpose of blocking his 40B (since it would then be a 40B development with its permit in hand).

- With no definitive guidance that such a long intervening period is allowable, the Town could be opening itself to a challenge that a late spring or early summer 2018 taking was procedurally invalid.

- There will be at least one Town Meeting in the intervening period where a vote to remove the authorization to take the property was passed.

Other public comments: One member of the public expressed concern that the 108–111 Cypress Street Committee—the committee formed to look at the possibility of taking the property—never held a public hearing, yet that committee's conclusions were part of the basis for the Selectmen and the Public Schools of Brookline to evaluate the Ninth Grade Academy options. However, the Advisory Committee's Capital Subcommittee noted that the 108–111 Cypress Street Committee had not met since last year, that its work was not

attached to a Warrant Article, and that it is not taking any position on Article 4. As such, that committee had no requirement to hold a public hearing.

RECOMMENDATION:

The Advisory Committee, by a vote of 21–0–1 recommends FAVORABLE ACTION on the motion offered by the Selectmen under Article 4.

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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.

A Vote of No Action was passed unanimously.

ARTICLE 5

FIFTH ARTICLE

Submitted by: Board of Selectmen

To see if the Town will vote to release and approve the remaining balance previously appropriated under Section 13, Special Appropriation No. 67 of Article 9 of the 2017 Annual Town Meeting, to fund schematic design services for the construction of a 9th elementary school to be located at 490 Heath Street, or, in the alternative, to re-appropriate the remaining balance 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, for feasibility and schematic design services for the construction of a 9th elementary school at a different location.

or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article would authorize funding to advance the design of an additional (9th) elementary school for Brookline. At the May 2017 Annual Town Meeting, Town Meeting authorized a limited amount of funding ($100,000 of the $1,500,000 appropriation) to move forward for additional work on the proposed school at 490 Heath Street- the Baldwin School site. The conditions placed on the remaining appropriation called for an affirmative vote from a subsequent town meeting after the Board of Selectmen, the School Committee and an Ad Hoc Subcommittee of the Advisory Committee receive the opinion of Town Counsel and/or outside counsel hired to review land use limitations and protections on both the Baldwin and Soule parcels. This legal analysis is continuing and will be completed by the November Town Meeting. However, pending review of a determination of the National Park Service pertaining to protection of the Baldwin Playground land parcel, alternative sites for the school may need to be considered. Given the potential need to consider privately owned land in this analysis, the Board of Selectmen and School Committee, joined by the Ad Hoc Subcommittee of the Advisory Committee, will conduct an initial review of such sites in executive session.

Should the Board and the School Committee decide that moving forward with the Baldwin site is not the best option for the Town, this article will allow for a re-appropriation of funds for feasibility and schematics for an alternate site. We expect an accelerated decision process if we need to consider alternate sites.

SELECTMEN'S RECOMMENDATION

A report and recommendation by the Board of Selectmen under Article 5 will be provided in the Supplemental Mailing.

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation by the Advisory Committee under Article 5 will be provided in the Supplemental Mailing.

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ARTICLE 6

SIXTH ARTICLE

Submitted by: Selectmen's Committee on Senior Tax Policy, contact Ben Franco

To see if the Town will vote to authorize the Board of Selectmen to petition the Legislature for a special act authorizing the Town to increase the maximum qualifying gross receipts amount for purposes of M.G.L. Chapter 59, Section 5 clause Forty-First A, from the amount of income determined by the commissioner of revenue for the purposes of subsection (k) of Section 6 of Chapter 62 for a single person who is not a head of household to that of married persons filing jointly, or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Senior Real Estate Tax Deferral program allows qualifying seniors to defer the payment of real estate taxes until they move, sell their home or pass away.

This article authorizes the Selectmen to petition the legislature to raise the income limit for eligibility for the program by tying it to the state's income limit for the senior "circuit breaker" tax credit for married persons filing jointly rather than for single taxpayers, allowing more Brookline seniors to qualify for the program.

Currently, the state's income limit for the senior "circuit breaker" tax credit for single taxpayers is $57,000; the income limit for married persons filing jointly is currently $86,000. The limits are indexed to inflation, annually.

SELECTMEN'S RECOMMENDATION

Article 6 is a vote for the authorization of the Board of Selectmen to petition the Legislature for a special act to increase the maximum income eligibility for the senior circuit breaker tax credit, which in turn would expand the eligibility for the Senior Tax Deferral program. This is the first recommendation of the Senior Tax Committee, which is a Selectmen's Committee as a result of the Special Fall 2016 Town Meeting Warrant Article 33 resolution concerning the review of tax programs for seniors with modest incomes.

Currently, under M.G.L. Chapter 59, Section 5, Clause Forty-First A, the maximum qualifying gross income amount for the senior circuit breaker tax credit is set at $57,000

for an individual and $86,000 for married persons filing jointly. These income limits are the parameters used for the Senior Tax Deferral program in Brookline.

The Selectmen acknowledge that this program has no tax abatements attached and the cost would remain nominal. The intent of the article is a home rule petition to raise the income limit of the tax deferral program to a higher ceiling than the current statewide average, because there is no direct tie between the deferral program and the circuit breaker tax credits. Due to the increasing cost of living in Brookline, there is a need to pursue the easing of the impact of property taxes on our senior community. The Brookline Community Aging Network (BCAN) supports this warrant article.

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on September 26, 2017 on the following:

VOTED: That the Town authorize the Board of Selectmen to petition the Legislature for a special act authorizing the Town to increase the maximum qualifying gross receipts amount for purposes of M.G.L. Chapter 59, Section 5 clause Forty-First A, from the amount of income determined by the commissioner of revenue for the purposes of subsection (k) of Section 6 of Chapter 62 for a single person who is not a head of household to that of married persons filing jointly;

Passed by a unanimous Vote

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 6 was submitted by the Selectmen's Committee on Senior Tax Policy. It would authorize the Board of Selectmen to petition the state legislature for Legislation to increase the qualifying income limit for Brookline's Senior Real Estate Tax Deferral program by tying that limit to the state's income limit for the senior Circuit Breaker tax credit for married persons filing jointly, rather than the (lower) limit for single taxpayers. This change would allow more Brookline seniors to qualify for the program. By a Vote of 19–0–3, the Advisory Committee recommends FAVORABLE ACTION.

BACKGROUND:
The Fall 2016 Town Meeting voted in favor of Warrant Article 33 of that Town Meeting and urged the Selectmen to form a Committee on Senior Tax Policy. The Committee evaluated residential property tax relief for moderate income senior home owners. Current Circuit Breaker tax relief offered by the Commonwealth of Massachusetts is inadequate for Brookline seniors. The Massachusetts Circuit Breaker Income Tax Credit, created in 1999, supports seniors 65 and older. As of 2015 Circuit Breaker tax credits provide up to $1,070 based on income (up to $57,000 for singles and up to $85,000 for a couple); and property value ($693,000 and below). Property values statewide are generally lower than they were in 2008, mostly due to declining property values in Western Massachusetts, but

values have continued to rise in Brookline, rendering many residents ineligible for Circuit Breaker tax relief.

The Selectmen's Committee on tax relief for seniors remains concerned about continued increases in property values in Brookline and about that fact that fewer eligible seniors that can take advantage of Circuit Breaker tax credits. Moreover, fewer Brookline seniors are eligible for Brookline's Senior Real Estate Tax Deferral Program, because eligibility for that program is tied to the income limits for the Circuit Breaker tax credits. Brookline's Senior Real Estate Tax Deferral program lets qualifying seniors defer payment of their property taxes until they move, sell their home, or pass away.

With possible upcoming local tax increases, due to overrides, Brookline's low and moderate income seniors are likely to struggle as their real estate taxes will only increase. Article 6 asks the Town to authorize the Board of Selectmen to petition the Legislature for a special act authorizing the Town to increase the maximum qualifying gross receipts amount for purposes of M.G.L. Chapter 59, Section 5 clause Forty-First A, from the amount of income determined by the commissioner of revenue for the purposes of subsection (k) of Section 6 of Chapter 62 for a single person who is not a head of household to that of married persons filing jointly.

The relevant state law is available online:
https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIX/Chapter59/Section5
https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIX/Chapter62/Section6k

DISCUSSION:
Favorable action on Warrant Article 6—and the passage of the proposed legislation—would result in qualifying a larger group of seniors with low and moderate incomes to participate in the Brookline Senior Real Estate Tax Deferral program. That program is not tied in any way to the state's Circuit Breaker Tax Credits Program other than using the same income limits to determine who can participate. Eligibility for the Brookline Senior Real Estate Tax Deferral program is calculated using the state's income limits for senior Circuit Breaker tax. (The Board of Assessors is responsible for applicants' eligibility requirements and will request necessary qualifying documents.) Currently, the state's income limit for the senior Circuit Breaker tax credit for single taxpayers is $57,000; the income limit for married persons filing jointly is now $86,000. The limits are annually indexed to inflation. The legislation called for in Article 6 would allow Brookline to use the income limit for married persons as the income limit for single persons. This increase in the income limit would enable more Brookline seniors to participate in the Brookline Senior Real Estate Tax Deferral program

Advisory Committee members regarded any attempt to increase eligibility for the Brookline Senior Real Estate Tax Deferral program as a step in the right direction. Even a series of small steps can help the seniors who most need relief from rising property taxes.

RECOMMENDATION:

By a Vote of 19–0–3, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen.

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ARTICLE 7

SEVENTH ARTICLE

Submitted by: Selectmen's Committee on Senior Tax Policy, contact Ben Franco

To see if the Town will vote to reduce the rate of interest on real property taxes that are deferred under the provisions of M.G.L. Chapter 59, Section 5 clause Forty-first A from five per cent per annum to the one-year average of the U.S. 10 year treasury constant maturity rate for the calendar year preceding the beginning of any fiscal year the eligible property owner enters into a tax deferral and recovery agreement with the board of assessors as provided in said Section 5 clause Forty-first A; provided that such rate of interest shall not be more than the maximum rate allowed under said clause Forty-First A, or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Senior Real Estate Tax Deferral program allows qualifying seniors to defer the payment of real estate taxes until they move, sell their home or pass away.

This article seeks to change the interest rate charged to participants from the current 5% to a variable rate that, within the limits of state law, will (i) in the near term substantially reduce the interest charged to participating seniors, and (ii) thereafter, vary in a manner that more closely reflect the Town's borrowing costs.

As of August 19, 2017, the benchmark rate cited in the Warrant Article was approximately 2.2%.

SELECTMEN'S RECOMMENDATION

Article 7 would change the annual interest rate for the Senior Tax Deferral program from 5% to an interest rate based on a 10 year treasury bond in the preceding year, adjusted July 1 of each year. This is the second recommendation of the Senior Tax Committee, which is a Selectmen's Committee as a result of the Special Fall 2016 Town Meeting Warrant Article 33 resolution concerning the review of tax programs for seniors with modest incomes.

The current 5% interest rate charged to seniors participating in the tax deferral program that sell their home or pass away, is higher than the Town's borrowing costs. The Treasury bond rate more accurately reflects the cost of the deferments, and it would cap at the 8% limit set by state law. To participate in the deferral program, there are specific guidelines:

- Requires ownership and occupancy.
- Is a deferral program, and not an abatement program.
- If a homeowner enters a nursing home, the deferral will be valid for the remainder of the tax year of eligibility.
- At the demise of the homeowner, or the sale of the property, it is important to pay off the deferred real estate taxes, since the interest rate increases immediately to 14%.
- If the home is owned by a trust, the occupant must be a trustee or beneficiary.
- Homeowners can choose to participate in the program for the years that they would want, but they must apply and qualify each year or desired eligibility.
- Tax Deferral rate remains for the life of the individual tax year loan.
- 50% of the value of one's home can be deferred.

The Brookline Community Aging Network (BCAN) supports this warrant article.

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on September 26, 2017 on the following motion:

VOTED That the Town will reduce the rate of interest on real property taxes that are deferred under the provisions of M.G.L. Chapter 59, Section 5 clause Forty-first A from five per cent per annum to the one-year average of the U.S. 10 year treasury constant maturity rate for the calendar year preceding the beginning of any fiscal year the eligible property owner enters into a tax deferral and recovery agreement with the board of assessors as provided in said Section 5 clause Forty-first A; provided that such rate of interest shall not be more than the maximum rate allowed under said clause Forty-First A;

Passed by a Unanimous Vote

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 7 was submitted by the Selectmen's Committee on Senior Tax Policy. It would authorize the Town to reduce the interest rate charged on real property tax deferrals for qualifying seniors who participate in the Brookline Senior Real Estate Tax Deferral program. Instead of charging a fixed rate of 5%, the Town would charge a rate tied to a benchmark rate, which would vary but is currently much lower than 5%. By a vote of 14–5–3, the Advisory Committee recommends FAVORABLE ACTION.

BACKGROUND:
The Fall 2016 Town Meeting voted in favor of Warrant Article 33 of that Town Meeting and urged the Selectmen to form a Committee on Senior Tax Policy. The committee evaluated residential property tax relief for low- and moderate-income senior homeowners. Warrant Article 7 seeks to reduce the rate charged on deferred real property taxes from 5% per annum to the one-year average of the U.S. 10-year treasury constant maturity rate for the calendar year preceding the beginning of the fiscal year in which the homeowner enters into the tax deferral program.

Qualifying participants in the Brookline Senior Real Estate Tax Deferral program agree to a deferral and recovery agreement with the Board of Assessors set out in M.G.L. Chapter 59, Section 5 clause Forty-first A.

The relevant state law is available here:
https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIX/Chapter59/Section5
https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIX/Chapter62/Section6k
https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIX/Chapter60/Section3D

The Brookline Senior Real Estate Tax Deferral program operates as follows.

- The participating seniors can defer real estate taxes until they move, sell their home, or pass away, but the deferred taxes are then payable with interest.
- Participation in the program requires ownership and occupancy. This tax deferral program provides no tax abatement and interest is charged on any taxes deferred.
- In the event a homeowner permanently enters a nursing home, the deferral will be valid for the remainder of the tax year of eligibility, but the homeowner will not be eligible for future years.
- At the demise of the homeowner it is important to pay off the deferred real estate taxes as soon as possible, because the interest rate increases immediately to 14% going forward.
- When ownership of a home is in a trust the occupant of the home must be a trustee and beneficiary.
- Homeowners wishing to participate in the Tax Deferral Program do not have to sign up for life: they can participate for one year, take a break for several years, and return to participate whenever it suits them, but they must apply and qualify each year of desired eligibility.
- The tax deferral interest rate remains in effect for the life of the individual tax year loan.
- 50% of the value of one's home can be deferred.
- Interest charged on the referral loan is simple interest.

DISCUSSION:
Article 7 would lower (at current interest rates) the annual interest rate charged on deferred taxes under the Senior Real Estate Tax Deferral program. That charge now stands at 5%. The Article seeks Town Meeting's approval to peg the rate each year to the average interest rate of a 10-year U.S Treasury bond in the preceding calendar year; the rate used by the

deferral program would be set for each fiscal year prior to July 1 and would then apply to participants entering the program during that fiscal year. The U.S. Treasury rate is a good benchmark to use, because this is generally the reference rate the Town uses when borrowing.

The 10-year U.S Treasury bond rate was 2.17% on September 12, 2017, when the Advisory Committee was beginning its consideration of Article 7. As of October 24, 2017, the rate had risen to 2.42%. Rates have generally been low in recent decades, but increases are possible in the future. Should the benchmark rate rise, as it well could, the interest rate charged to qualifying seniors would never exceed the 8% limit set by state law.

Some concerns were raised by Advisory Committee members who felt that Article 7 does not provide enough relief for low- and moderate-income seniors. Homeowners who participate in the Senior Real Estate Tax Deferral program borrow from the Town to pay their taxes and are charged interest. Deferred taxes are no longer tax deductible, so participation in this program may result in an increase in federal tax payments by participating seniors. In many cases, however, the taxes saved by using the federal deduction for real estate taxes may be a small amount, because low- and moderate-income seniors are likely to be in a low federal tax bracket. Moreover, the future of the federal deduction for real estate taxes is uncertain. Individual homeowners will need to determine whether it is to their advantage to participate in the program. All other things being equal, reducing the interest rate from the current 5% level is likely to make participation in the program more advantageous for eligible Brookline seniors.

One advantage of Article 7 is that the proposed changes in the program would be easy to administer for the Town. Together with other existing programs (such as Tax Work Off for renters and homeowners) the tax burden on seniors will lessen as a result of the change in the interest rate charged by the tax deferral program.

RECOMMENDATION:
By a vote of 14–5–3, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen.

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ARTICLE 8

EIGHTH ARTICLE

Submitted by: Selectmen's Committee on Senior Tax Policy, contact Ben Franco

To see if the Town will vote to accept the provisions of Section 3D of Chapter 60 of the Massachusetts General Laws, thereby establishing a taxation aid committee and aid to the elderly and disabled taxation fund as provided in said Section 3D; or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

By accepting the provisions of Section 3D of Chapter 60 of the Massachusetts General Laws, Brookline would be authorized (subject to approval by the state Commissioner of Revenue) to design and designate a place on its municipal tax bills, or the motor vehicle excise tax bills, or to mail with such tax bills a separate form, whereby taxpayers could voluntarily check off, donate and pledge an amount not less than $1 or such other designated amount which would increase the amount otherwise due, and to establish a fund, for the purpose of defraying the real estate taxes of elderly and disabled persons of low income.

The taxation aid committee would consist of the chairman of the board of assessors, the Town treasurer and three Brookline residents appointed by the board of selectmen. The committee will be charged with adopting rules and regulations to carry out the provisions of Section 3D of Chapter 60 and to identify the recipients of aid.

SELECTMEN'S RECOMMENDATION

Article 8 would allow Brookline a place on their tax bill where taxpayers could make a voluntary donation to aid elderly and disabled persons of low income taxpayers with their real estate taxes. This is the third recommendation of the Senior Tax Committee, which is a Selectmen's Committee as a result of the Special Fall 2016 Town Meeting Warrant Article 33 resolution concerning the review of tax programs for seniors with modest incomes.

The Town has the ability to accept the provisions of Section 3D of Chapter 60 of the Massachusetts General Laws, which would authorize the Town (subject to the approval by

the Commissioner of Revenue) to design and designate a place on its municipal tax bills, or the motor vehicle excise tax bills, or to mail with such tax bills a separate form, whereby taxpayers could voluntarily donate and pledge additional money to a fund, for the purpose of defraying the real estate taxes of elderly and disabled persons of low income. The fund would be overseen by a Taxation Aid Committee, to be appointed by the Board of Selectmen.

The Selectmen noted that the program is available in other communities, with moderate success. Although the funds have not generated a tremendous amount of money, it does not discount that it is a meaningful contribution. There would have to be an awareness campaign if the program was eventually introduced, so that it can give as many taxpayers as possible the ability to participate. The Brookline Community Aging Network (BCAN) supports this warrant article.

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on September 26, 2017 on the following motion:

VOTED: That the Town will accept the provisions of Section 3D of Chapter 60 of the Massachusetts General Laws, thereby establishing a taxation aid committee and aid to the elderly and disabled taxation fund as provided in said Section 3D;

Passed by a unanimous vote

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 8 was submitted by the Selectmen's Committee on Senior Tax Policy. It would accept the provisions of Chapter 60 Section 3D of the Massachusetts General Laws authorizing voluntary tax bill relief donations that could be used to defray tax payments for low-income Brookline seniors and disabled residents. A Taxation Aid Committee would administer any funds that were donated. By a vote of 10–8–4, the Advisory Committee recommends FAVORABLE ACTION.

BACKGROUND:
The Fall 2016 Town Meeting voted in favor of Warrant Article 33 of that Town Meeting and urged the Selectmen to form a Committee on Senior Tax Policy. The Committee evaluated residential property tax relief for low- and moderate-income senior homeowners. Warrant Article 8 seeks to develop a tax bill "check off" program that would enable Brookline taxpayers to donate any amount above $1 to a fund to support payment of real estate taxes of other taxpayers deemed in need of relief. The check off could appear on bills for real estate taxes or for motor vehicle excise taxes, or a separate donation form could be mailed with tax bills.

State law allows for such programs:

https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIX/Chapter60/Section3D

DISCUSSION:
The fund established by Article 8 could be used to defray the tax payments of low-income elderly and disabled homeowners, possibly thereby enabling such residents to remain in their own homes. Donations to the fund from Brookline taxpayers would be voluntary. Once the fund is established, the Board of Selectmen would appoint three Brookline residents to a Taxation Aid Committee, which would also include the chair of the Board of Assessors and the Town's Treasurer. The Taxation Aid Committee would be charged with developing criteria for eligibility of disbursement of funds, i.e., identifying recipients of aid. No criteria have been developed and cannot be developed until the tax bill check off program is voted on.

Several concerns were raised about administration and fundraising aspects of the program and fund that would be created under Article 8. However, costs to include a check off box on each tax bill are minimal, because the tax bill is annually reformatted. The Town Assessor feels that administration of donations would be easy.

Some Advisory Committee members raised concerns that the effort in administering and publicizing the check off program and the fund might not be in balance with the small amounts that might be donated. It is hard to predict the amounts that would be contributed. Newton has a similar program, having established its Taxation Aid Committee in 2004. In September 2017, that city had $3,000 in its fund. Another concern is that taxpayers with mortgages generally pay taxes through escrow payments sent to the mortgage hold. Such taxpayers may not pay close enough attention to their bills, making it less likely that this group will contribute to the fund. Despite these concerns and uncertainties, a majority of the Advisory Committee regarded the proposed check off program as another step in the right direction.

RECOMMENDATION:
By a vote of 10–8–4, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen.

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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.

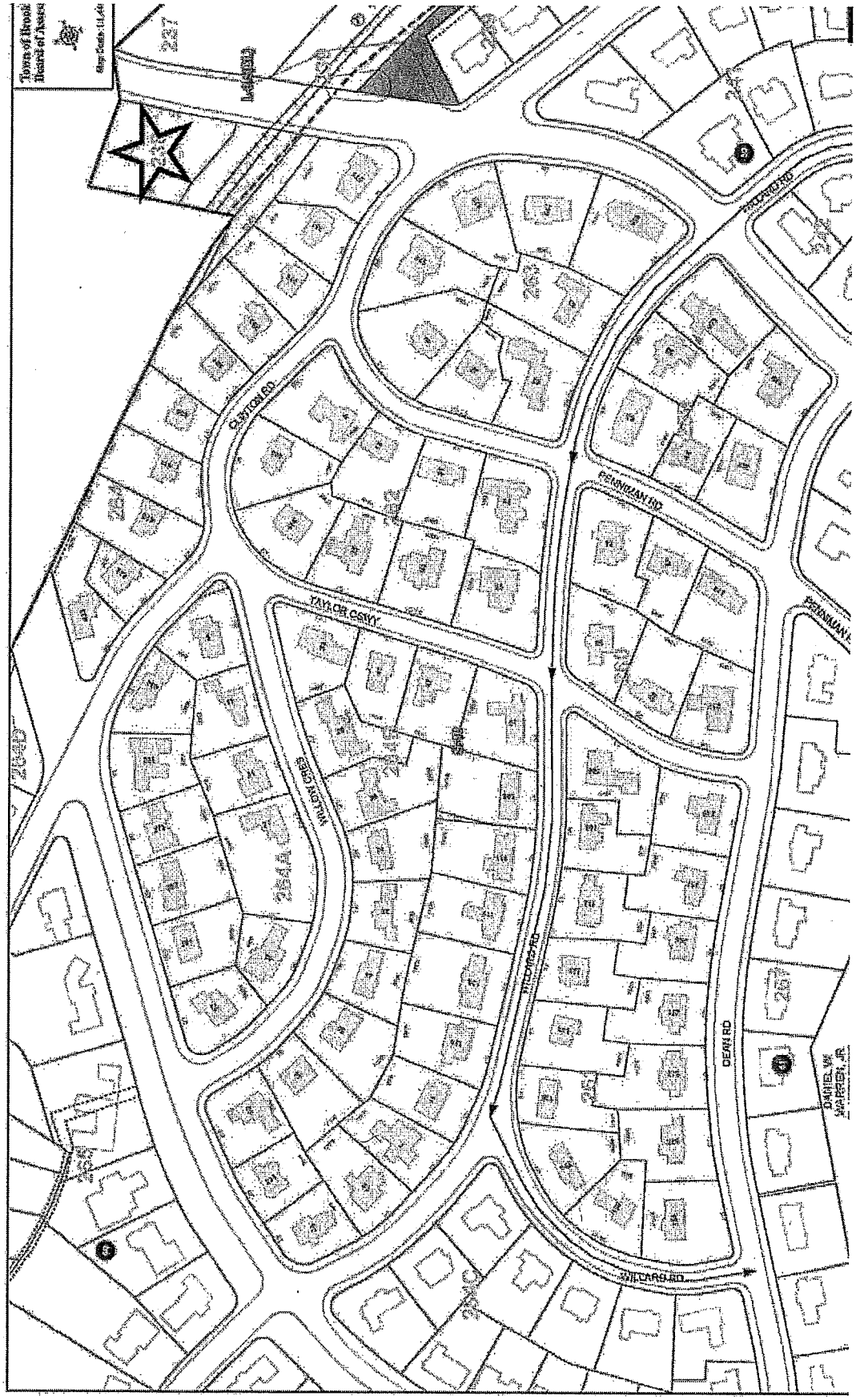
(d) Once issued, the licensing authority shall not approve the transfer of the licenses to any other location but it may grant the licenses to new applicants at the same location if the applicants file with the licensing authority a letter from the department of revenue and a letter from the division 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.

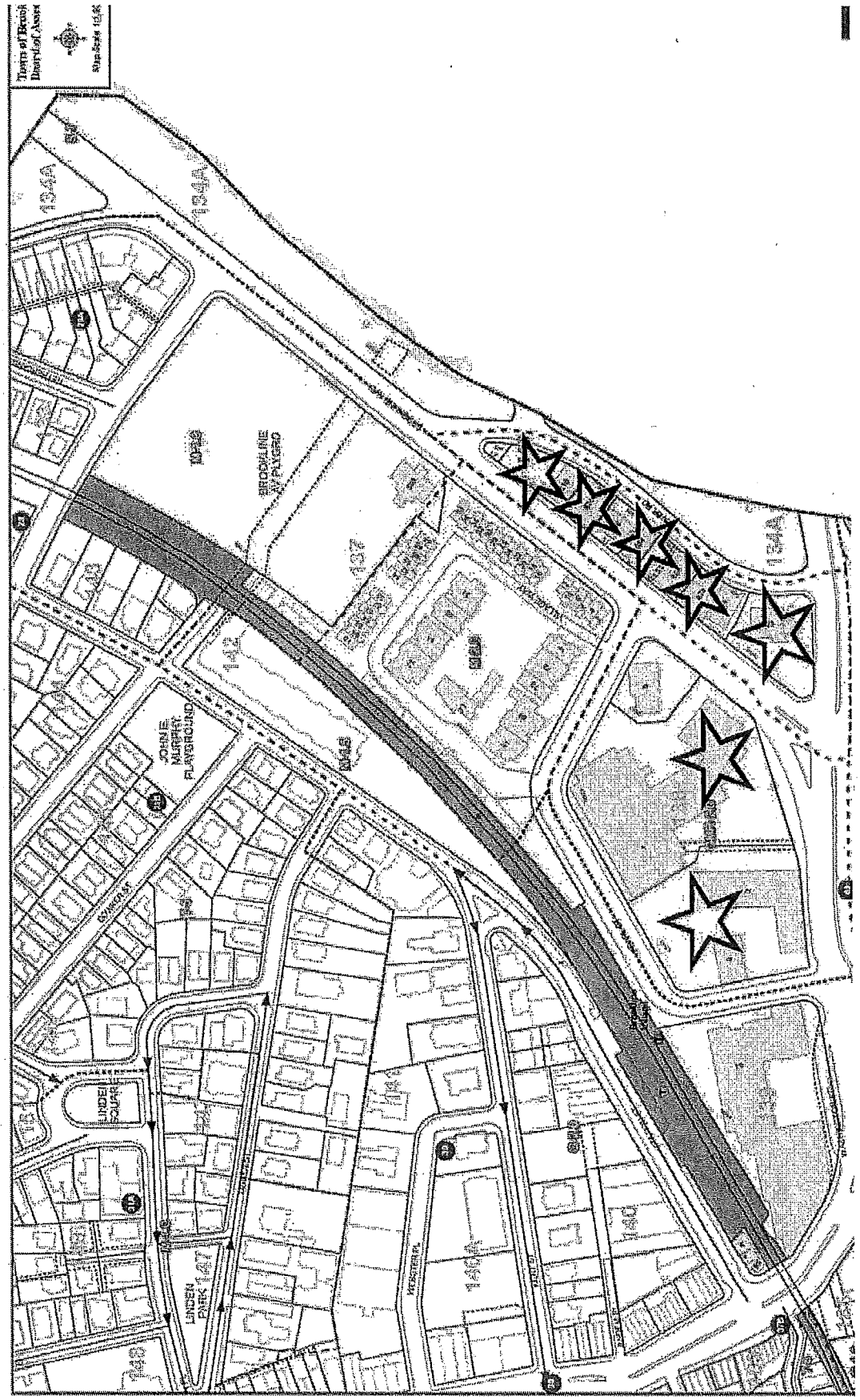
The General Court may make such amendments as are within the scope of the general public objectives of this petition.

MAP 1



★ Denotes lot receiving additional licenses

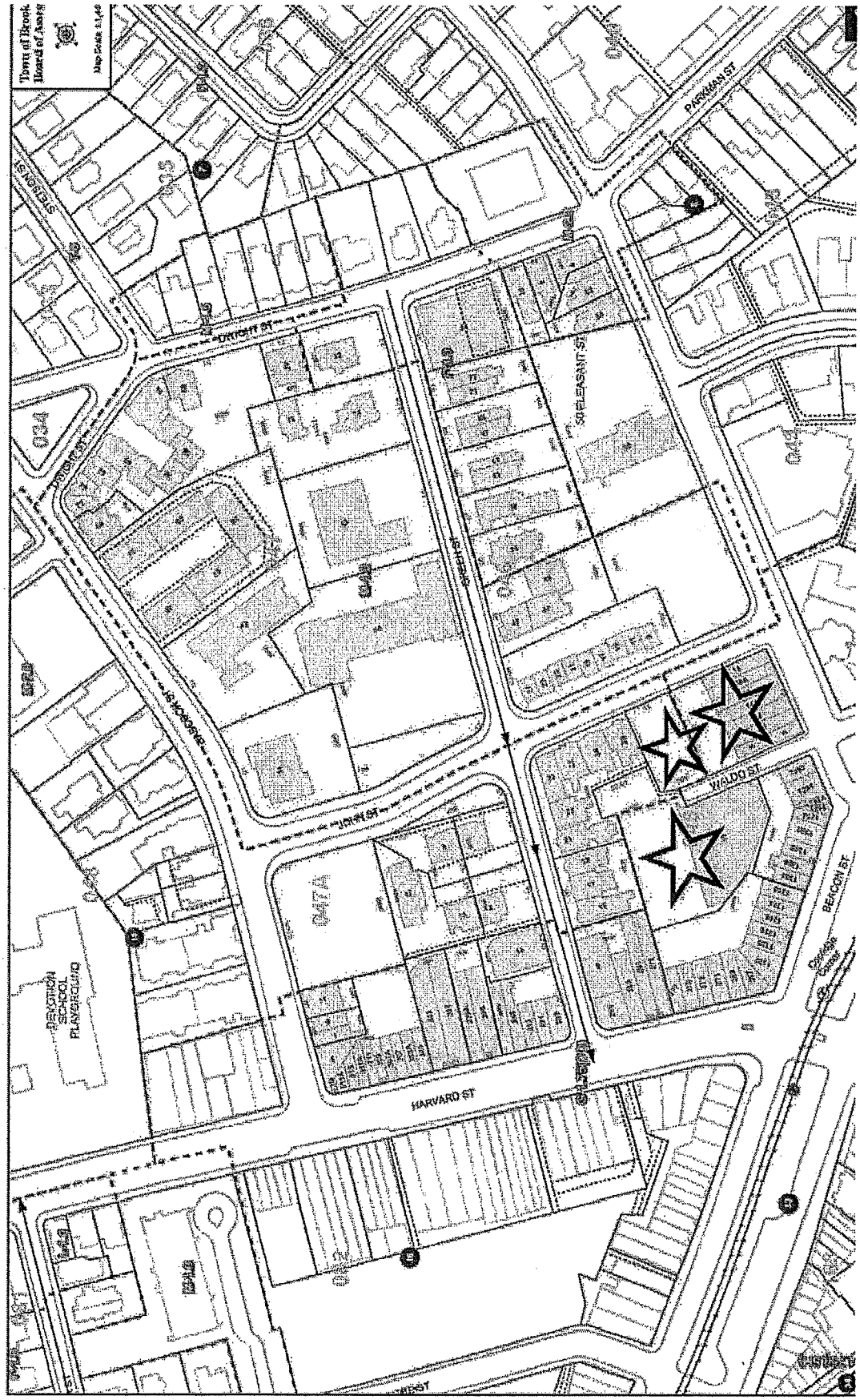
MAP 2



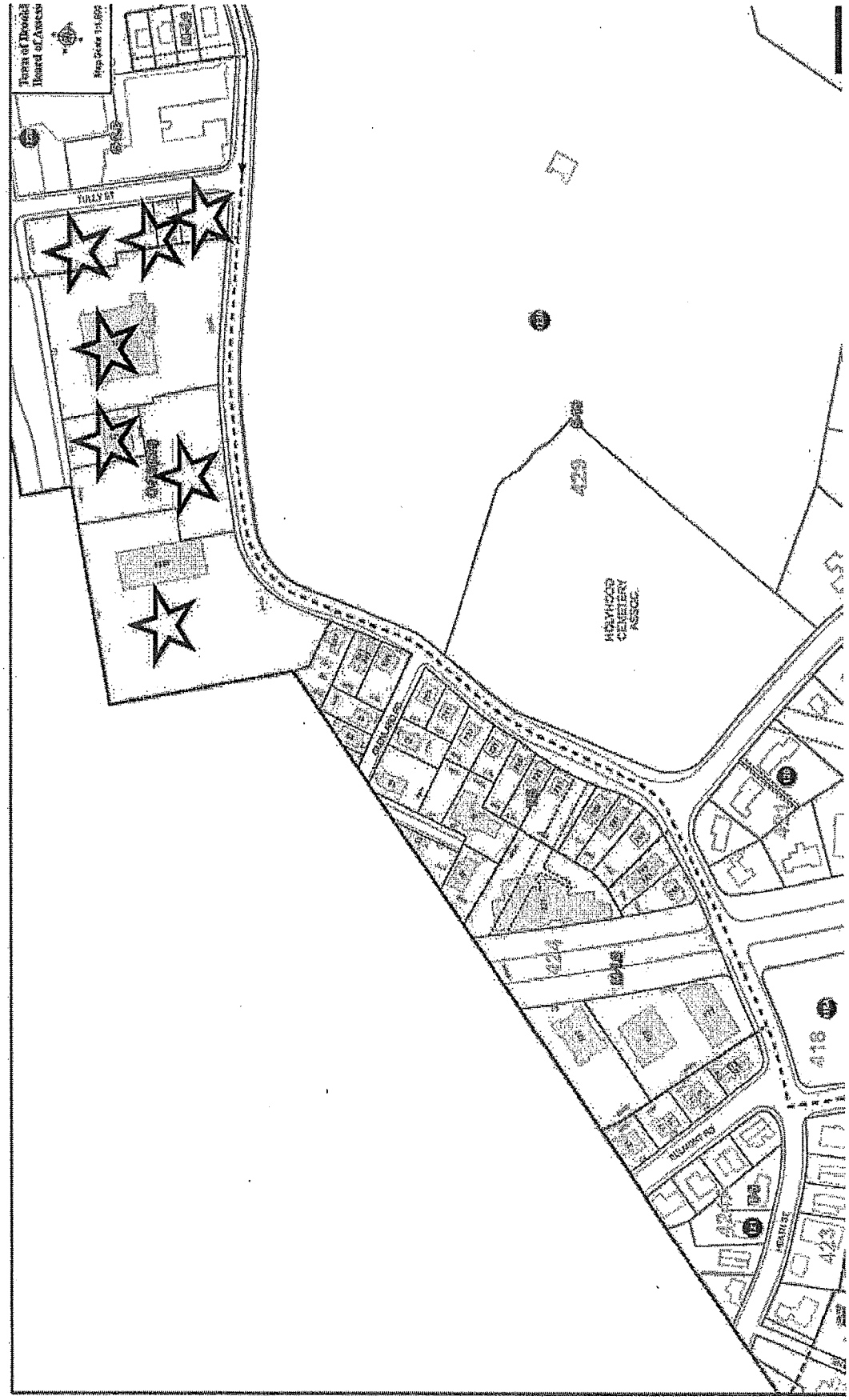
☆ Denotes lots receiving additional licenses

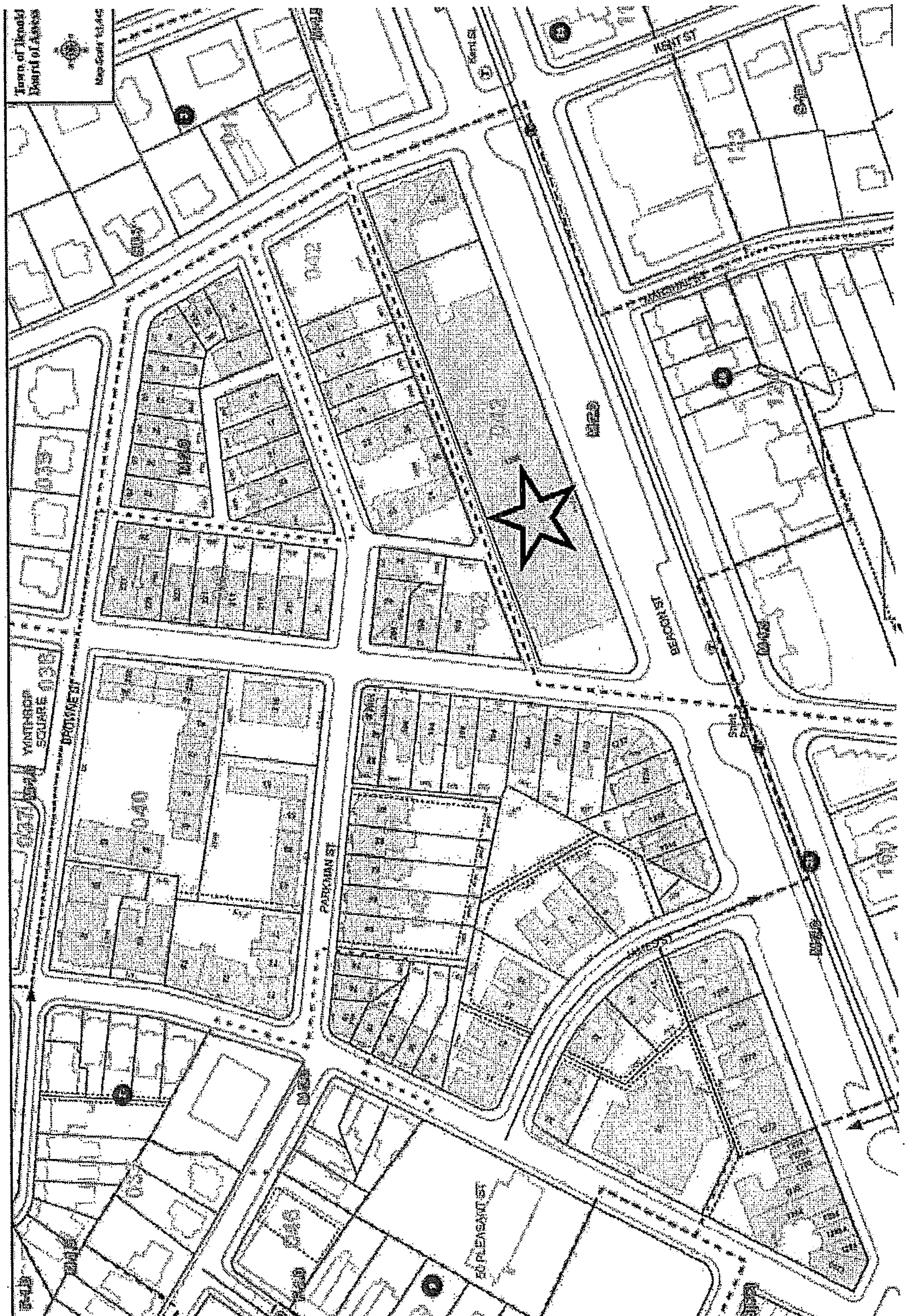
MAP 3

★ Denotes lots receiving additional licenses



MAP 4


Denotes lots receiving additional licenses
TULLY ST
HOLYHOOD CEMETERY ASSOC.
429
424
418
423



MAP 5

★ Denotes lot receiving additional licenses

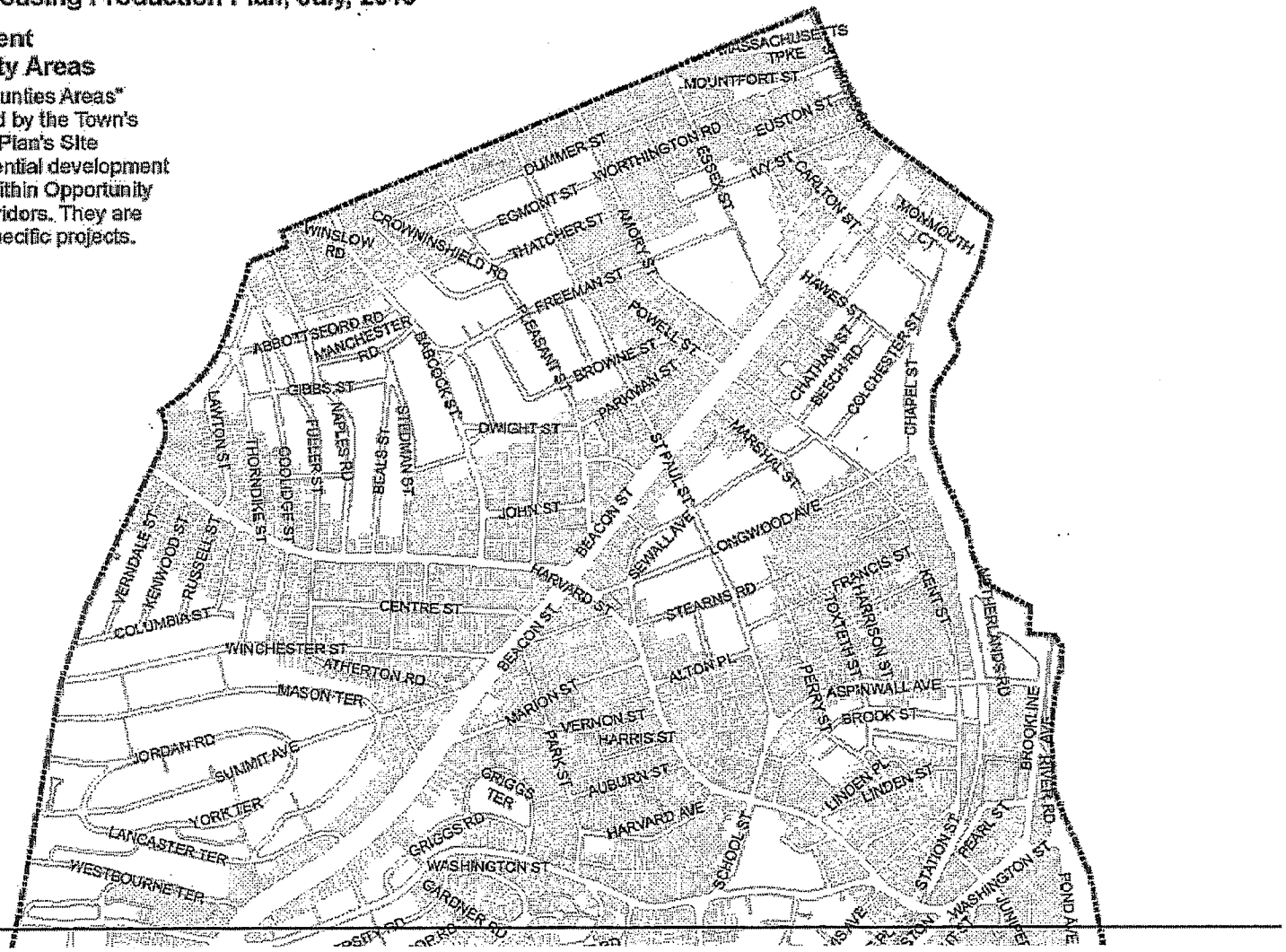
Development Opportunity Areas
MAP 6-A

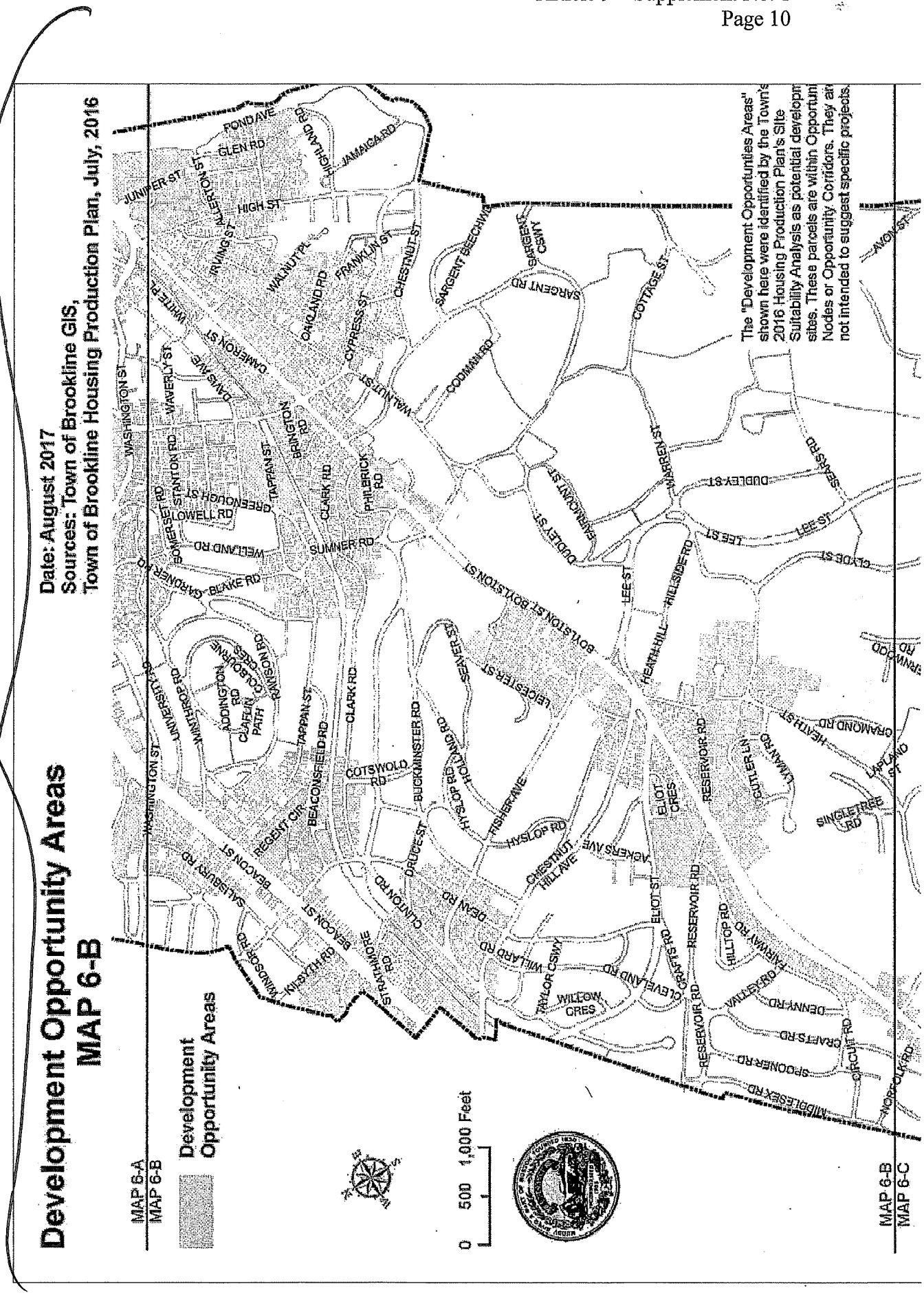
Date: August 2017
Sources: Town of Brookline GIS,
Town of Brookline Housing Production Plan, July, 2016

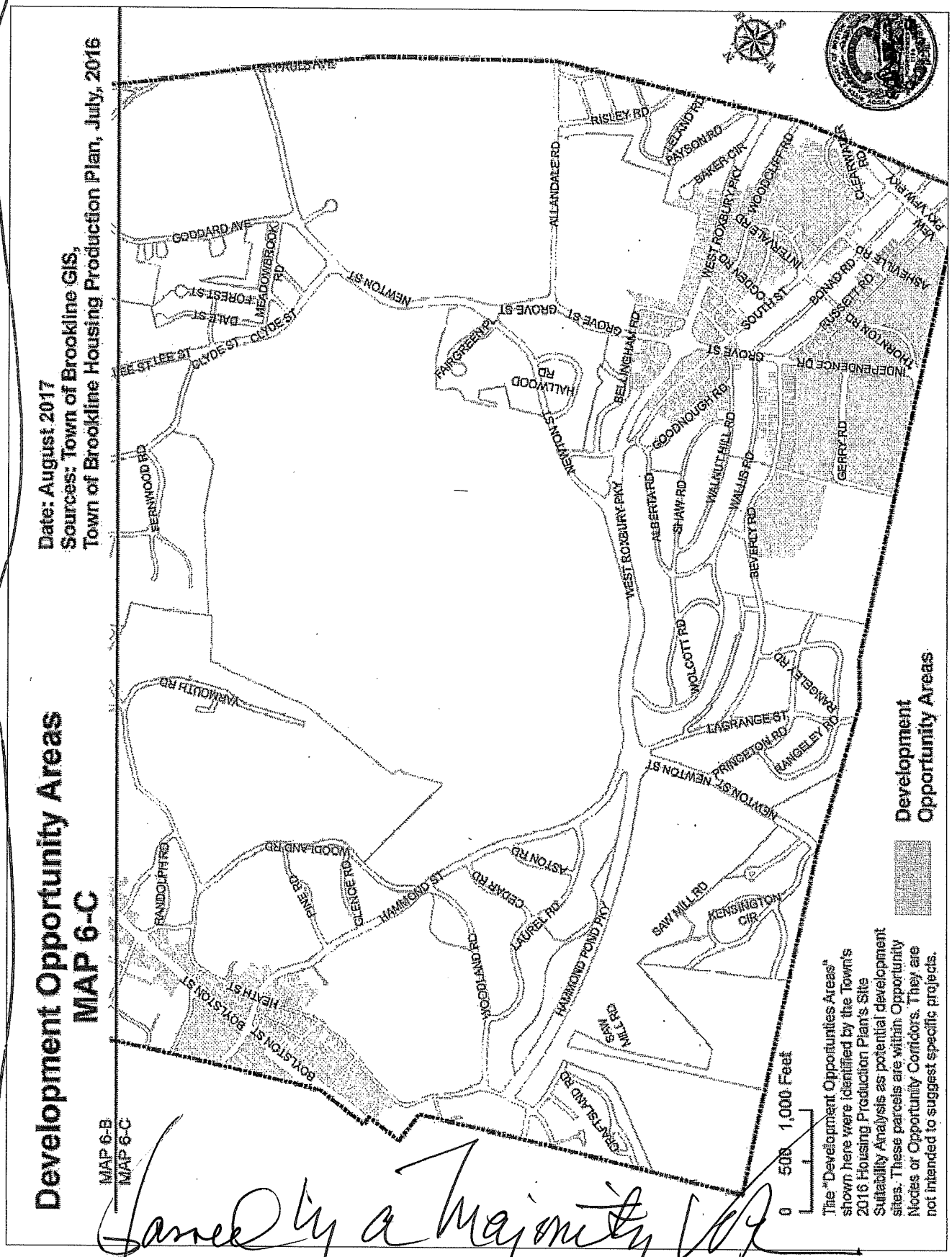
Development Opportunity Areas

The "Development 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.

0 500 1,000 Feet




Development Opportunity Areas
MAP 6-B
Date: August 2017
Sources: Town of Brookline GIS,
Town of Brookline Housing Production Plan, July, 2016
MAP 6-A
MAP 6-B
Development Opportunity Areas
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.
MAP 6-B
MAP 6-C



Passed by a Majority Vote

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 9

AMENDMENT OFFERED BY JOEL FEINGOLD (TMM1)
(shown as strikethroughs; additions shown as **bold underline**.)

VOTED that the Town authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

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~~ **30** 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~~ **3** 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~~ **1** 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.

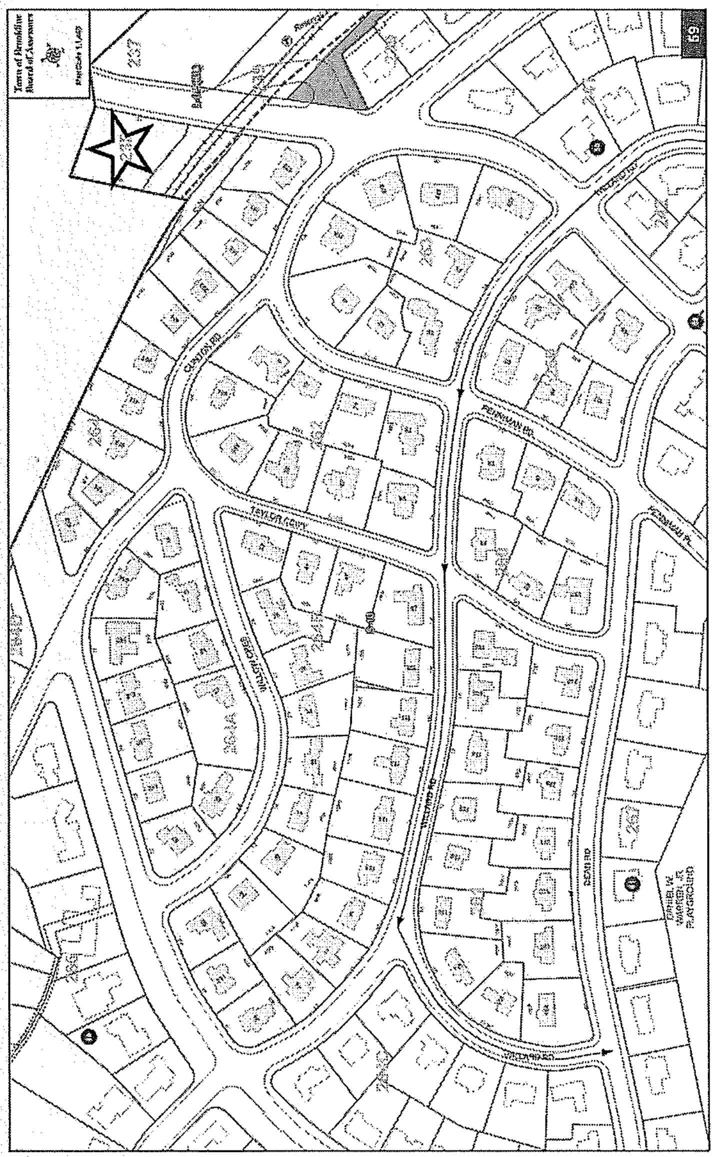
(d) Once issued, the licensing authority shall not approve the transfer of the licenses to any other location but it may grant the licenses to new applicants at the same time if the applicants file with the licensing authority a letter from the department of revenue and a letter from the division of 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 of 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 application 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.

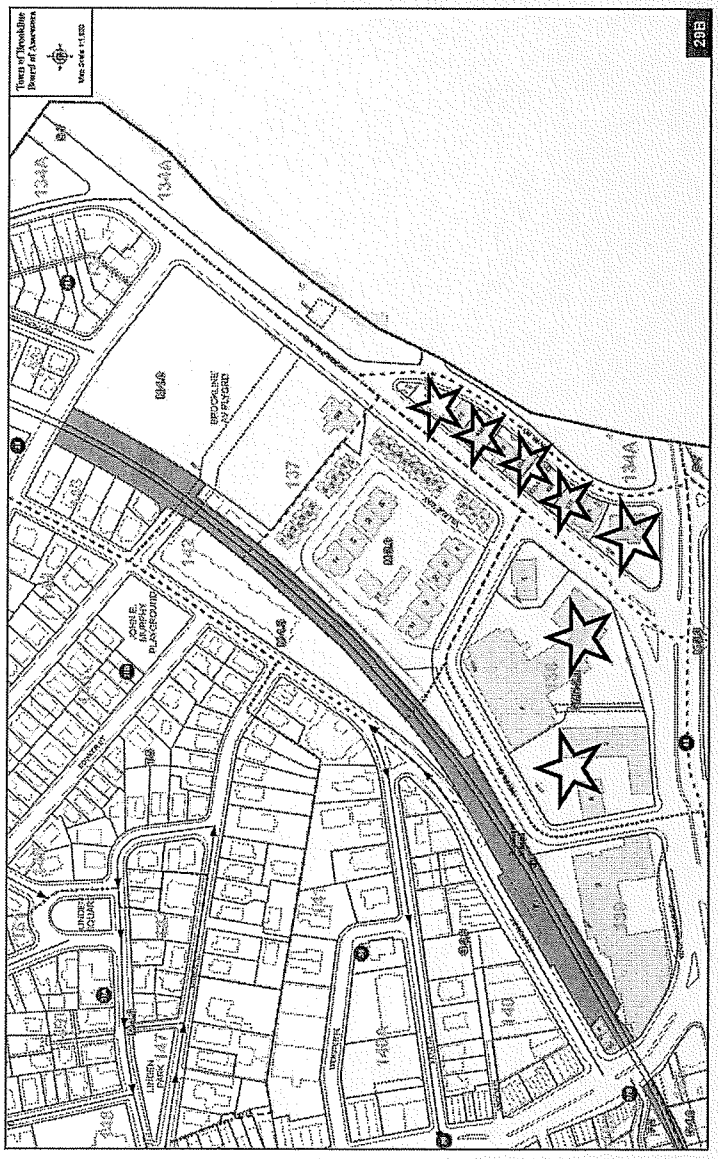
MAP 1



★ Denotes lot receiving additional licenses

MAP 2

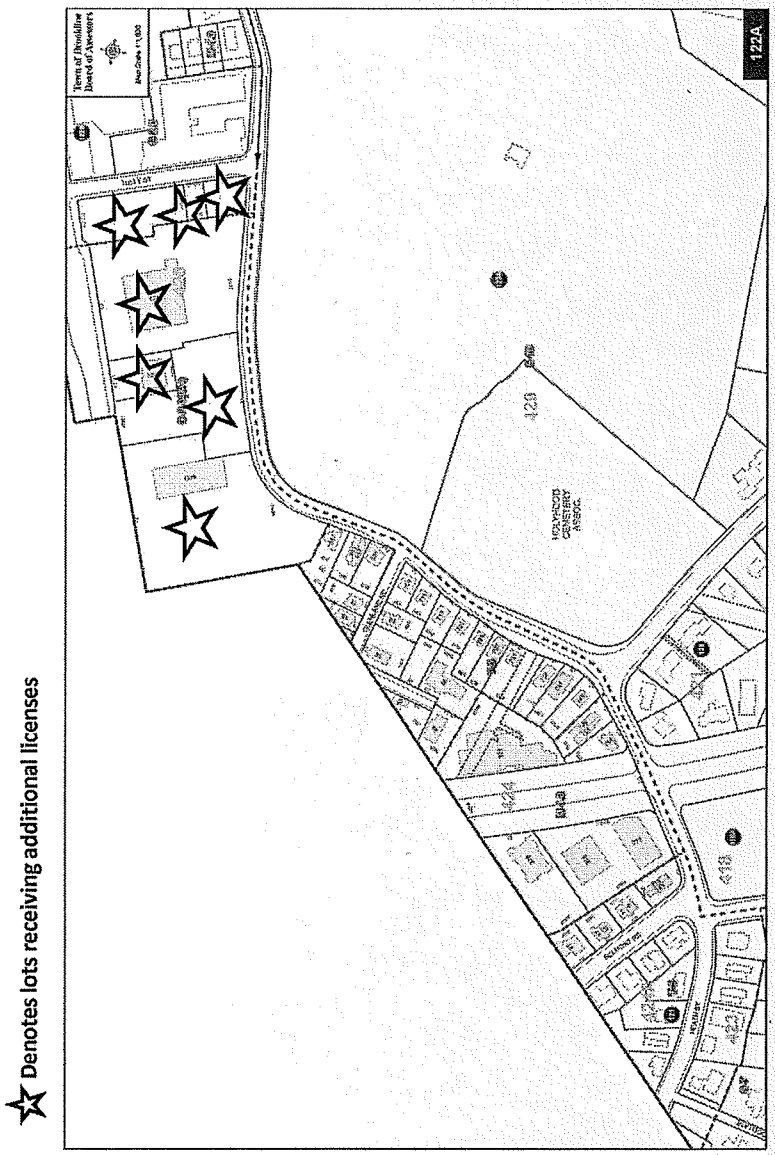
☆ **Denotes lots receiving additional licenses**



MAP 3

★ **Denotes lots receiving additional licenses**

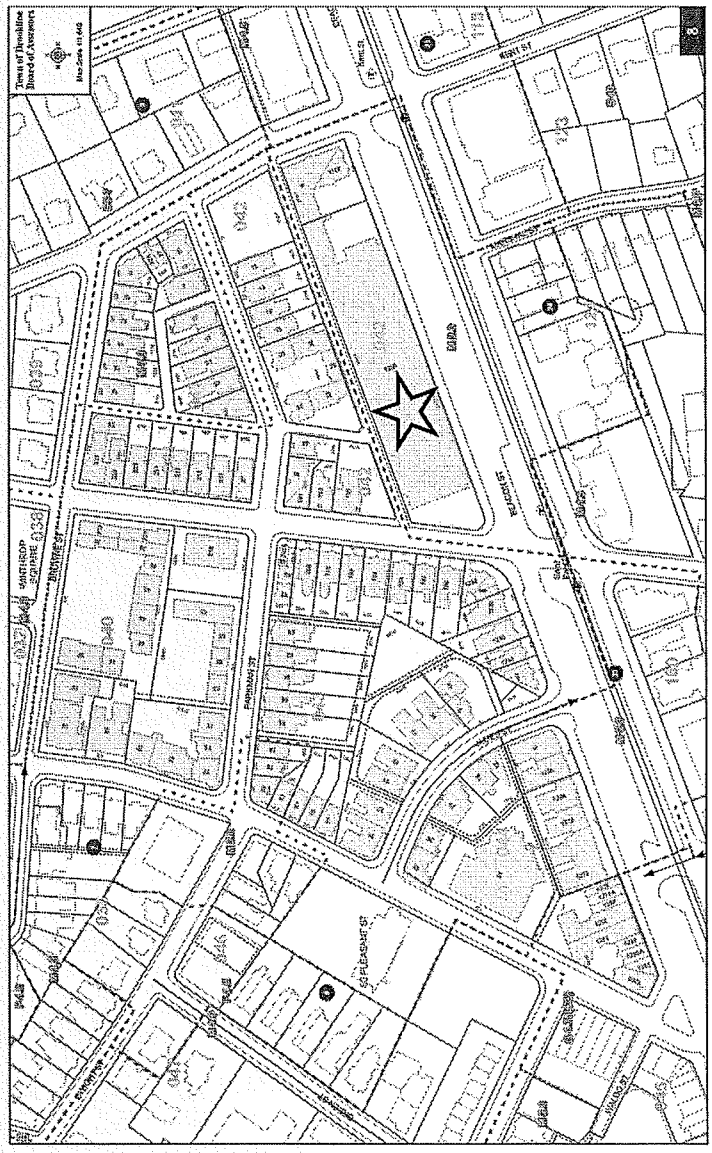
MAP 4



☆ Denotes lots receiving additional licenses

MAP 5

☆ **Denotes lot receiving additional licenses**



MAP 6-A AMEND

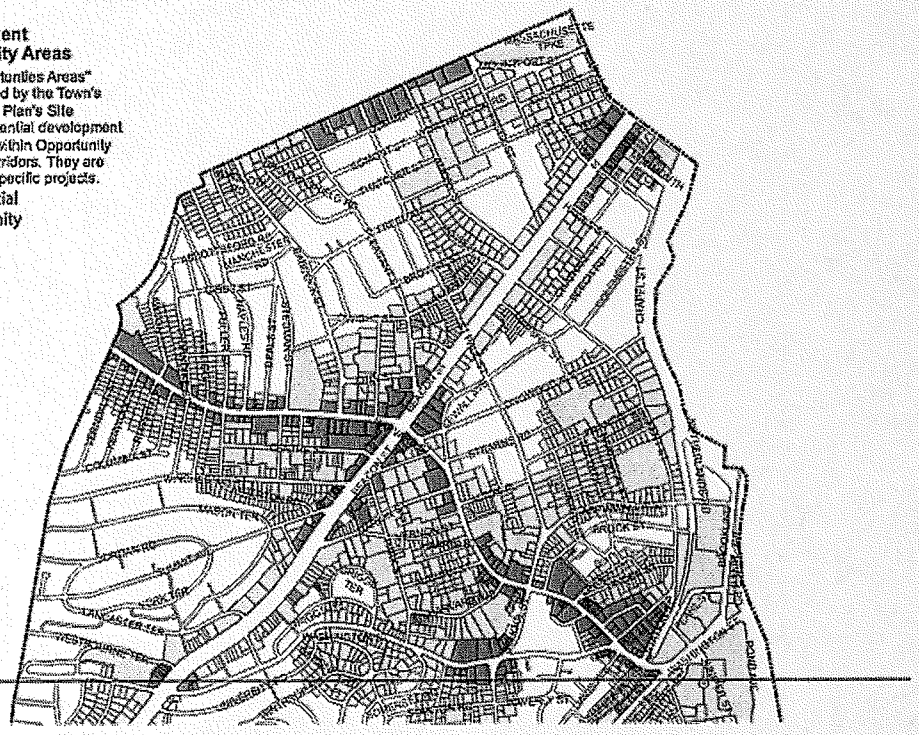
Date: November 2017
Sources: Town of Brookline GIS,

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.

Commercial Opportunity Areas

0 500 1,000 Feet



MAP 6 B AMEND

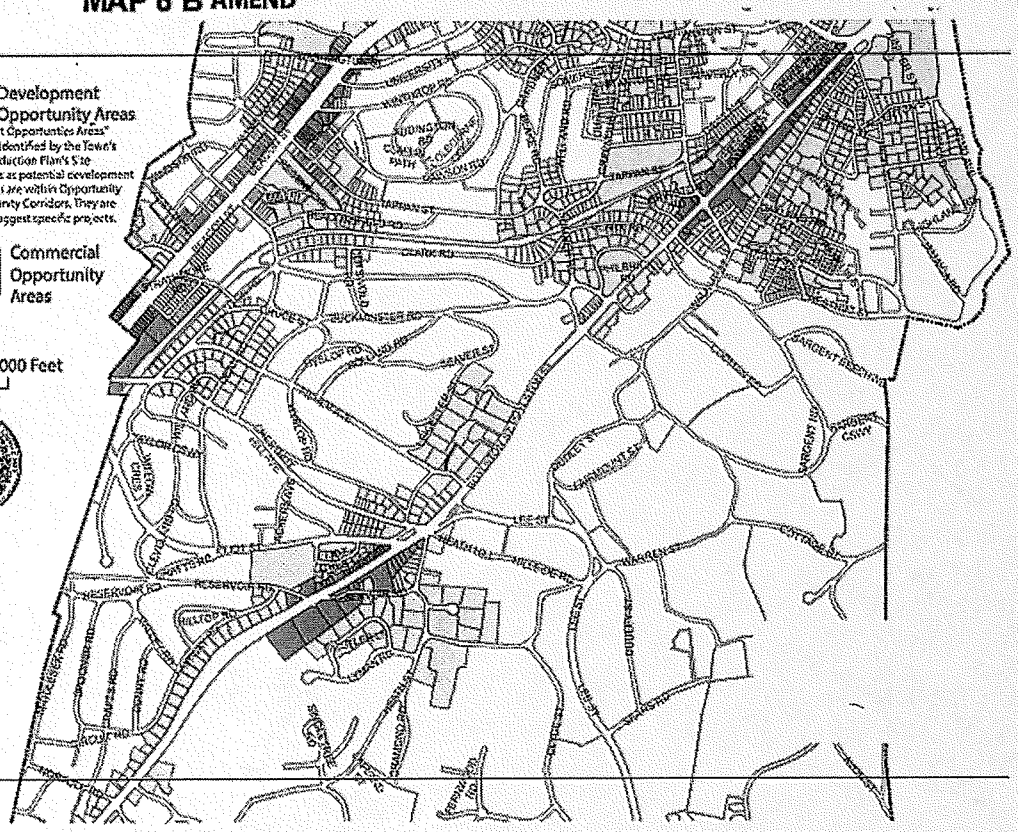
Date: November 2017
Sources: Town of Brookline GIS,

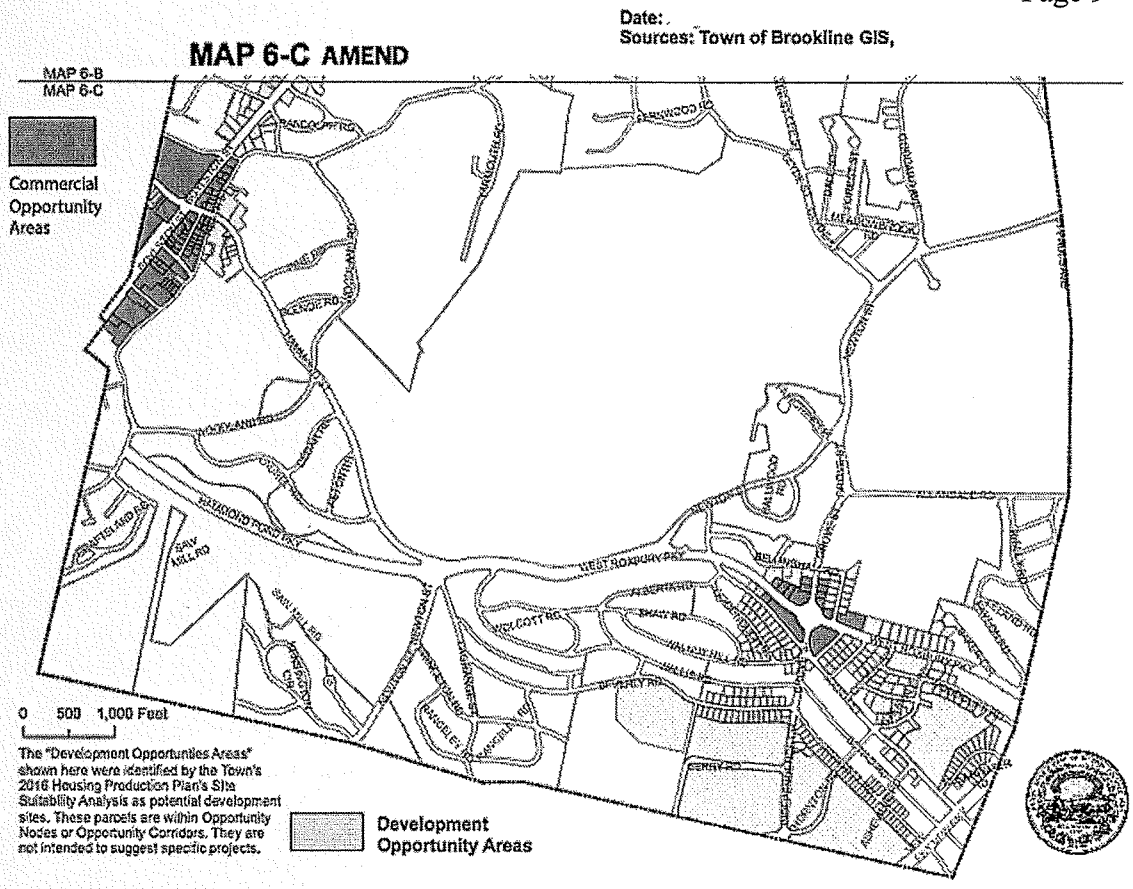
Development Opportunity Areas

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.

Commercial Opportunity Areas

0 500 1,000 Feet





AMENDMENT DESCRIPTION

As of the submission of this warrant article, the Town has only two available on-premises liquor licenses and is in receipt of applications for those licenses. State law sets the number of a municipalities' maximum number of licenses based on the municipality's population as determined by the census (G.L. c. 138, § 17). The Town is concerned that the unavailability of liquor licenses will negatively impact the economic vibrancy of our commercial areas by significantly reducing the likelihood of redevelopment of underutilized sites as well as limit the prospects for new businesses to occupy vacant storefronts. This petition is intended to secure additional liquor licenses for the Town in order to assure the availability of licenses for the several parcels of land currently undergoing redevelopment. (The foregoing is restated from the original Article.)

This Amendment takes into account certain neighborhood concerns which were not prioritized in the original Article. In two cases it reduces the additional licenses potentially to be issued in the respective neighborhoods, and in two cases it reduces the size of the areas to which licenses might be assigned. Taking each local set of proposed licenses in turn:

* Item (b) (i), a parcel in Cleveland Circle, formerly the site of the Circle Cinema; (Map 1); this is retained as in the original. 1 additional license.
* Item (b) (ii) (iii) & (iv) certain parcels on Brookline Place; a parcel formerly the site of a Gulf station and multiple parcels currently occupied by industrial uses in Brookline Village; (Map 2); this is retained as in the original. 7 additional licenses.
* Item (b) (v), certain parcels in Coolidge Corner in the vicinity of Waldo Street; (Map 3); this is retained as in the original. 3 additional licenses.
* Item (b) (vi), certain parcels in Chestnut Hill in the vicinity of Tully Street (Map 4); responding to neighborhood input, the number of additional licenses is reduced from 5 to 3.
* Item (b) (vii), 1200 Beacon Street, currently the Holiday Inn. The original article proposed 4 additional licenses. The Save Beacon Street Neighborhood Association is strongly opposed to increased commercial activity in this location. With the exception of the hotel and its restaurant, and Takusan Sushi, on the inbound side of Beacon Street opposite, there is no other retail type business in the immediate vicinity. The neighborhood is otherwise all residential. Coolidge Corner and the St Mary's business district are 1/4 mile in each direction. A redeveloped hotel only requires one license for its restaurant and bar which is has now. One additional license is proposed for a leased out restaurant.
* Item (b) (viii) & (ix), were explained in the original article as follows: "In addition, given the impending unavailability of liquor licenses, the petition is intended to request several additional liquor licenses restricted to locations within "development opportunity areas." But the maps used were the result of the Town's 2016 Housing Production Plan Site Suitability Analysis for HOUSING development, not commercial activities. As such, this allocation is inappropriate. At the least, it is the first step toward commercial development which would, in nearly all cases, be adverse to the residential neighborhoods. In this Amendment, "Commercial Opportunity Areas" are created and shown on the maps titled Map 6-A Amend, 6-B Amend, and 6-C Amend)." These are carefully curated so that the increased commercial development takes place in areas which are either already commercial or immediately adjacent to commercial and make sense within the overall structure of the immediate neighborhood.

ARTICLE 9

NINETH ARTICLE

Submitted by: Board of Selectmen

To see if the Town will authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

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.

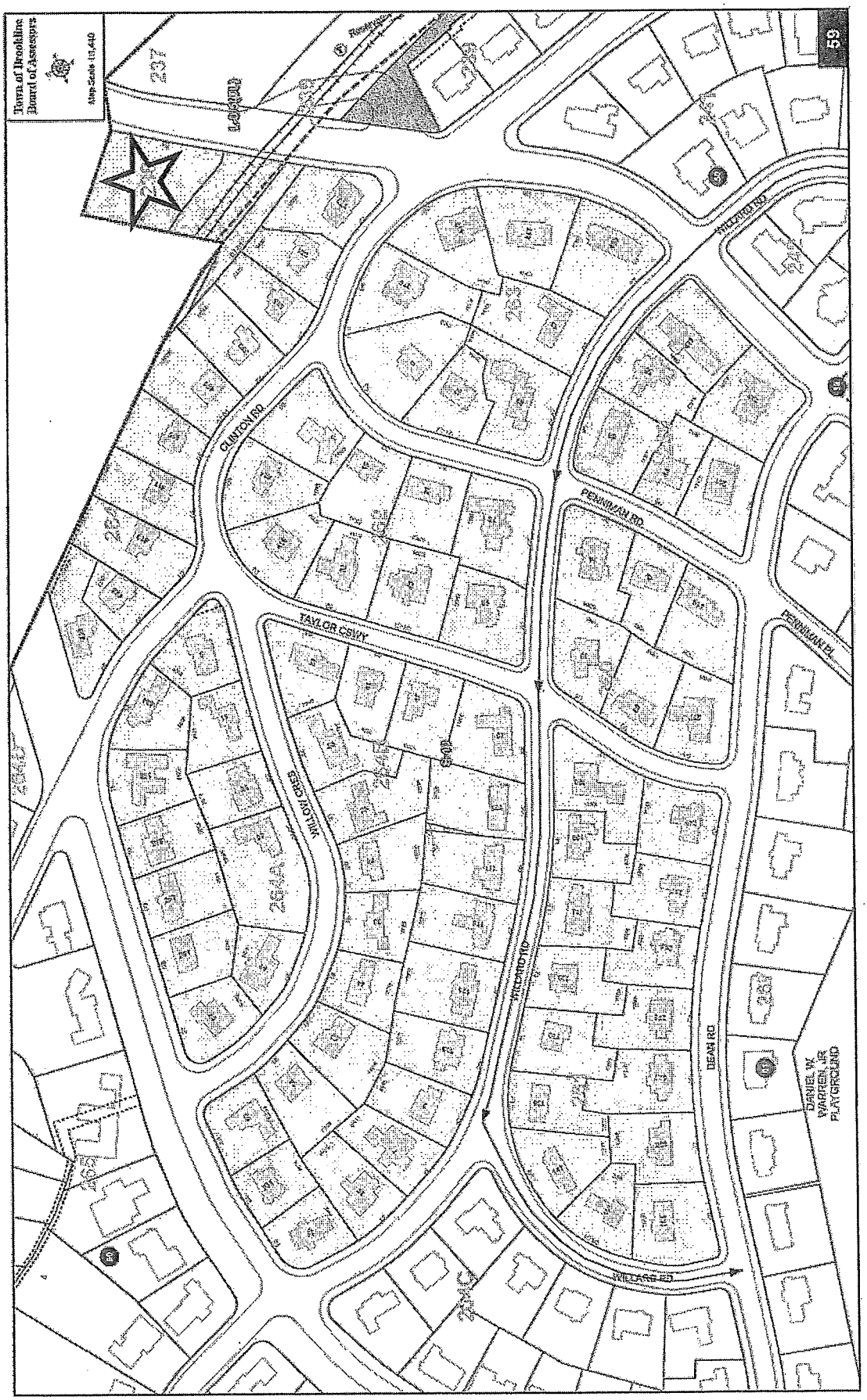
(c) A license granted under this section shall only be exercised in the dining room of a Common Victualler and in such other public rooms or areas as may be deemed reasonable and appropriate by the licensing authority as certified in writing.

(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 time 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.

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

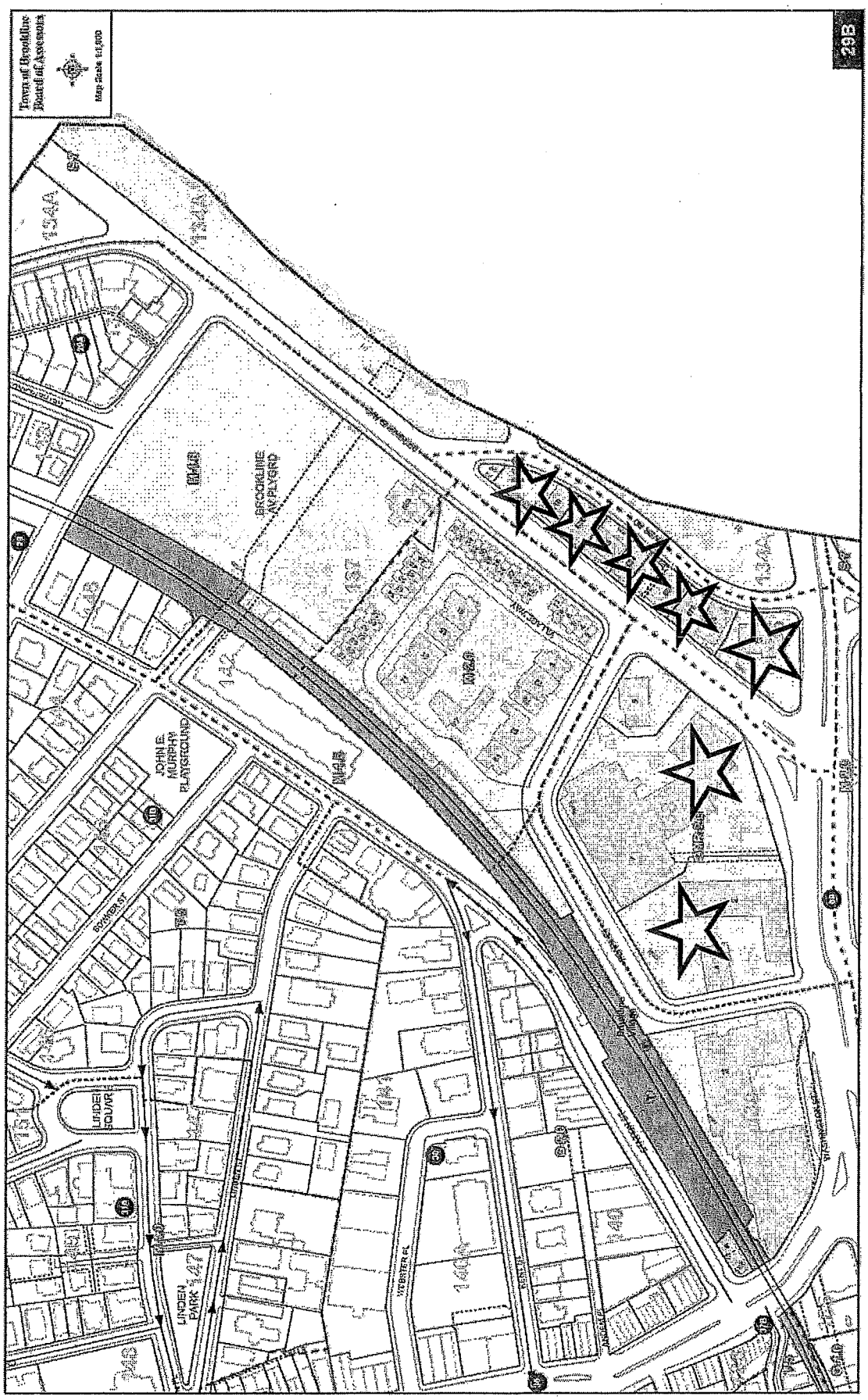
MAP 1

★ Denotes lot receiving additional licenses



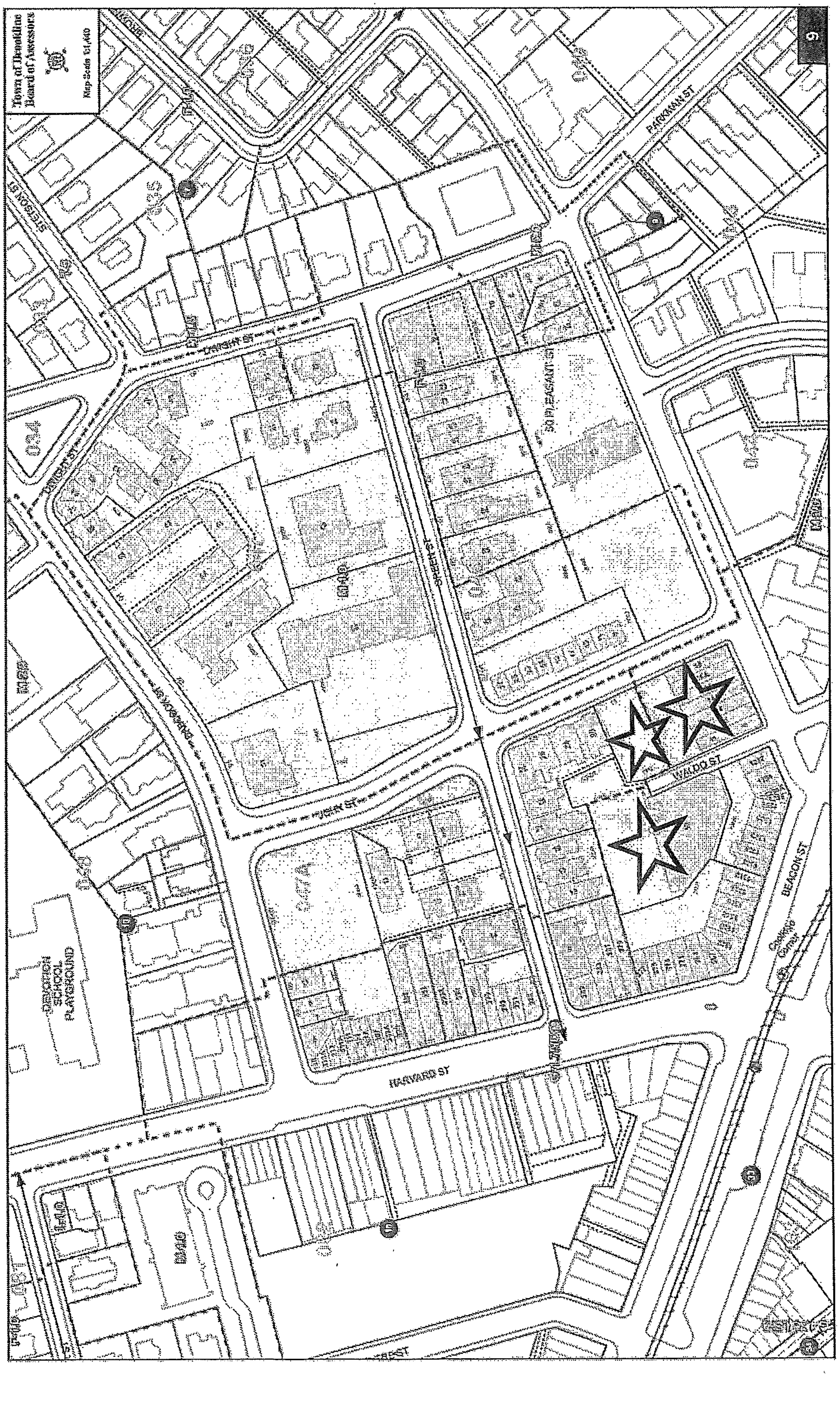
MAP 2

☆ Denotes lots receiving additional licenses

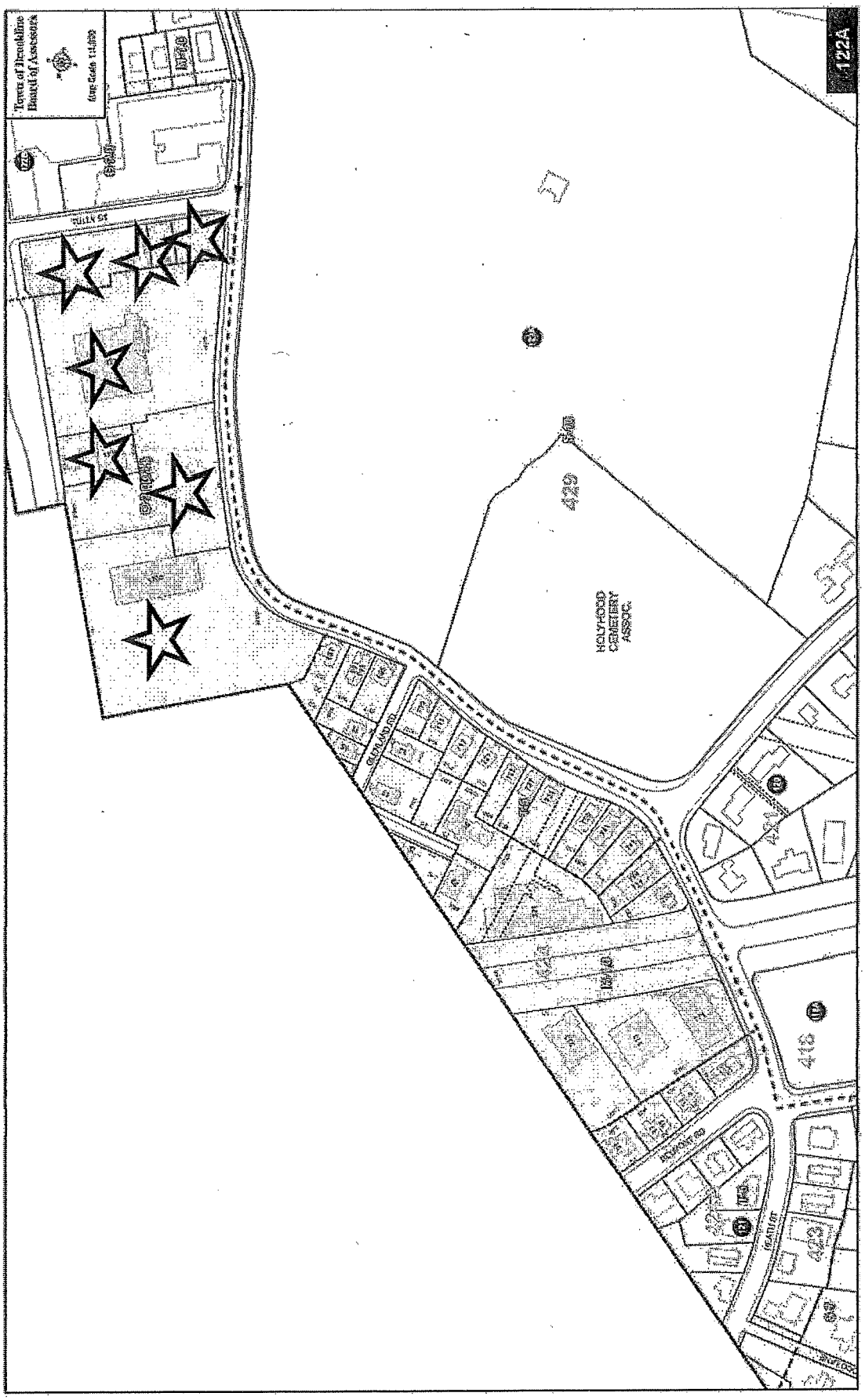


MAP 3

★ Denotes lots receiving additional licenses

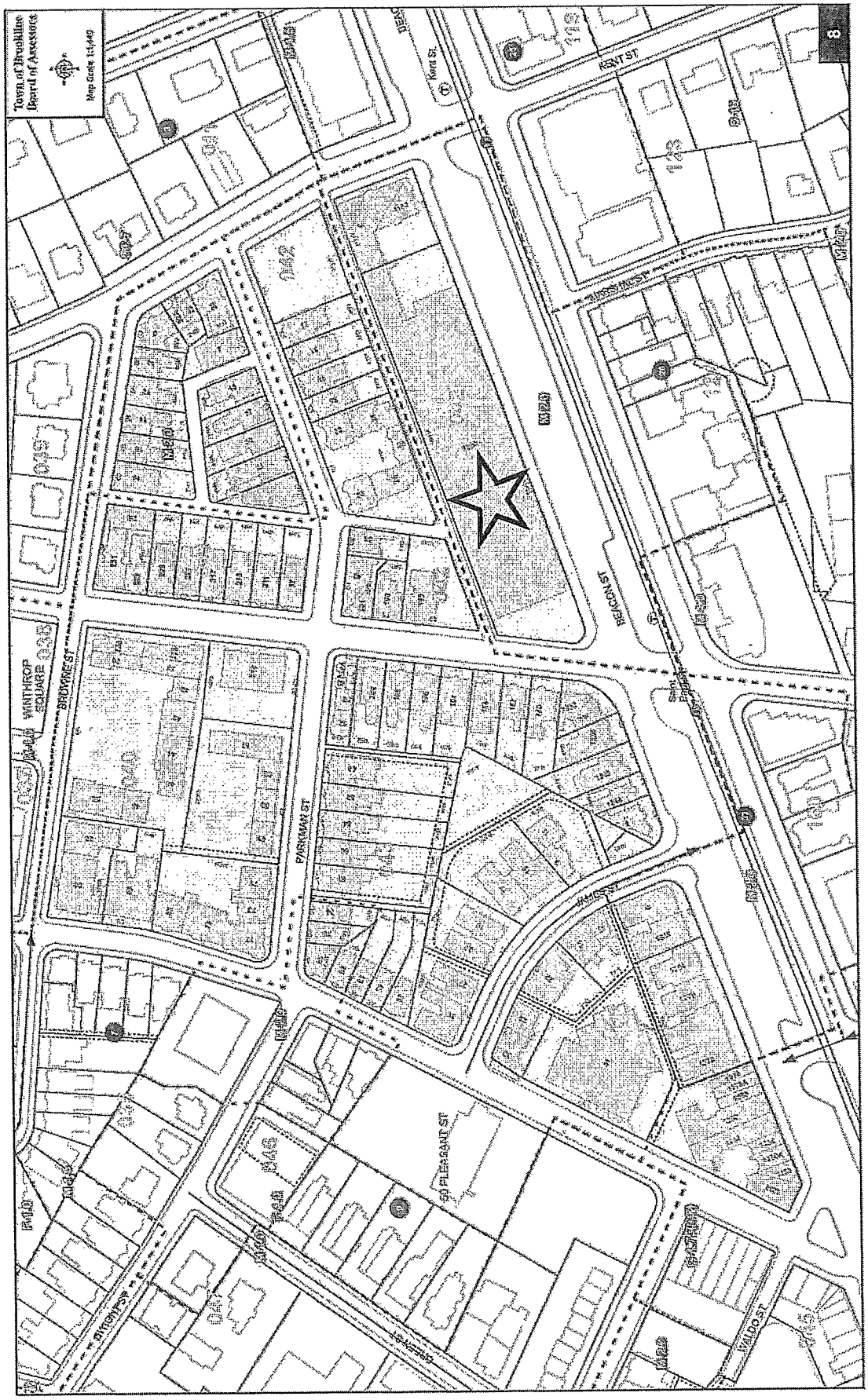


MAP 4



★ Denotes lots receiving additional licenses

MAP 5



★ Denotes lot receiving additional licenses

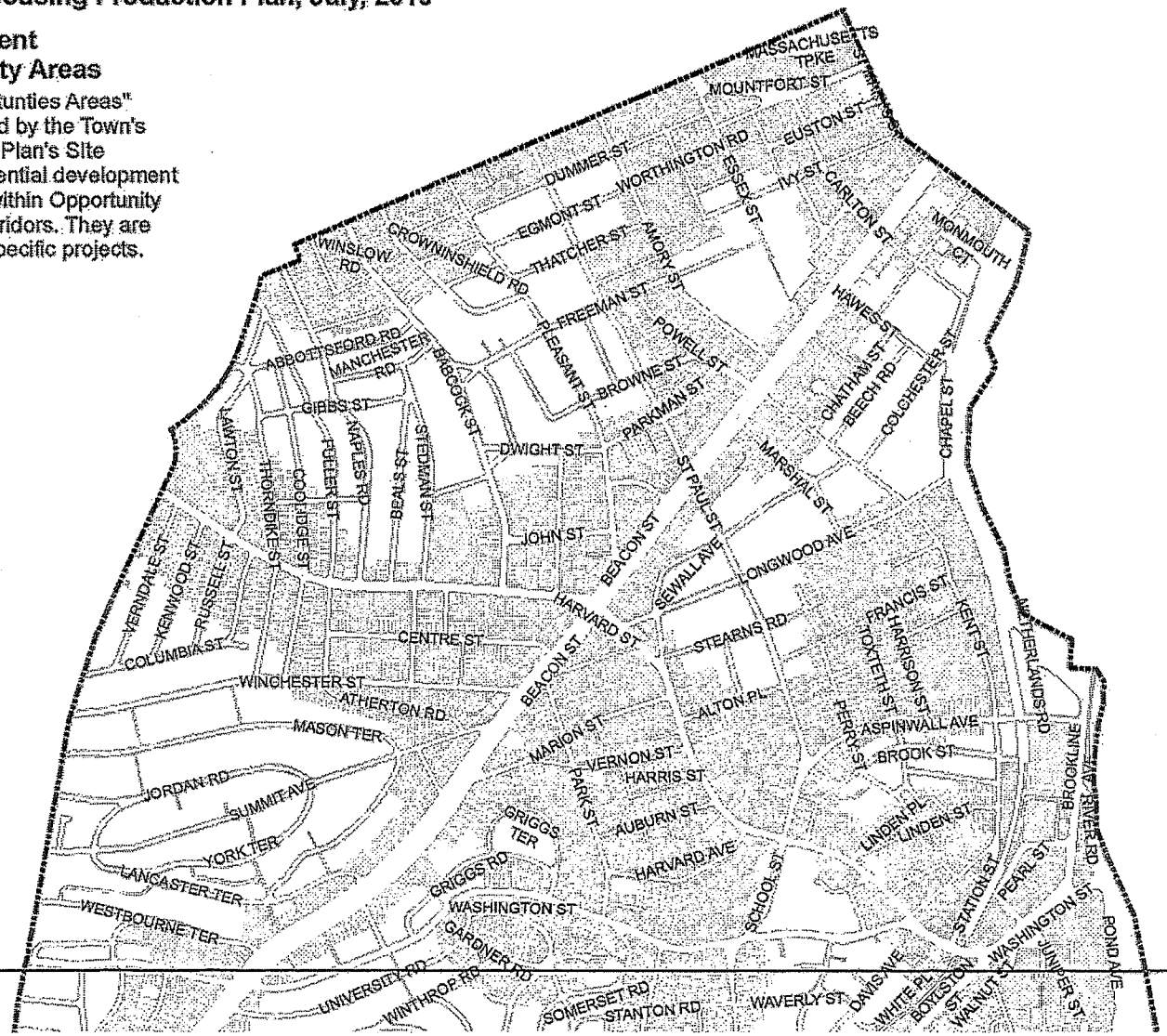
Development Opportunity Areas
MAP 6-A

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

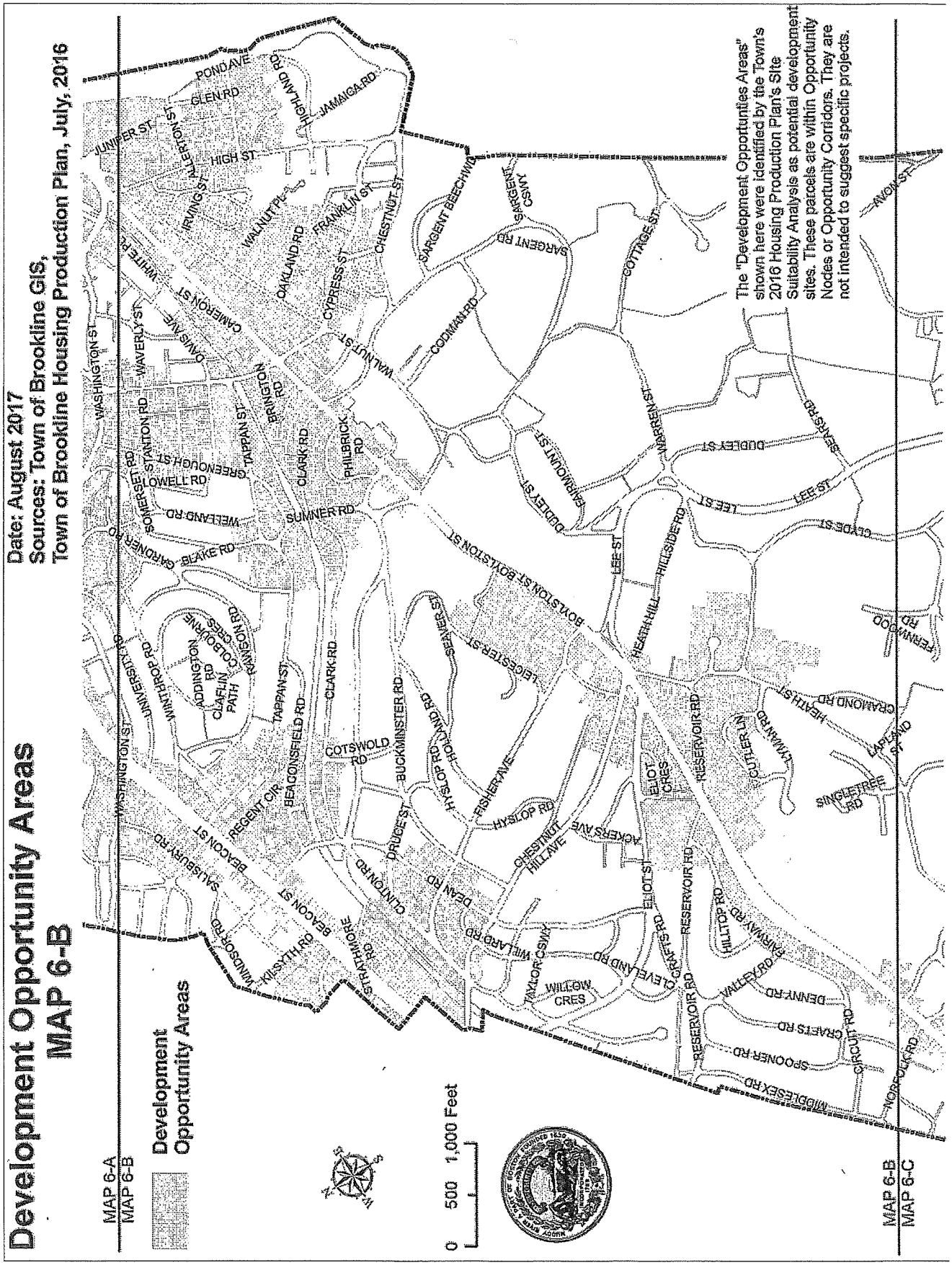
Development Opportunity Areas

The "Development 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.

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 development sites. These parcels are within Opportunity Nodes or Opportunity Corridors. They are not intended to suggest specific projects.
POND AVE
GLEN RD
HIGHLAND RD
JAMAICA RD
JUNIPER ST
ALLERTON ST
HIGH ST
IRVING ST
WALNUT PL
FRANKLIN ST
CHESTNUT ST
SARGENT BEECHWD
SARGENT CSWY
SARGENT RD
COTTAGE ST
AVON ST
WHITE PL
OAKLAND RD
CYPRESS ST
CAMERON ST
DAVIS AVE
WALNUT ST
CODMAN RD
WASHINGTON ST
WAVERLY ST
BRINGTON RD
TAPPAN ST
CLARK RD
PHILBRICK RD
STANTON RD
GREENOUGH ST
LOWELL RD
SOMERSET RD
WELLAND RD
SUMNER RD
GARDNER RD
BLAKE RD
FAIRMOUNT ST
WARREN ST
DUDLEY ST
SEARS RD
LEE ST
CLYDE ST
BOYLSTON ST
HILLSIDE RD
HEATH HILL
FERNWOOD RD
UNIVERSITY RD
WINTHROP RD
ADDINGTON RD
COLBOURNE CRES
CLAFLIN PATH
RAWSON RD
SEAVER ST
LEICESTER ST
CRAMOND RD
HEATH ST
LAPLAND ST
SINGLETREE RD
CUTLER LN
LYMAN RD
RESERVOIR RD
ELIOT CRES
BEACONSFIELD RD
COTSWOLD RD
BUCKMINSTER RD
HOLLAND RD
HYSLOP RD
FISHER AVE
REGENT CIR
DRUCE ST
ACKERS AVE
CHESTNUT HILL AVE
SALISBURY RD
BEACON ST
CLINTON RD
DEAN RD
ELIOT ST
HILLTOP RD
FAIRWAY RD
WINDSOR RD
KILSYTH RD
STRATHMORE RD
WILLARD RD
TAYLOR CSWY
WILLOW CRES
CLEVELAND RD
CRAFTS RD
VALLEY RD
DENNY RD
CRAFTS RD
CIRCUIT RD
SPOONER RD
MIDDLESEX RD
NORFOLK 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
LEE ST LEE ST
CLYDE ST
CLYDE ST
NEWTON ST
ALLANDALE RD
RISLEY RD
GROVE ST
GROVE ST
FAIRGREEN PL
HALLWOOD RD
NEWTON ST
BELLINGHAM RD
FERNWOOD RD
VARMOUTH RD
RANDOLPH RD
WOODLAND RD
PINE TRE
GLENOE RD
HAMMOND ST
ASTON RD
CEDAR RD
LAUREL RD
WOODLAND RD
HAMMOND POND PKY
HEATH ST
BOYLSTON ST
BOYLSTON ST
CRAFTSLAND RD
MILL RD
SAW MILL RD
KENSINGTON CIR
NEWTON ST
NEWTON ST
PRINCETON RD
LAGRANGE ST
RANGELEY RD
RANGELEY RD
WOLCOTT RD
WEST ROXBURY PKY
ALBERTA RD
SHAW RD
WALNUT HILL RD
WALLIS RD
BEVERLY RD
GOODNOUGH RD
GROVE ST
INDEPENDENCE DR
GERRY RD
THORNTON RD
RUSSETT RD
BONAD RD
SOUTH ST
OGDEN RD
WEST ROXBURY PKY
INTERVALE RD
WOODCLIFF RD
BAKER CIR
PAYSON RD
ZELAND RD
GEARWATER RD
ASHEVILLE RD
VIEW PKY VIEW PKY
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 development sites. These parcels are within Opportunity Nodes or Opportunity Corridors. They are not intended to suggest specific projects.
Development Opportunity Areas

or act on anything relative thereto. The General Court may make such amendments as are within the scope of the general public objectives of this petition.

PETITIONER'S ARTICLE DESCRIPTION

As of the submission of this warrant article, the Town has only two available on-premises liquor licenses and is in receipt of applications for those licenses. State law sets the number of a municipalities' maximum number of licenses based on the municipality's population as determined by the census (G.L. c. 138, § 17). The Town is concerned that the unavailability of liquor licenses will negatively impact the economic vibrancy of our commercial areas by significantly reducing the likelihood of redevelopment of underutilized sites as well as limit the prospects for new businesses to occupy vacant storefronts. This petition is intended to secure additional liquor licenses for the Town in order to assure the availability of licenses for the several parcels of land currently undergoing redevelopment; namely, a parcel in Cleveland Circle, formerly the site of the Circle Cinema; (Map 1); certain parcels on Brookline Place; a parcel formerly the site of a Gulf station and multiple parcels currently occupied by industrial uses in Brookline Village; (Map 2); certain parcels in Coolidge Corner in the vicinity of Waldo Street; (Map 3) a parcel on Beacon Street currently occupied by a Holiday Inn (Map 4); certain parcels in Chestnut Hill in the vicinity of Tully Street (Map 5). In addition, given the impending unavailability of liquor licenses, the petition is intended to request several additional liquor licenses restricted to locations within "Development Opportunity Areas" as shown on the map titled "Development Opportunity Areas (Map 6-A, 6-B, and 6-C)" that the Board of Selectmen could issue based upon its determination of the public need and the common good.

ECONOMIC DEVELOPMENT ADVISORY BOARD REPORT AND RECOMMENDATION

During our monthly meeting on October 2nd, EDAB voted unanimously in support of Article 9, Legislation authorizing the Board of Selectmen to grant additional liquor licenses for the sale of alcoholic beverages. We believe it will further support our mission to encourage business growth in Brookline.

Currently, the Town has only one liquor license available, which the Board may soon award to the restaurant at the Circle Cinema site. After that, we will be unable to grant licenses to any business - either those already here or those interested in locating in Brookline – until a restaurant closes and gives up its license. This could greatly impact

further development in Brookline and will hinder the growth and vitality of our commercial areas.

Article 9 allows for a total of 40 additional on-premise consumption wine/beer or all alcohol licenses. Of these, 20 licenses are specific to individual parcels that may be developed over the next decade or more. The remaining licenses directly correspond with potential development opportunity areas as identified in the Town's Housing Production Plan – a plan that includes a set of recommendations for increased mixed-use development as a method of increasing Brookline's housing production stock. This combination of parcel-specific and corridor-specific areas is based on feedback the Licensing Committee received from Town Counsel's Office (based on research into legislation successfully passed for other communities) and conversations with legislative and committee staff, and allows us the greatest flexibility for planning long-term future development and growth areas. Article 9 also contains language restricting the transferability of the licenses and other language recommended by legislative staff. The language can be found in recent successful home rule petitions by other municipalities, and the Town's research indicates the Legislature likes to see the language in these types of proposals.

Town Meeting passed a similar authorization in 2013, when we first anticipated that the Town would soon be out of licenses. We were told then by Legislators to wait until we were out of licenses. That time has now come. Based on the experience of other towns which have sent similar home rule petitions to the Legislature, we are requesting the maximum number of licenses we can imagine using for many years because we may not have another opportunity for more than a decade. We are told that the Legislature frowns on serial requests from towns and is likely to grant additional licenses only once every ten to fifteen years.

The stars shown on the individual parcels (see Maps 1-5) do not mean that there will be a license on each parcel. We are required to request a license for each PARCEL, even though any development is likely to include a number of parcels. There are 3 stars, for example, on the Waldo/Durgin site, even though the current proposal only anticipates 2 licenses at most. The problem is that we cannot anticipate in advance where on a site a license may be requested, so we are required to cover them all. One of the Waldo/Durgin stars is on a parcel which is currently proposed as driveway access, but if the site plan changes after analysis by the community and the Coolidge Corner Study Committee, we would want the ability to have a license on that parcel, if that is the best place for a restaurant. Similarly, the River Road area has 5 stars, because the newly re-zoned area has 5 parcels, but it is highly unlikely that there would ever be 5 restaurants on that strip.

The passage of Article 9 and the passage of a home-rule petition by the Legislature will assure that a secondary market for liquor licenses does not develop in Brookline, as it has in Boston. A secondary market can make the cost of a license unaffordable for anything other than a large chain restaurant, which is why Boston has established programs for new licenses in the neighborhood commercial areas.

It is important to note that while the article requests 40 new licenses, that doesn't mean that they will all be granted. Just as it has taken many years to issue all the licenses the town currently holds, it will take many more to issue all the new ones. The Board of Selectmen will have the same responsibility to review applications and issue licenses that they have now, and any new applications will go through the same public process that currently exists.

New licenses will allow existing Brookline businesses to expand their menu offerings with the sale of alcohol. Two existing café owners attended our October EDAB meeting, because they wanted us to know that they were considering such an expansion, which would help to enliven our commercial areas with more pedestrian traffic in the evenings.

The retail environment is changing rapidly in ways that we cannot predict, and the Town must develop tools to insure that our commercial areas stay vibrant. We hear complaints that there are too many banks, nail salons, and daycare centers in our commercial areas, none of which help to enliven the street. But landlords prefer to lease to tenants who are unlikely to close because of online competition. Full service restaurants are one of the best uses for empty spaces – they stay open in the evening, generate pedestrian traffic, and bring people from neighboring towns to Brookline's commercial areas. They also generate meals tax revenue for the town. But it is not financially feasible to open a full-service restaurant without a liquor license, so if we do not have any to issue, we may end up with more banks and nail salons, or more empty storefronts.

We urge you to support Article 9, and we look forward to working with the Town's Representatives and Senator to assure passage of this important home rule petition!

SELECTMEN'S RECOMMENDATION

Article 9 is an authorization for the Board of Selectmen to pursue additional liquor licenses from the State. Currently, there are no remaining liquor licenses to be used for on premises consumption, and this article would start the process of applying for additional licenses. The article is the recommendation of the Licensing Review Committee (LRC).

There are multiple pending development projects that would lead to additional restaurant establishments across the Town; and said establishments will potentially request liquor licenses. The LRC recommended restricting the licenses to specific locations, so that they could help spur the development. The locations include current projects and development opportunity areas. The article requests an additional 35 All Kinds and 5 Wine and Malt licenses (to be drunk on premises).

The Selectmen acknowledge that there is a need for the additional licenses, but there was a sentiment that the potential venues should be restricted by the zoning. That concern will be met through the same liquor license issuance process, where the Board of Selectmen

would have to authorize a license, and add conditions, and there would be an opportunity for community input. The chosen sites detailed in the maps and language of the article cover specific lots across the Town, which could have longer term developmental potential, but there is also flexibility found in the grouping of 15 of the licenses for usage in development opportunity areas. These areas are broader and are not lot specific. Ultimately, this should geographically spread out the usage of the potential licenses and prevent the concentration of restaurants serving alcohol.

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on September 26, 2016, on the motion offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

Article 9 would authorize the Board of Selectmen to file legislation to obtain the authority to grant additional liquor licenses. The Town currently has no new liquor licenses to grant. The goal of the Article is to obtain authority from the state legislature to expand the number of liquor licenses in Brookline and to encourage commercial development. The Article was drafted so that the proposed legislation would have a good chance of winning support in the state legislature. A previous attempt to obtain more liquor licenses failed in 2011.

During the course of the deliberations of the Advisory Committee's Public Safety Subcommittee and the full Advisory Committee, it became apparent that the subject matter of Article 9 is very complex. For example, there are different kinds of liquor licenses, and the differences between them are not always clear. As more information emerged, members understood the Article more fully and some changed their positions. Because the Advisory Committee voted on Article 9 shortly before the deadline for printing the Combined Reports, it was not possible to provide a comprehensive report.

The Advisory Committee's comprehensive report on Article 9 will appear in the supplemental mailing. The recommendation voted by the Advisory Committee on October 24 appears below. The motion is the same as the wording of the Article as it appeared in the Warrant, except for one correction: the word "time" has been changed to "location" in paragraph (d).

After the Advisory Committee voted on Article 9, the Committee learned that a paragraph had been inadvertently omitted from the Article as it appeared in the Warrant. When the petitioners provide that paragraph, which is within the scope of the Article, the Advisory Committee will again consider Article 9.

RECOMMENDATION:

By a vote of 17 in favor, 2 opposed and 2 abstentions, the Advisory Committee recommends FAVORABLE ACTION on the following motion (deletion indicated by ~~strikethrough~~; insertion shown in **bold**):

VOTED: That the Town authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

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.

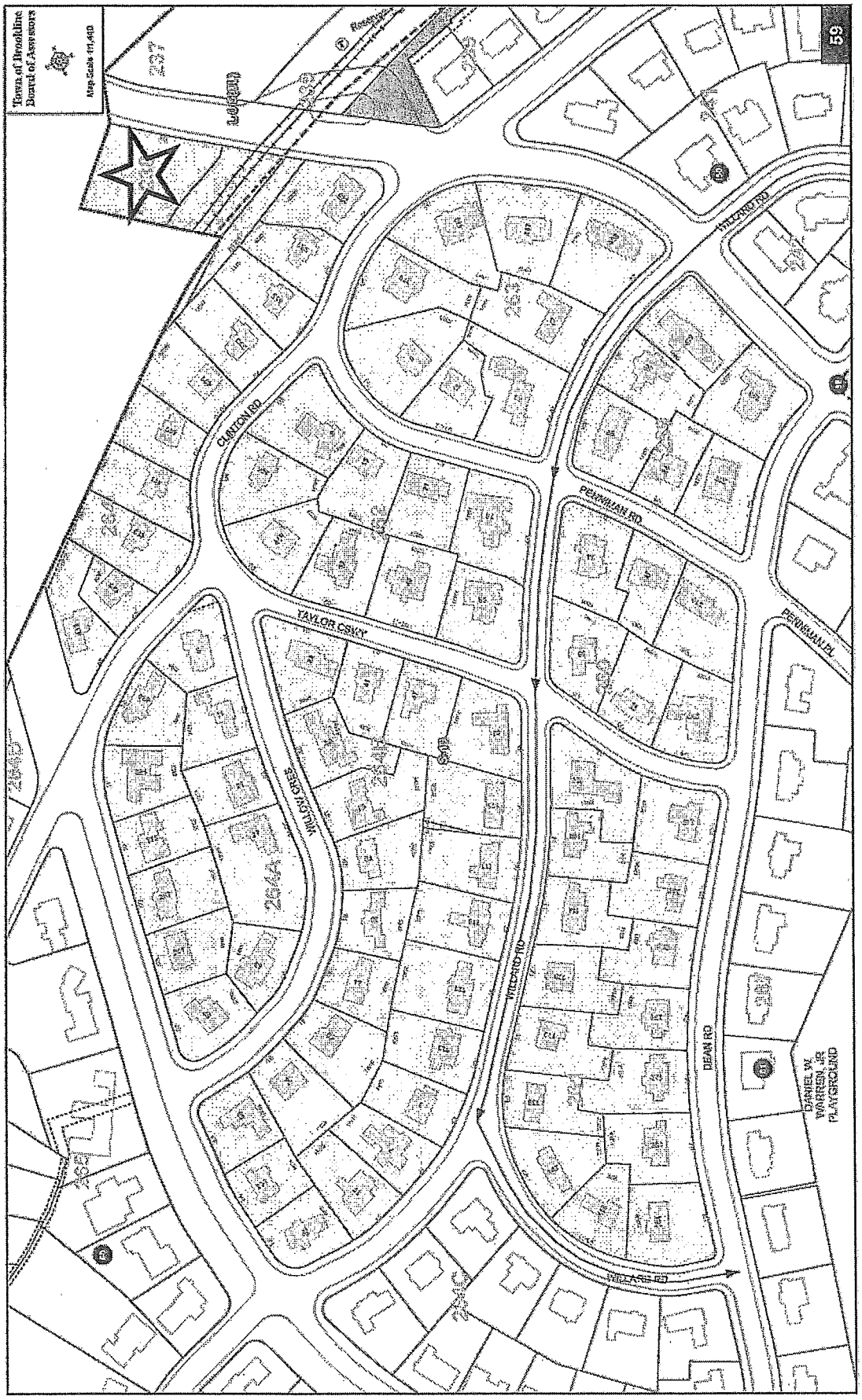
(d) Once issued, the licensing authority shall not approve the transfer of the licenses to any other location but it may grant the licenses to new applicants at the same ~~time~~ **location** if the applicants file with the licensing authority a letter from the department of revenue and a letter from 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.

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.

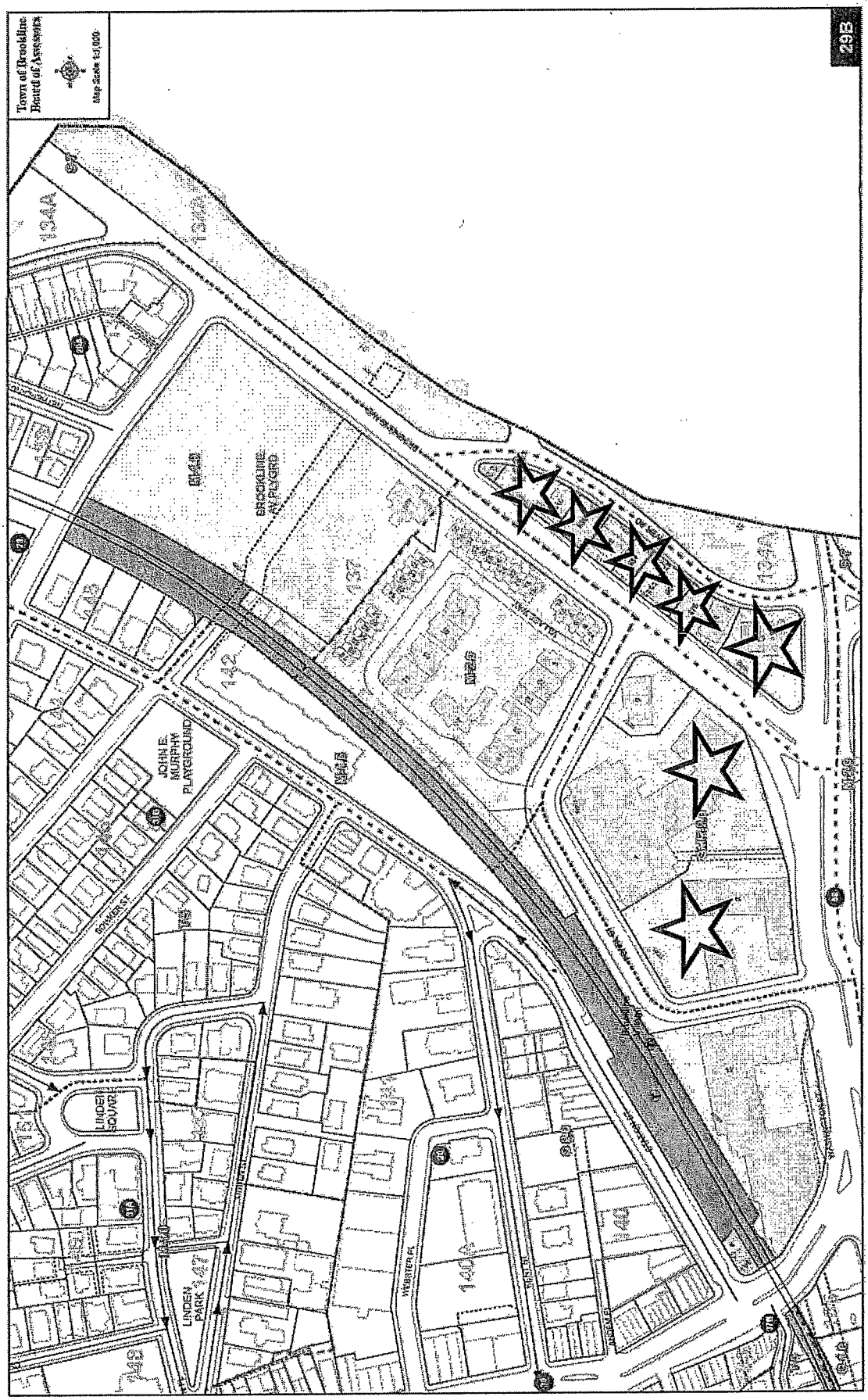
MAP 1

★ Denotes lot receiving additional licenses



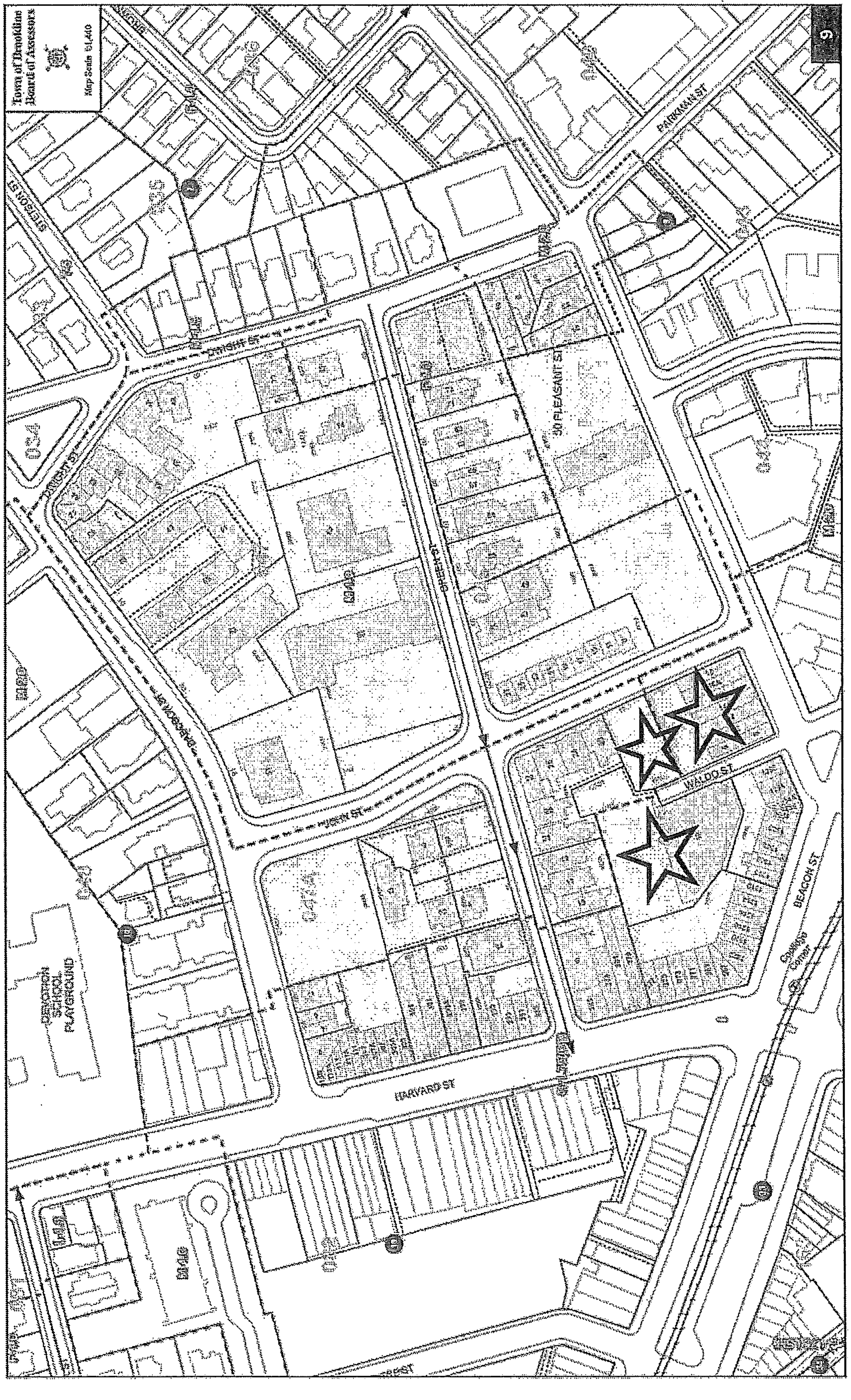
MAP 2

☆ Denotes lots receiving additional licenses

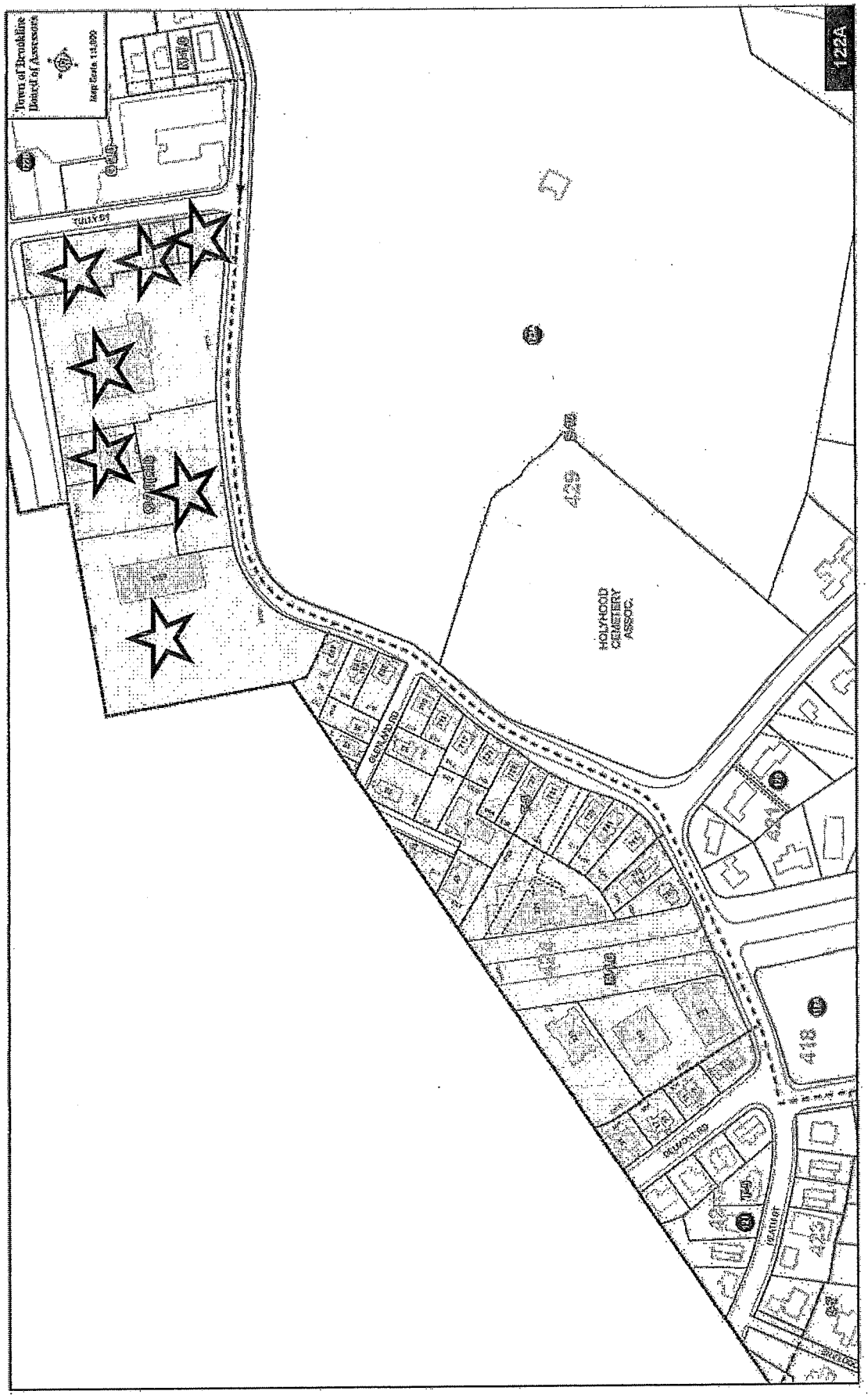


MAP 3

★ Denotes lots receiving additional licenses



MAP 4



☆ Denotes lots receiving additional licenses

MAP 5

Denotes lot receiving additional licenses

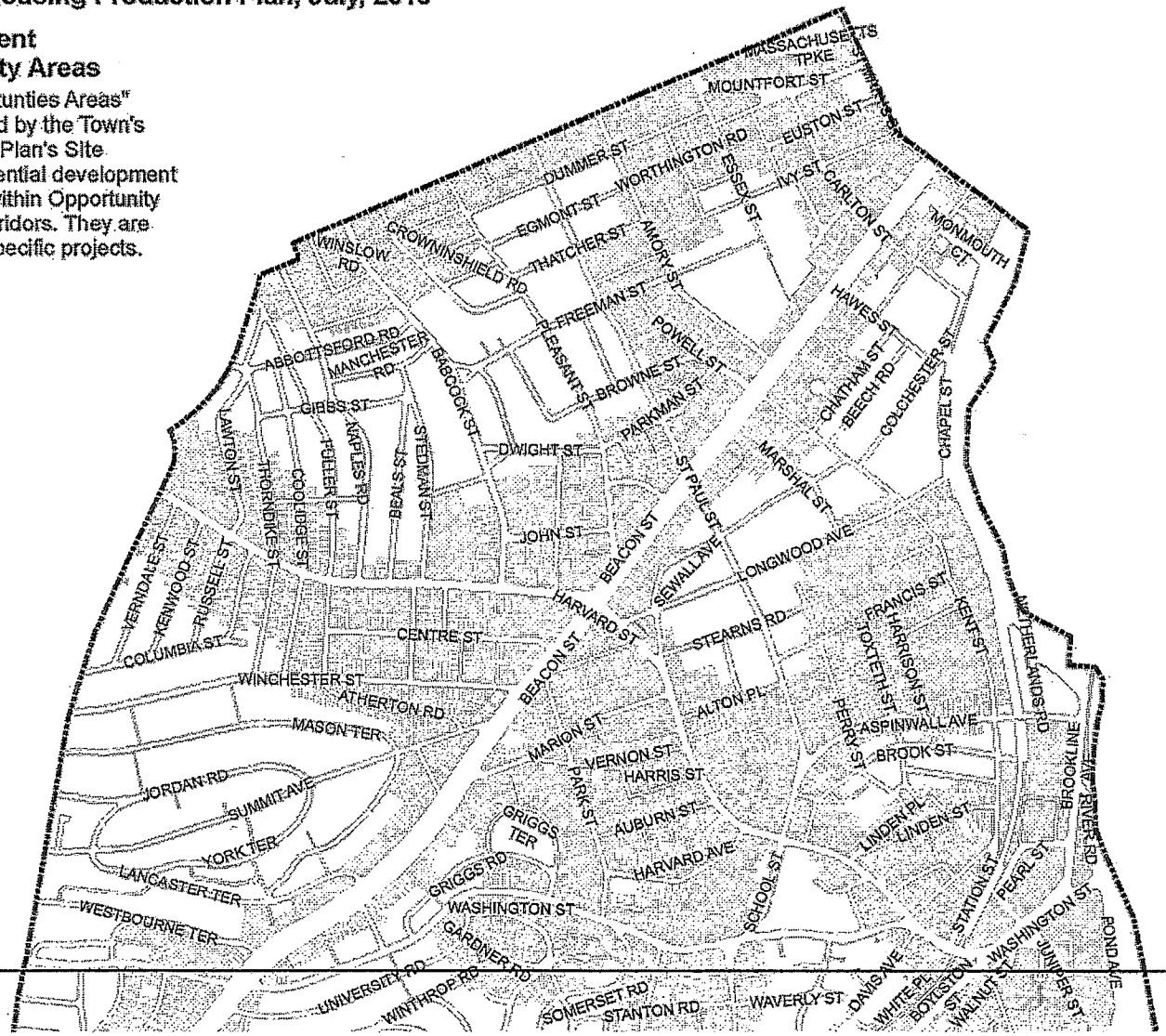
Development Opportunity Areas
MAP 6-A

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

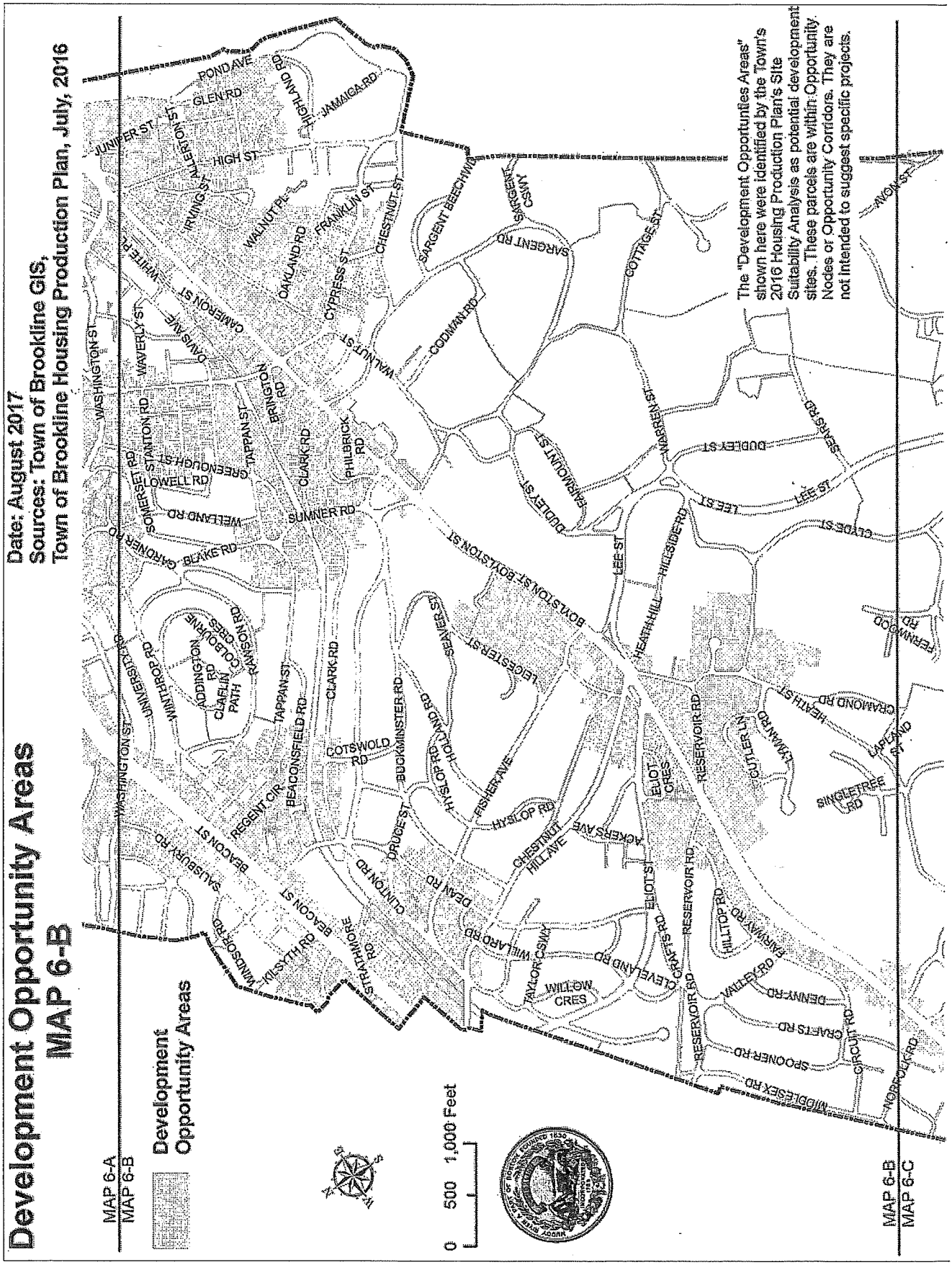
Development Opportunity Areas

The "Development 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.

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
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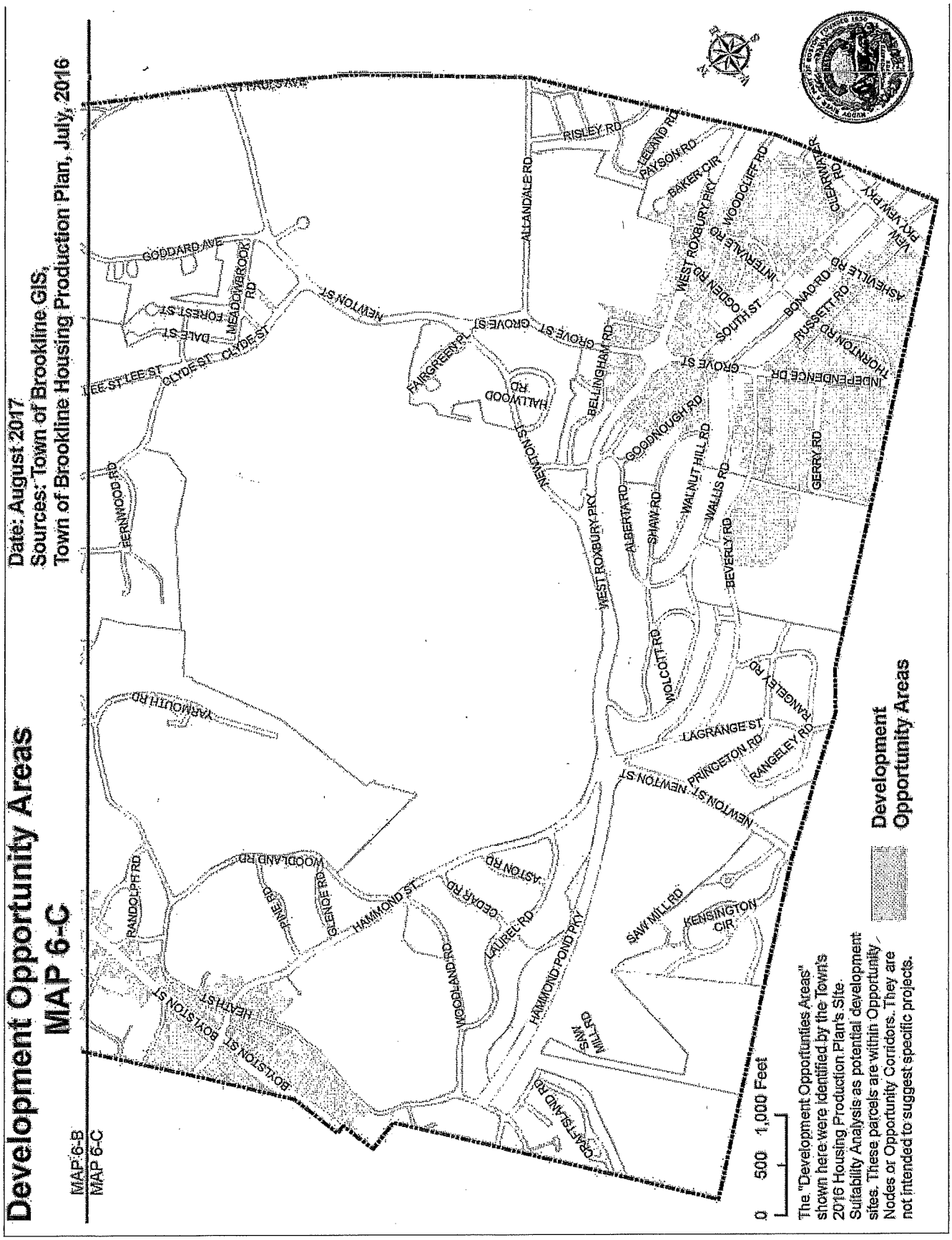
MAP 6-A
MAP 6-B
MAP 6-B
MAP 6-C
0 500 1,000 Feet
POND AVE
GLEN RD
HIGHLAND RD
JAMAICA RD
JUNIPER ST
ALLERTON ST
HIGH ST
IRVING ST
WALNUT PL
FRANKLIN ST
CHESTNUT ST
SARGENT BEECHWD
SARGENT CSWY
SARGENT RD
COTTAGE ST
AVON ST
WHITE PL
OAKLAND RD
CYPRESS ST
CAMERON ST
DAVIS AVE
WAVERLY ST
WASHINGTON ST
CODMAN RD
WALNUT ST
BRINGTON RD
TAPPAN ST
STANTON RD
GREENOUGH ST
LOWELL RD
SOMERSET RD
CLARK RD
PHILBRICK RD
WELLAND RD
SUMNER RD
BLAKE RD
GARDNER RD
FAIRMOUNT ST
WARREN ST
DUDLEY ST
SEARS RD
LEE ST
CLYDE ST
BOYLSTON ST
HILLSIDE RD
HEATH HILL
FERNWOOD RD
UNIVERSITY RD
WINTHROP RD
ADDINGTON RD
COLBOURNE CRES
CLAFLIN PATH
RAWSON RD
SEAVER ST
LEICESTER ST
CRAMOND RD
HEATH ST
LAPLAND ST
SINGLETREE RD
CUTLER LN
LYMAN RD
RESERVOIR RD
ELIOT CRES
ACKERS AVE
HYSLOP RD
FISHER AVE
HOLLAND RD
BUCKMINSTER RD
COTSWOLD RD
BEACONSFIELD RD
REGENT CIR
DRUCE ST
CHESTNUT HILL AVE
BEACON ST
SALISBURY RD
CLINTON RD
DEAN RD
WILLARD RD
TAYLOR CSWY
WILLOW CRES
CLEVELAND RD
CRAFTS RD
HILLTOP RD
FAIRWAY RD
VALLEY RD
DENNY RD
SPOONER RD
CIRCUIT RD
MIDDLESEX RD
NORFOLK RD
WINDSOR RD
KILSYTH RD
STRATHMORE RD


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

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 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 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, dated October 31, 2017, and filed with the Town Clerk as of that date; and

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(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 establish rules and regulations governing what constitutes a quorum and other matters related to the conduct of the HVCRC.

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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 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.

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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.

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ee) 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.

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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 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;

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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

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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.

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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.

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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.

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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

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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.

Recycle Center Buildings: 29 feet above Grade.

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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, 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.

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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 compatible with the character, style, materials and details of the existing Hancock Village and constructed of durable and maintainable materials.

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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) 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;

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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).

Defeated by an Electronic Recorded Vote — 112 In Favor 85 Opposed and 7 Abstentions

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 outweigh 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.

HANCOCK VILLAGE

COMPARISON OF 40B PROJECTS, MEMORANDUM OF AGREEMENT (MOA) AND MASTER DEVELOPMENT PLAN

	Combined 40B's*	MOA	Master Plan
Number of apartment buildings in the S-7(buffer)	11	0	0
Total net number of new units	387	368	368
Total Number of new bedrooms	763	546	546 (-239 relative to combined 40B's)
Asheville open to Hancock Village traffic	Yes	No	No
Number of trash buildings in the S-7 (buffer)	2	2	0
Asheville building moved further from Abutters	No	No	Yes- 12'
13 existing utility rooms converted to bedrooms	No	No	Yes
Bump outs allowed under Zoning By-law	Yes	No	Yes (Max of 60 net sf/unit & 18,000 GSF)
Number of units on the Subsidized Housing Inventory (SHI)	387	144	148
Number of affordable units at 50% Area Median Income (AMI)	77	0	0
Number of affordable units at 80% AMI	0	36	37
Number of affordable units at 100% AMI	0	18	18-26**
Total rent-restricted units	77	54	55-63**
Land acreage donated to the Town	0	3.5	3.5
Traffic improvements to Independence Drive	Yes	Yes	Yes
Donation to Town for public improvements within neighborhood	0	$1,000,000.00	$1,000,000.00
Playground built and maintained for the Town	No	Yes	Yes
Renovated tennis courts at Baker School	No	No	Yes
Modified Neighborhood Conservation District (NCD)	No	Yes	Yes
Differences between MOA and Master Plan highlighted			

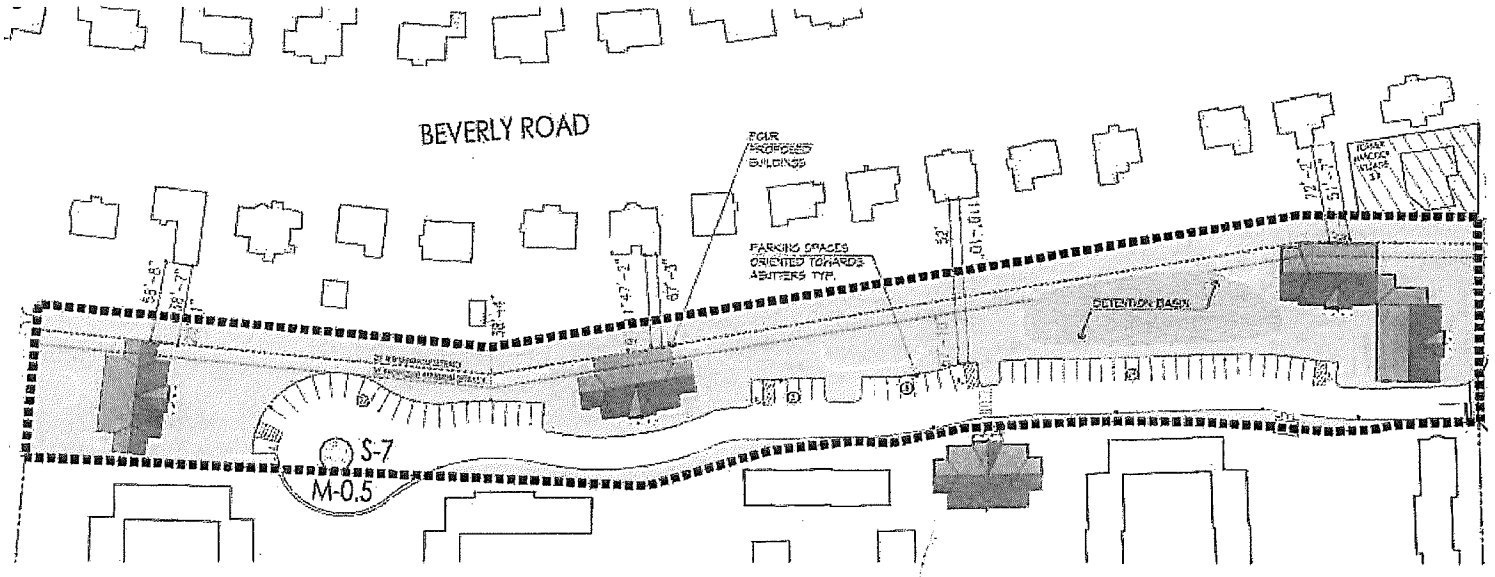
* Residences of South Brookline – Comprehensive Permit granted for 161 units

Puddingstone at Chestnut Hill – Comprehensive Permit application pending before ZBA for 226 units. NOTE: If this project proceeds through the 40B process, it is acknowledged that the density may be decreased.

**In lieu of providing 18 affordable units at 100% AMI in Gerry Building, the owner may provide 26 affordable units at 100% AMI within existing townhouses (18 one-bedroom and 8 two-bedroom)

Beverly Road

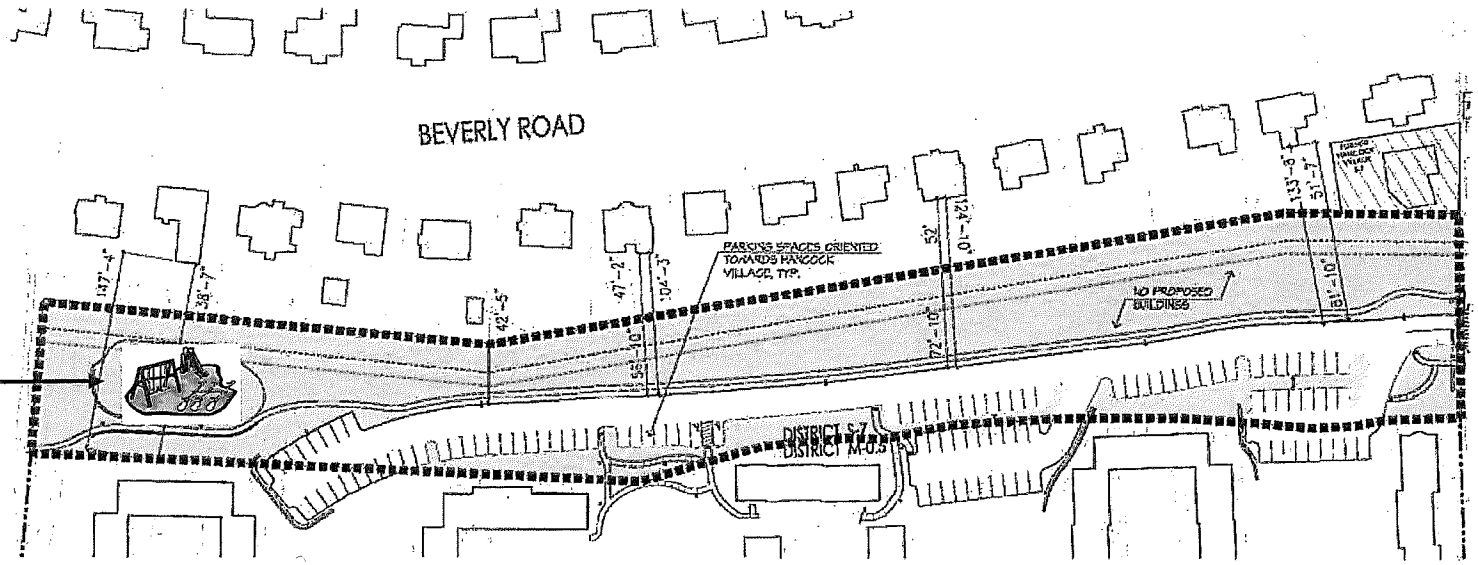
Approved Residents of South Brookline 40B



Hancock Village Master Development Plan

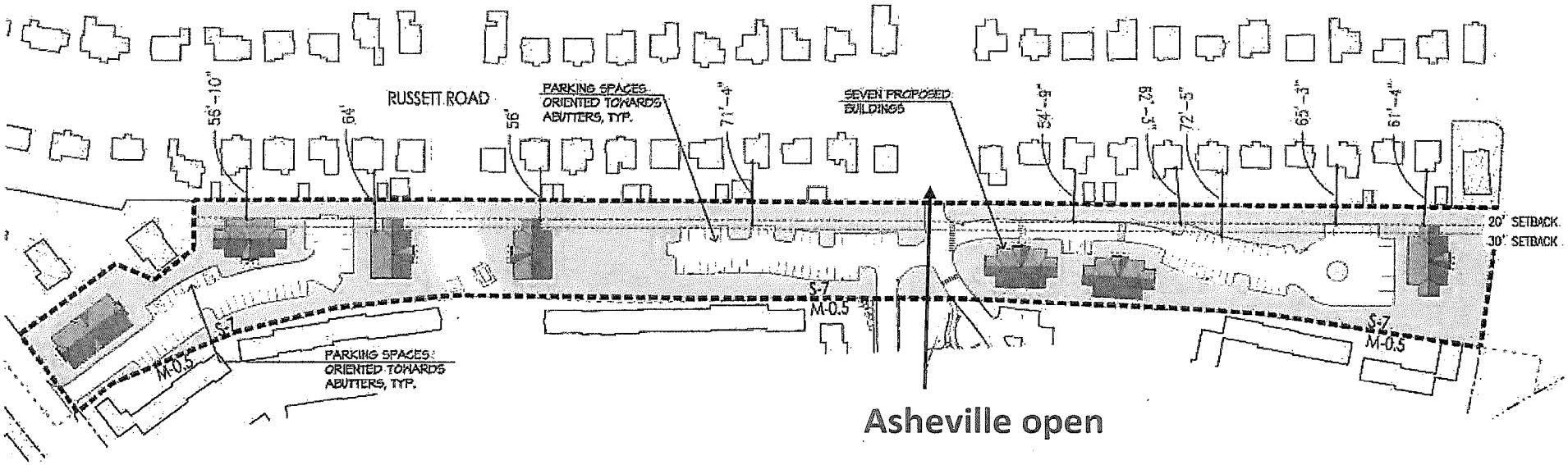
Subject to Town Meeting vote of Articles 10-15

Playground



Russett Road

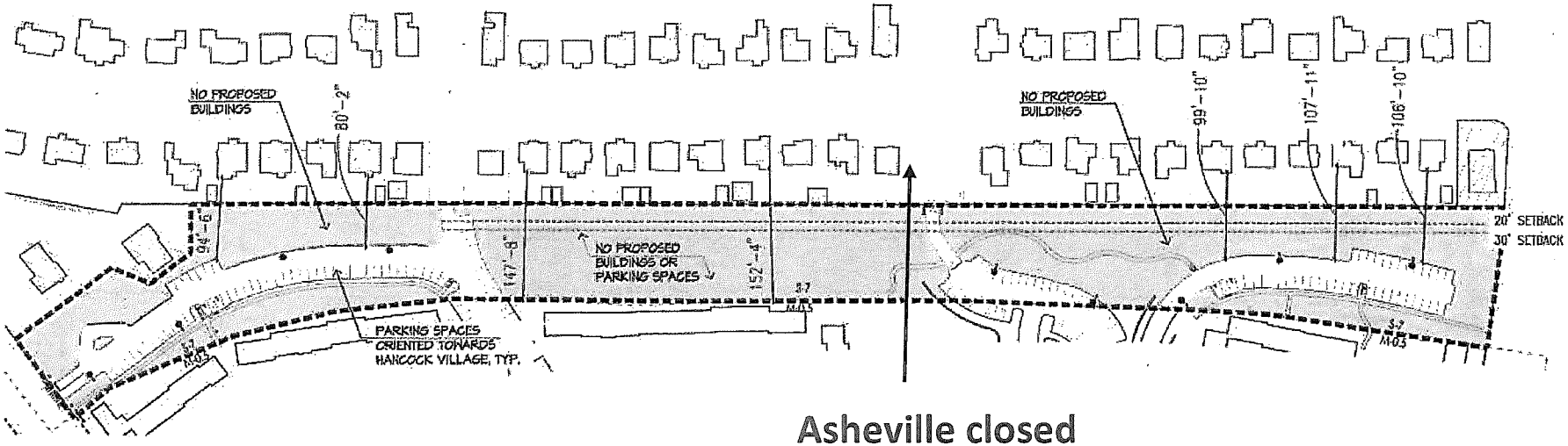
Approved Residents of South Brookline 40B



Asheville open

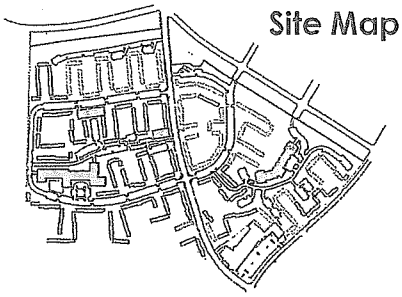
Hancock Village Master Development Plan

Subject to Town Meeting vote of Articles 10-15

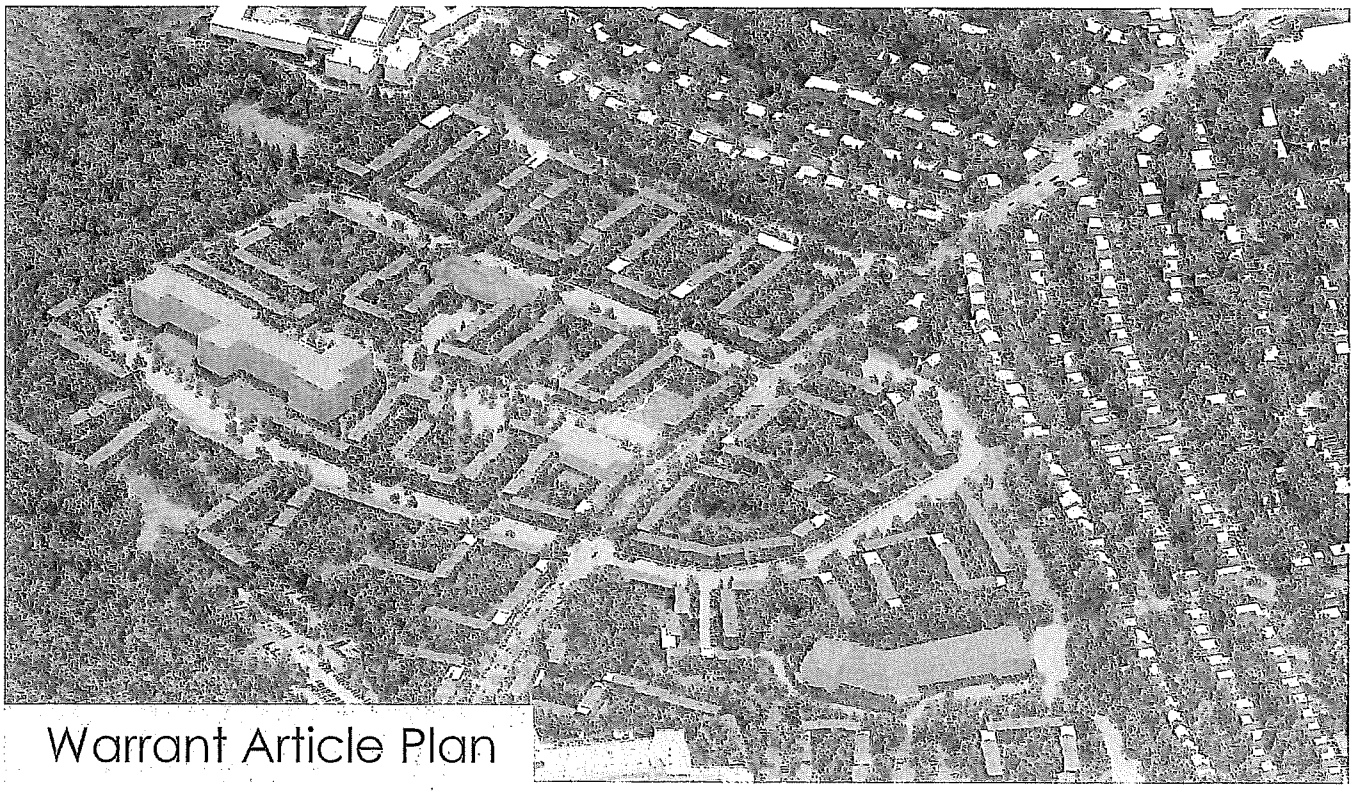


Asheville closed

Hancock Village
Proposed Buildings

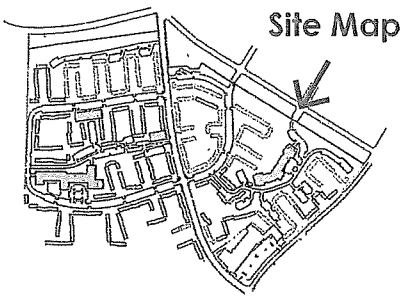


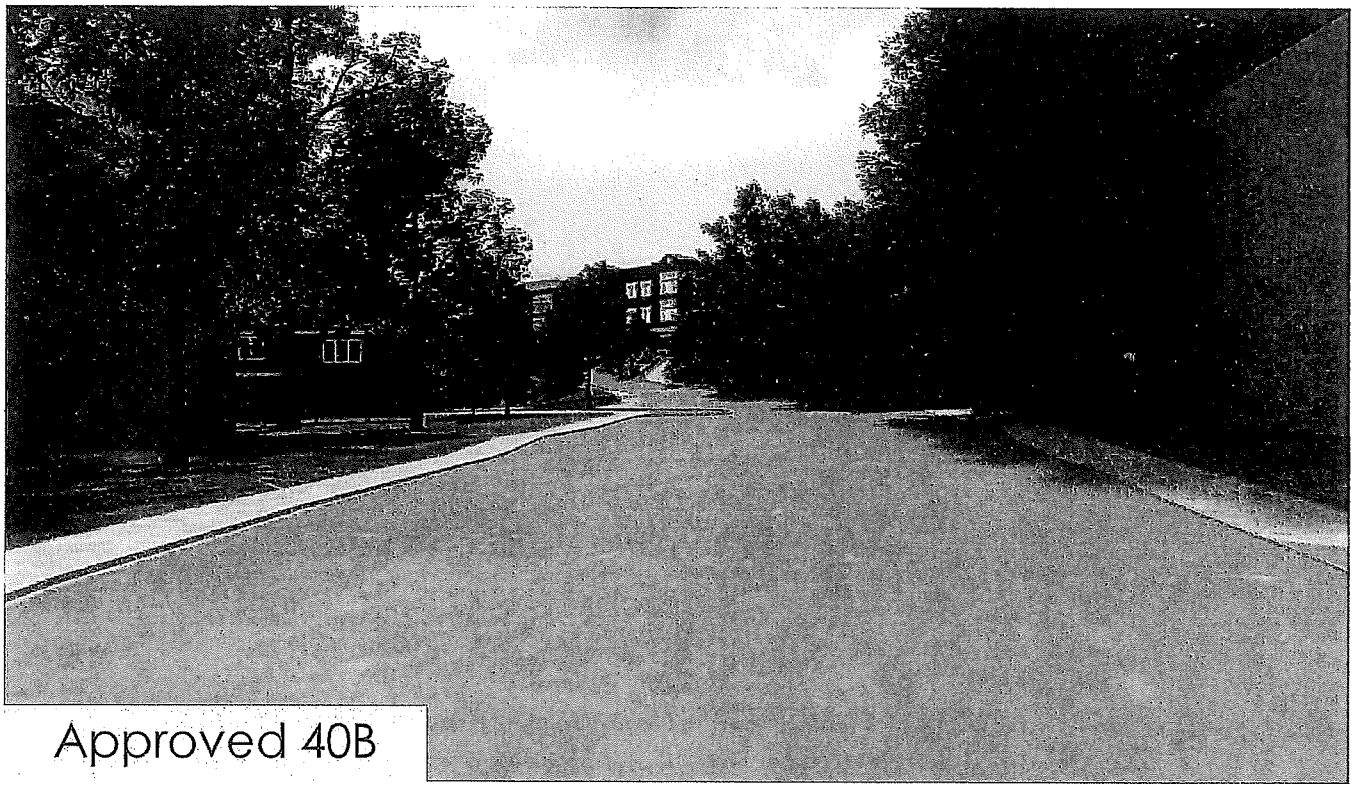
Approved 40B



Warrant Article Plan

View From Asheville Road





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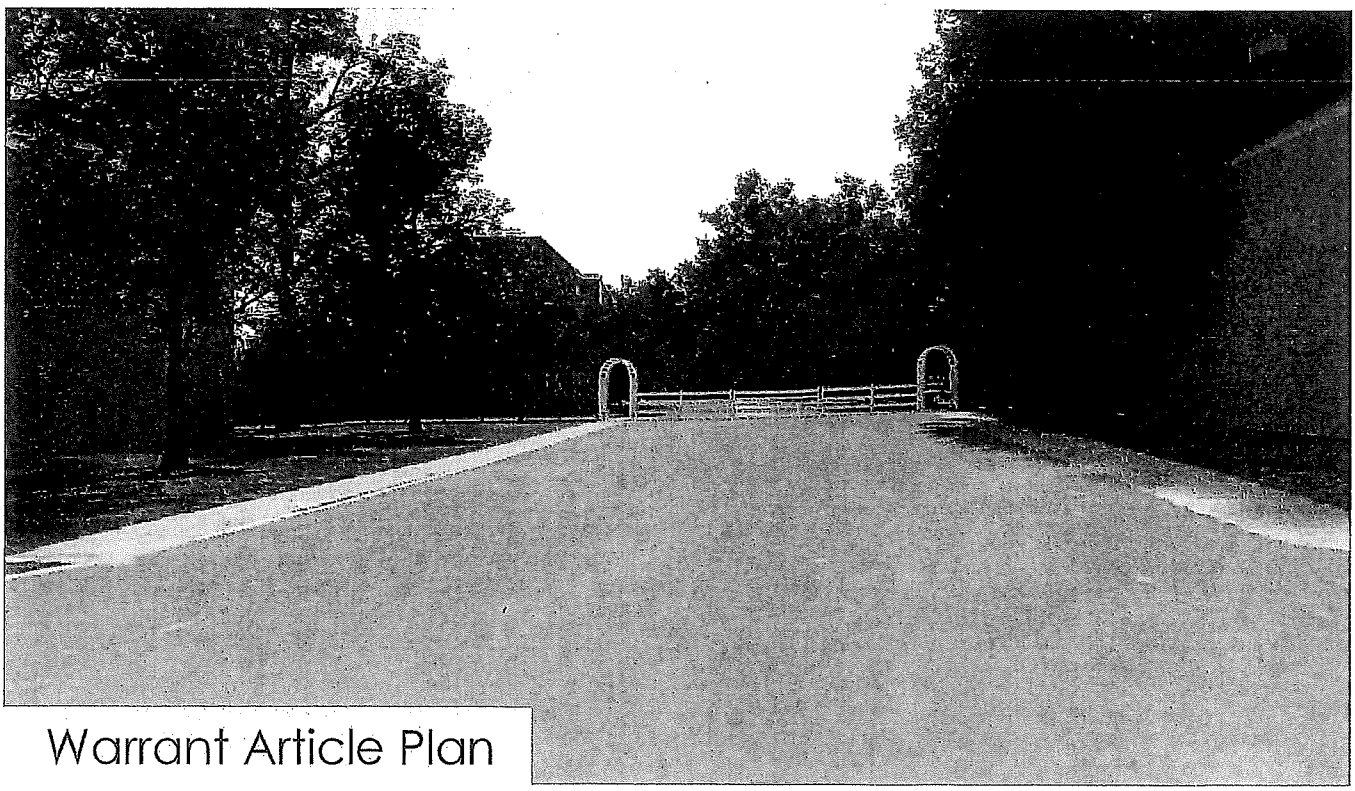
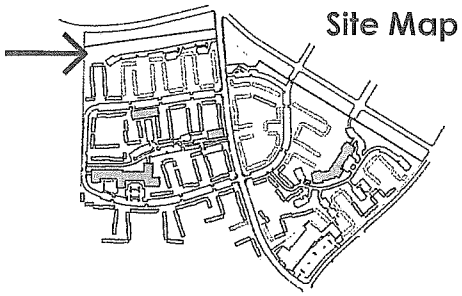
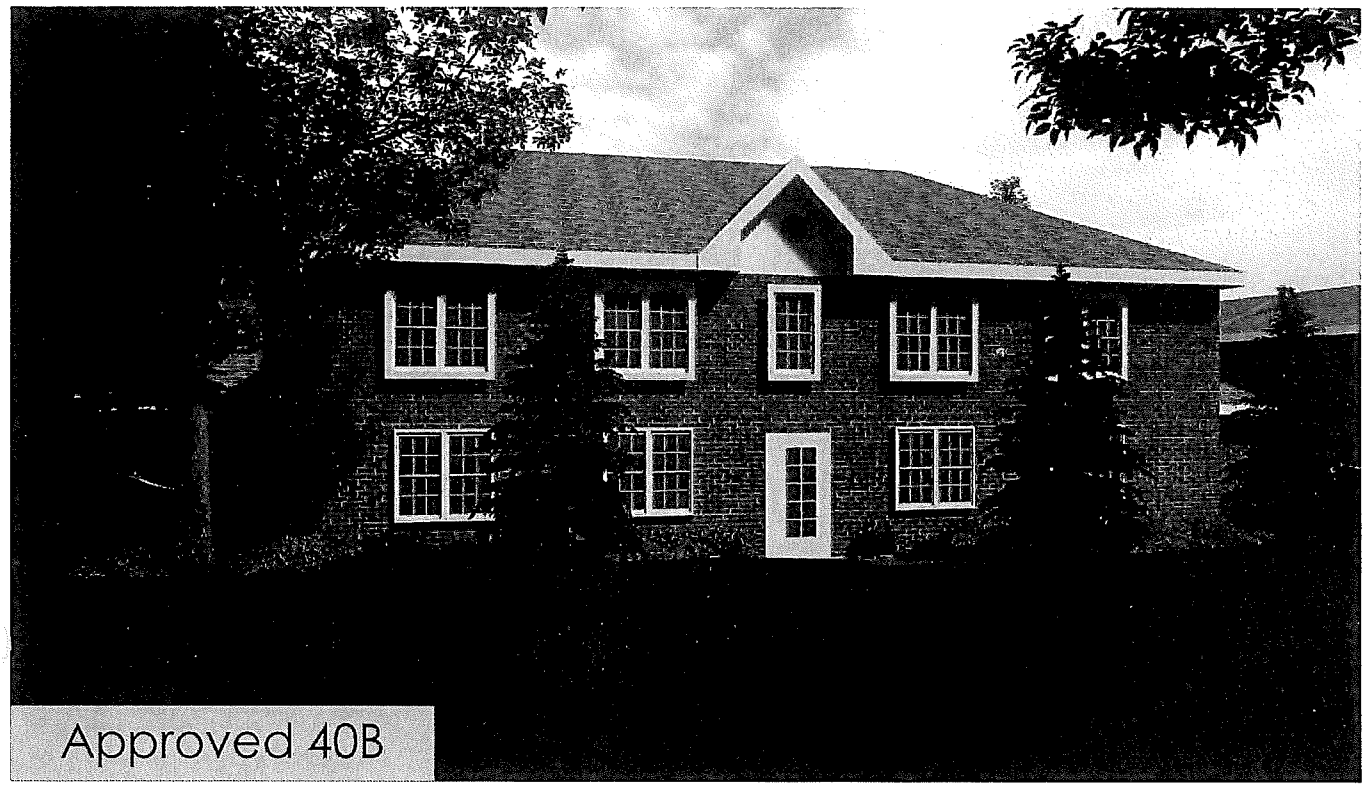


Warrant Article Plan

Green Space Next to Baker School

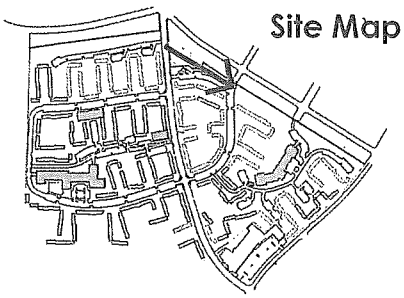




Approved 40B

Warrant Article Plan

View From Grassmere Road



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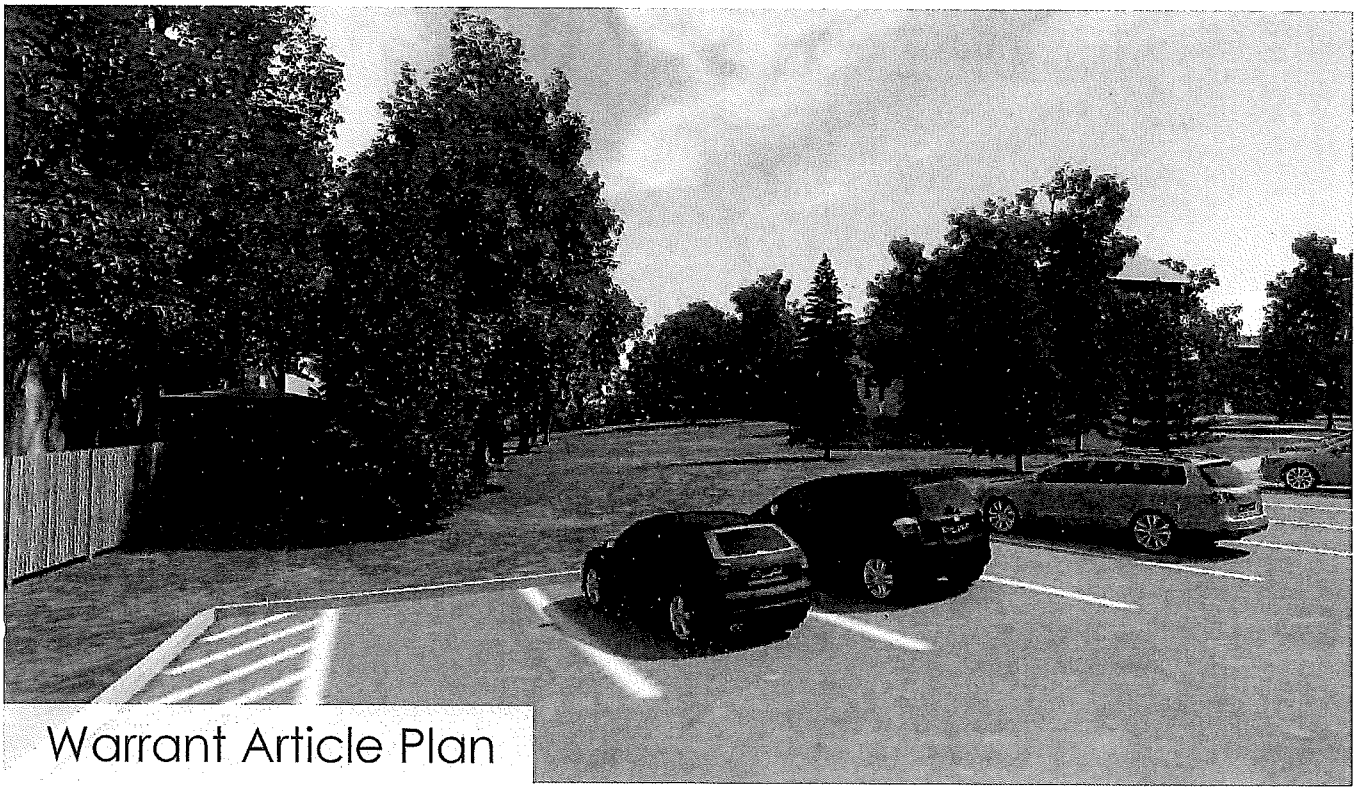
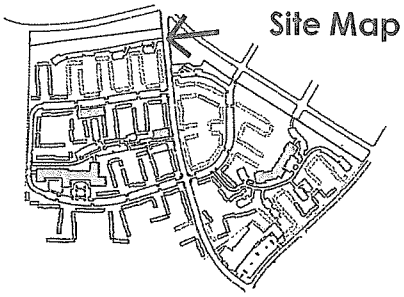
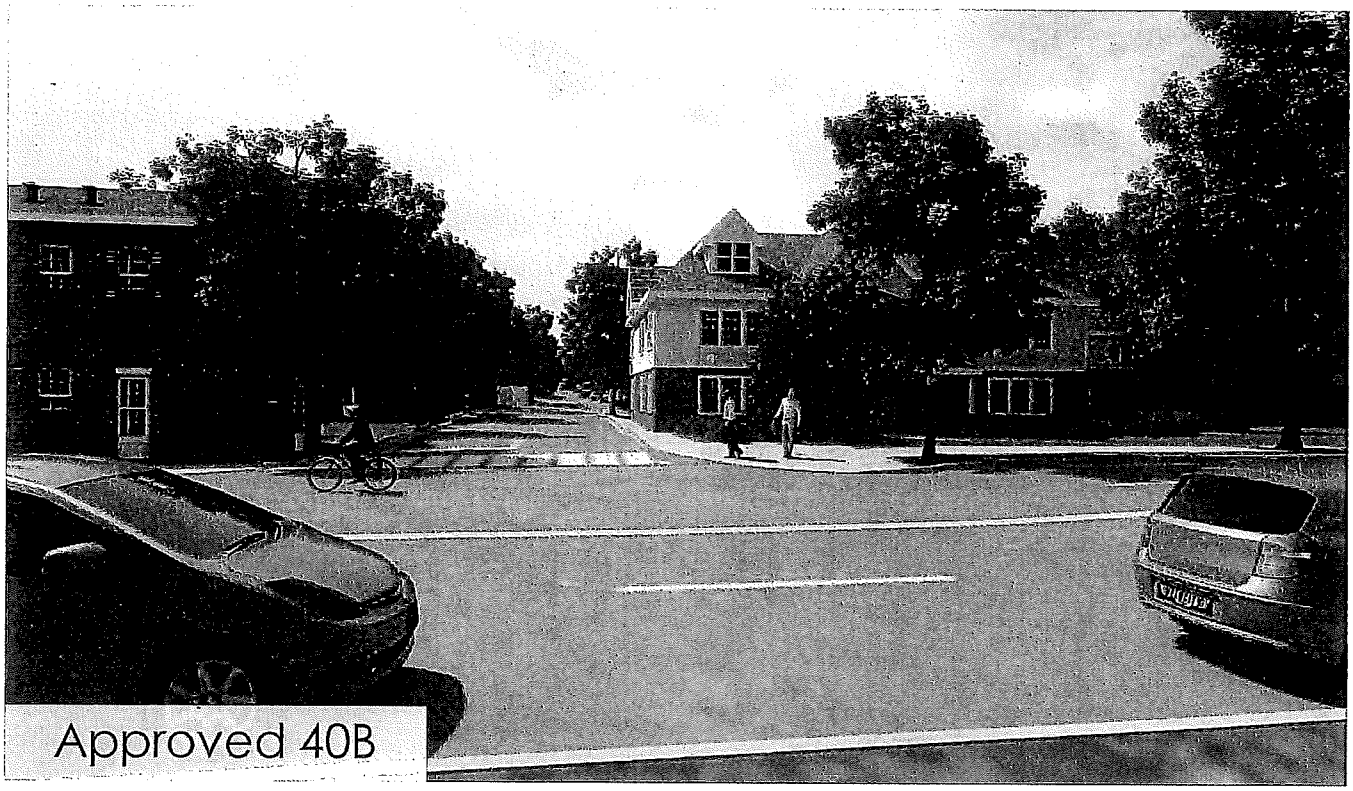


Warrant Article Plan

View From Independence Drive





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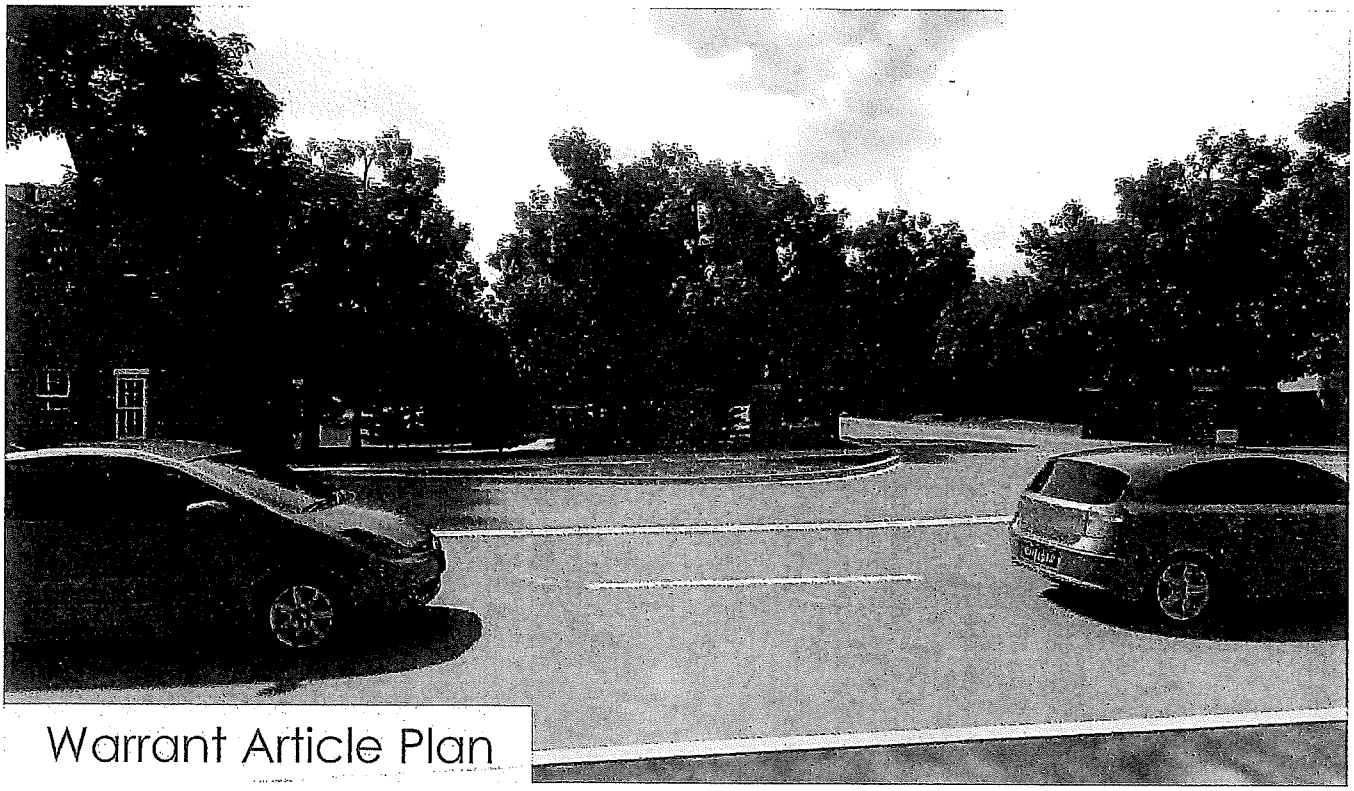
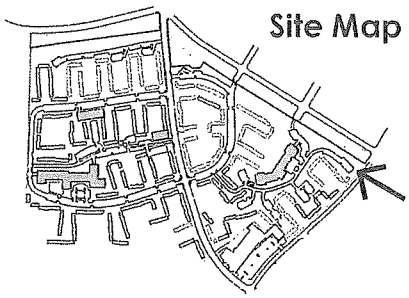
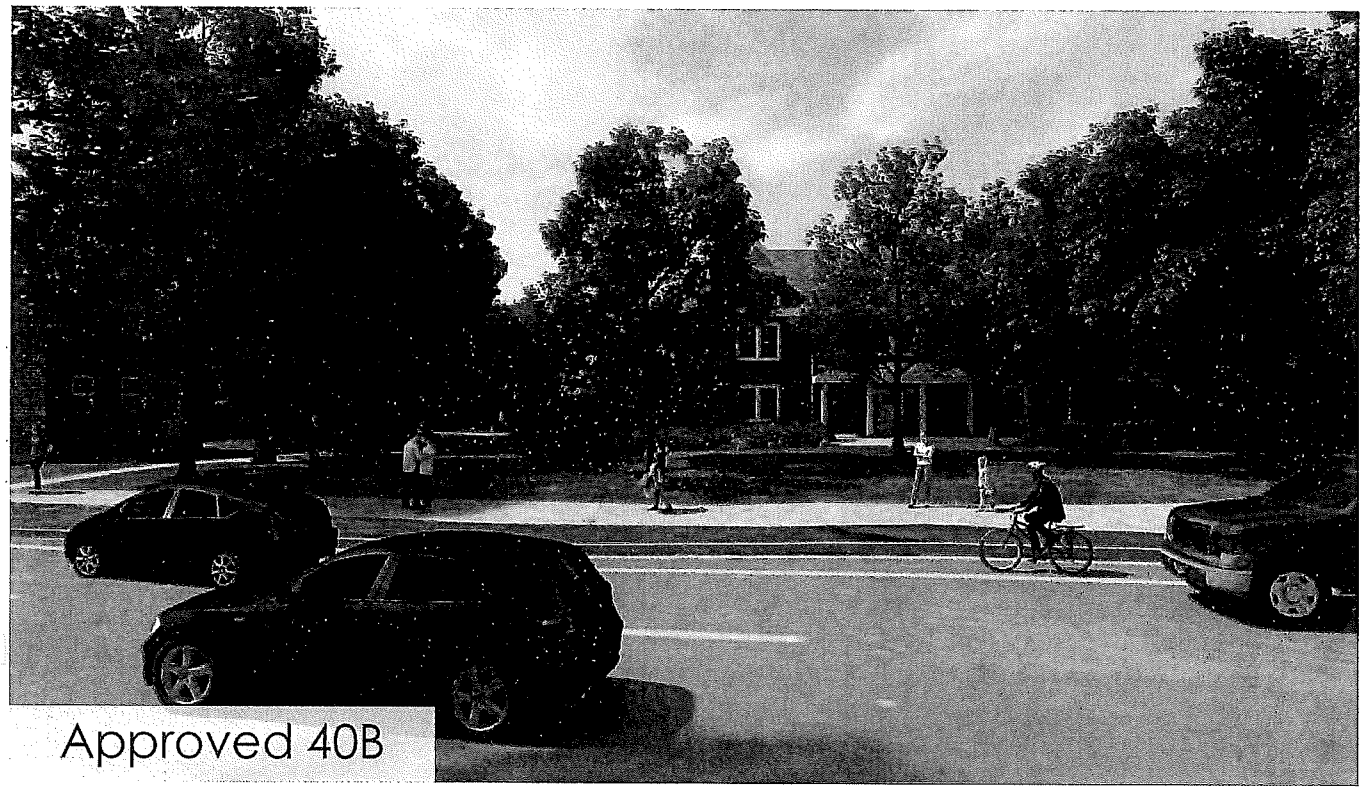


Warrant Article Plan

View From VFW Parkway





Approved 40B

Warrant Article Plan

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

(insist solely of

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.

Defeated by an Electronic Recorded Vote of 29 In Favor, 158 Opposed and 6 Abstentions

ARTICLE 10

TENTH ARTICLE

Submitted by: Board of Selectmen

To see if the Town will vote to 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, as most recently filed with the Town Clerk; 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 Open Space 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 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.

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 August 31, 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," as shown on the Master Development Plan, including all associated roads and site access features shown thereon, and renovations pursuant Section 5.06.4.k.4.b.i of this By-Law. The HVOD Project does not include any Addition.

n) MASTER DEVELOPMENT PLAN — A plan entitled "Hancock Village Master Development 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 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 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.

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 25,000 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.

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.

B) No Addition shall add more than 175 square feet of gross floor area to any individual dwelling unit.

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 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)

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.

Recycling Center Building: 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 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, may 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 consistent with the character 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

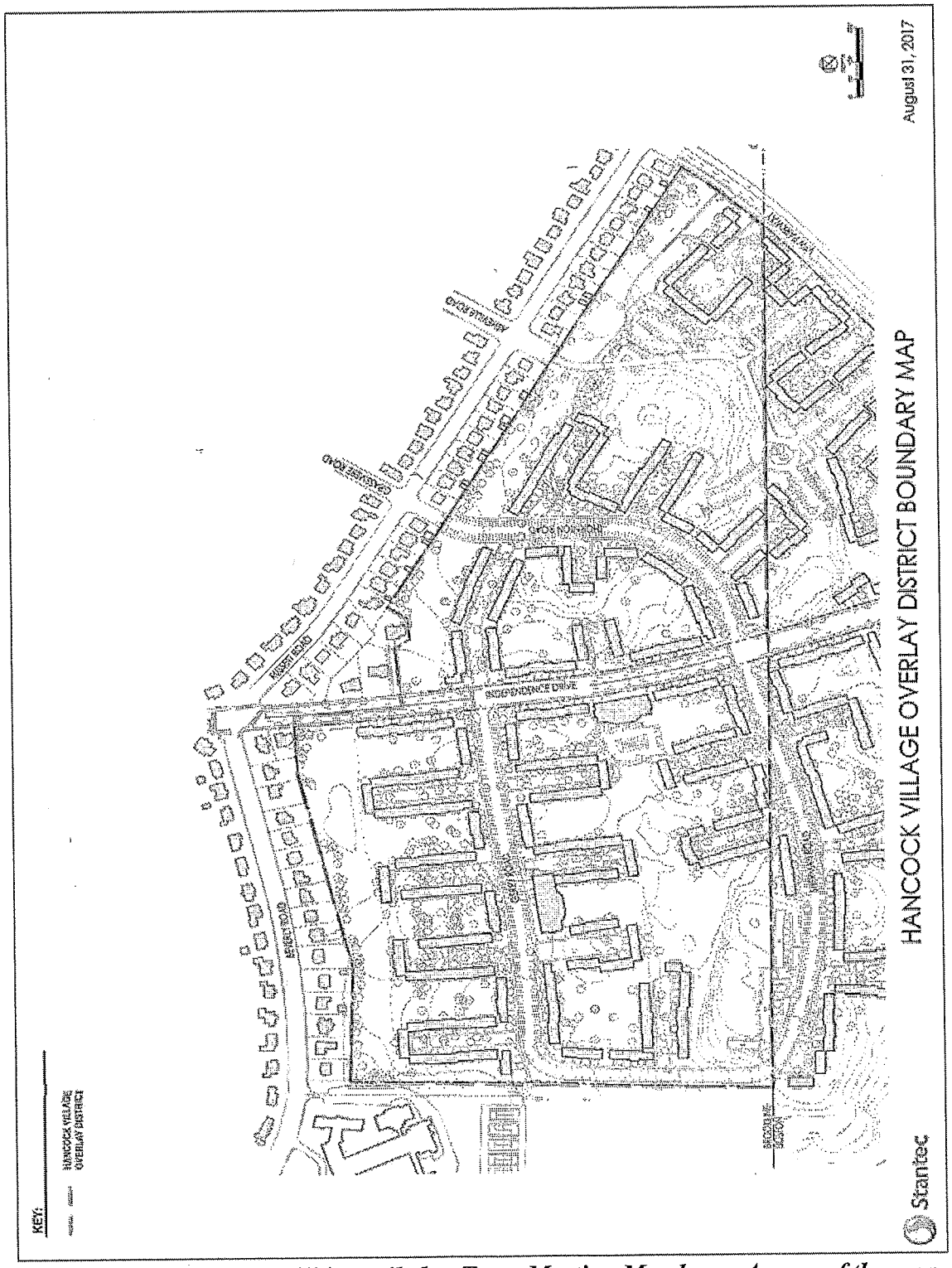
§2.12(5) of this By-Law; and to sell, finance or place under separate non-common ownership any such portion or portions of land, without modifying the approved Master Development Plan and without the need for other approvals or compliance with other provisions of this By-Law, except as set forth in Section 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.

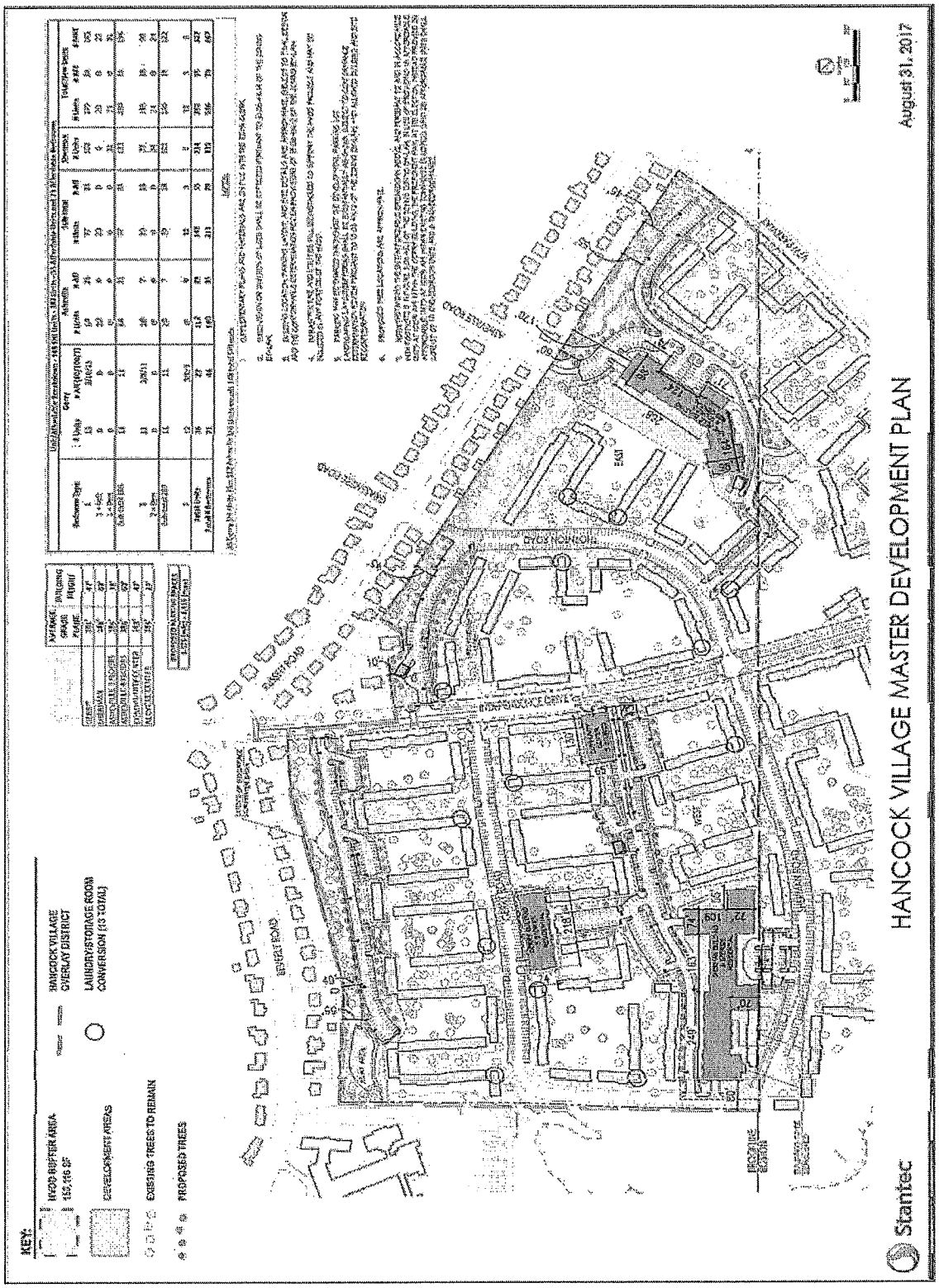
16) Prior to issuance of any certificate of occupancy for any building or other improvement, or any portion thereof, within the HVOD, the Proponent shall comply with the Public Works Department's Site Plan Review Checklist and with the Building Department's Certificate of Occupancy Process.

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 August 31, 2017, prepared by Stantec, as most recently filed with the Town Clerk, for the Hancock Village Overlay District;



(A larger map will be mailed to Town Meeting Members. A copy of the map will also be available in the Selectmen's Office.)



(A larger map will be mailed to Town Meeting Members. A copy of the map will also be available in the Selectmen's Office.)

or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

BACKGROUND INFORMATION

The following overview is provided as background information for Warrant Articles 10-15 inclusive. It is possible that continuing conversations amongst the Town, abutters and the owner of Hancock Village as well as the State may result in some modifications to the Master Development Plan and/or associated documents. If any of these changes go beyond the scope of a warrant article, the Board of Selectmen will schedule a Special Town Meeting within the upcoming Town Meeting.

Brief History

Hancock Village, which consists of 530 residential units in Brookline and an additional 261 units in Boston, was constructed during the mid-1940s as reasonably priced rental housing for post-World War II veterans. Relying on the Garden Village model as a prototype, Hancock Village was intentionally designed to separate pedestrian and automobile functions, and to afford residents of the development with visual and physical access to green space. In addition to the internal courtyards and expansive green space throughout the development, a strip of green space was retained along the northern edges of the multi-family development to serve as a buffer for the tenants from the single-family homes abutting the complex.

Hancock Village remains essentially as it was developed seven decades ago—a thoughtfully planned community of two-story townhomes in Brookline and Boston amidst a beautifully landscaped property consisting of undulating hills and puddingstone outcroppings. The so-called buffer area retained its single-family zoning (S-7) while the remainder of the Brookline site was rezoned to accommodate multi-family housing.

In recognition of the historic, architectural and cultural integrity of Hancock Village, the Town of Brookline and the City of Boston determined that the property is eligible for listing in the National Register of Historic Places. The Massachusetts Historical Commission concurred with that determination in 2012.

Chestnut Hill Realty (CHR), which purchased Hancock Village in 1986, has sought on several occasions to develop new residential buildings as well as additional parking for existing units. Each attempt has proven unsuccessful.

In 2011, Town Meeting designated the Brookline section of Hancock Village to be its first Neighborhood Conservation District (NCD), requiring that most changes to the existing buildings and landscaping secure prior approval from the Neighborhood Conservation District Commission.

CHR sought relief from both the Town's Zoning By-law and NCD regulations by applying for a Comprehensive Permit in 2013. Consistent with Chapter 40B of the Massachusetts

General Laws, a Comprehensive Permit allows development that meets State requirements for subsidized housing to essentially override municipal by-laws unless a municipality has met its State-mandated regional share of subsidized housing. The most common method of establishing "regional" share is based on the "Subsidized Housing Inventory" or "SHI". Unless a community's SHI constitutes 10% of its total year-round housing stock, its permitting authority (in Brookline, the Zoning Board of Appeals) is extremely constrained in denying a Comprehensive Permit. The Town of Brookline's SHI is below 10%.

The Zoning Board of Appeals granted a Comprehensive Permit for The Residences of South Brookline (ROSB) consisting of what is referred to as the "Asheville Building" (a multifamily building consisting of 113 units located near the southern end of the property) and 11 additional smaller buildings in the buffer area for a total of 161 units. The Town and a select group of abutters appealed the issuance of the permit by filing suit against the developer, Massachusetts Development Finance Agency (MassDevelopment) - the State agency subsidizing the project, and the Town's Zoning Board of Appeals.

Subsequently, on April 7, 2017, CHR applied for a second, separate Comprehensive Permit to construct "Puddingstone at Chestnut Hill," which, as currently proposed, would consist of 226 units of multifamily rental housing on 5.44 acres within Hancock Village near the Brookline-Boston line and across from the 100-acre Town-owned S. Blakely Hoar Sanctuary. The Comprehensive Permit application provides for a six-story apartment building (about 77 feet high) that would feature 186 units and 283 parking spaces within two levels of a partially below grade garage; three new 2.5 story townhouse apartments consisting of 12 units; the renovation of three existing two-story buildings with 12 units; and the addition of 67 additional surface parking spaces.

Facilitated Negotiation

All parties involved recognized that the size and potential impact of the redevelopment of Hancock Village, as well the considerable resources required to address two separate Comprehensive Permit processes, suggested that it was logical to explore the creation of a Master Plan addressing the property owner's desire to construct new units and parking for the existing units while at the same time addressing municipal and neighborhood needs to the maximum extent possible by avoiding the vicissitudes of 40B. This led the parties to enter into negotiations. The team representing the Town included the Chairman of the Board of Selectmen, the Town Administrator, staff members from of the Building and Planning Departments as well as three representatives of the neighborhood. Representatives of CHR included: the owner, the project manager and associated consultants (housing and landscape architects).

Both the Town and CHR were guided by frequently competing goals, as follows:

<u>The Town's overriding goals:</u>

- Implement a Master Plan that would represent the complete and final development of Hancock Village – something the Town characterized as "one-and-done."
- Minimize fiscal impacts of increased development on the Town.

- Protect as much of the green space buffer as possible from development, with a particular focus on increasing setbacks from the backyards of homes on Russett and Beverly Roads.
- Minimize the visual impact of the Asheville Building on the neighboring single-family homes.
- Minimize traffic impacts on abutting residential streets, with an emphasis on the public portion of Asheville Road.
- Increase the Town's Subsidized Housing Inventory (SHI) to the maximum extent possible.
- At a minimum, meet the numerical requirement for creating subsidized housing, established by the Town's Inclusionary Zoning By-law.

CHR's overriding goals:

- Provide opportunities to meet a 0.5 Floor Area Ratio (FAR), established by the Zoning By-law as the maximum as-of-right buildout for the major part of (Brookline) Hancock Village
- Provide additional parking that is appropriately located on the Hancock Village site to address the lack of accessible and convenient parking for existing townhomes.
- Eliminate the Hancock Village Neighborhood Conservation District (NCD).

The promising initial progress in the negotiations led the parties to execute a Memorandum of Agreement (the MOA) outlining a comprehensive solution for Hancock Village. Pursuant to the MOA, the Town and the individual neighbors serving as co-plaintiffs in the appeal agreed to dismiss the appeal in exchange for CHR's agreement to negotiate a final Master Development Plan; work with the Town to refine it into zoning amendments, associated development and regulatory agreements and a deed restriction; and, if the necessary approvals were obtained at Town Meeting, develop the property accordingly. The plaintiffs then filed a dismissal of the appeal, with the express condition that they would be able to vacate the dismissal if the Master Plan did not receive Town Meeting approval. The initial timeframe had the parties submitting the relevant warrant articles to the 2016 Annual Town Meeting, in May, but the complexity of the process and issues required more time than was originally budgeted.

THE HANCOCK VILLAGE MASTER DEVELOPMENT PLAN

The six Warrant Articles presented for approval to Town Meeting are interrelated. Combined, they support the implementation of "The Hancock Village Master Development Plan," a plan which represents the complete and final redevelopment of the Brookline component of Hancock Village. With a 2/3 favorable vote by Town Meeting, a Hancock Village Overlay District will be imposed on the entire Brookline component of Hancock Village. The District will consist of the Hancock Village Overlay District (HVOD) Project and the remainder of Hancock Village, specifically the existing townhouses and supporting roadway network, parking and green space. Associated components of the Master Development Plan will be codified and enforced by a Master Development Agreement between the Town and the property owner. In order to secure

State approval to certify the maximum number of units onto the Town's SHI, a a separate "LAU Development Agreement" for the "Local Action Units" must be executed by the Town and submitted for approval to the state Department of Housing and Community Development for inclusion on the Town's SHI. Finally, the developer has agreed that once the Master Development Plan is fully constructed, he will enter into a deed restriction precluding any future utilization of Chapter 40B or any other statute that would allow development outside what is allowed under the Zoning By-Law.

Hancock Village Overlay District (HVOD) Project

The Hancock Village Overlay District (HVOD) Project consists of "development areas," which include by definition, all new development including new buildings, parking, limited conversions of existing utility/laundry rooms; new roads and parking PLUS "open space areas." The development areas and the open space areas are identified as such on the Hancock Village Master Development Plan, a site plan which is included and made a part of the Hancock Village Overlay District.

1. New Buildings

Building	Total Units	1 BR	2 BR	3 BR	Total BRs	Affordable Units	Maximum Height
Asheville	112	84	28	0	140	28 at 80% AMI	60'
Gerry*	36	13	11	12	71	9 @ 80% AMI 18 @ 100% AMI**	47'
Sherman	234	133	101	0	335	0	69'
Community Center							47'
Recycling							29'
Total	382	230	140	12	546	37 @ 80% AMI 18 @ 100% AMI	

* Replaces Gerry garage

** Based on the recommendation of the Housing Advisory Board (HAB), CHR may—at its discretion—remove the 100% Area Median Income (AMI) affordability restrictions on 18 one and two-bedroom subsidized units from the Gerry Building in exchange for placing a corresponding 100% AMI affordability restriction on 18 one-bedroom units and 8 two-bedroom units (for a total of 26 units containing 34 bedrooms) in the existing townhouses.

2. Parking

- Minimum of 1375 TOTAL spaces and maximum of 1439 TOTAL spaces in Brookline component of Hancock Village (including a maximum of 987 surface spaces), representing an increase of between 652 and 716 from the existing 723 parking spaces in the Brookline component of Hancock Village.
- A mix of surface parking as shown on the Master Development Plan and structured parking beneath the new buildings.

3. Open space

- Approximately 3.5 acres of land abutting the single-family neighborhoods along Beverly and Russett Roads will remain undeveloped and be deeded to the Town (including a newly constructed public playground).

4. **Laundry/Utility Room Conversions**
   - Conversion of 13 existing utility/laundry rooms (identified by circles on the Master Development Plan) to bedrooms (resulting in the conversion of 13 existing one-bedroom units to 13 two-bedroom units)
   - No change or increase in the footprint or height of existing buildings
   - Conversions will be allowed by-right with a Building Permit

Remainder of (Brookline) Hancock Village

1. **Limited Additions to existing townhouses**
   - Not to exceed 175 square feet/addition
   - May not exceed a combined total of 25,000 additional square feet, which is included in the maximum 0.48 FAR for Hancock Village in Brookline established by the HVOD
   - Limited to first story of existing town homes
   - No new bedrooms or units
   - No additional parking required or allowed
   - Planning Board will review application(s) for Additions for consistency with Design Guidelines set forth in HVOD By-law
   - May not commence construction on Additions for 10 years from the issuance of the first Building Permit for an HVOD Project building

2. **Existing townhouses**
   - Not part of "HVOD Project," but would be governed by Overlay By-law and the Master Development Plan once a building permit is issued to any component of the HVOD Project including the construction of new surface parking.
   - Footprints may not exceed what's shown on Master Development Plan
   - Heights may not exceed what they are currently
   - Set back from boundaries of HVOD as shown on Master Plan
   - Total FAR for all buildings (existing buildings + HVOD Project + Additions) capped at 0.48
   - Please see "Critical Controls" below.

Critical controls established by Hancock Village Overlay District and associated documents

- Any future development of the Brookline component of Hancock Village shall be restricted to what is delineated on the Master Development Plan, which will be incorporated into the Zoning By-law and made a part thereof, plus a maximum of 25,000 square feet of Additions, subject to specified restrictions.
- Once the Applicant receives a building permit for any component of the HVOD Project, the Applicant may no longer access the underlying zoning then in effect

- The maximum Floor Area Ratio (FAR) for the Brookline component of Hancock Village shall never exceed 0.48. (The denominator in this calculation includes the buffer area that will ultimately be deeded to the Town.)
- The Hancock Village Conformance Review Committee (HVCRC), to be created by the Planning Board, will be charged with reviewing all components of HVOD Project to make sure they conform to the Master Development Plan, following technical review by staff of required plans and supporting reports and plans. The HVRC shall apply guidelines established in the HVOD By-law.
- No Building Permit may be issued for the Sherman (a/k/a/ Puddingstone--100% market rate) Building until 148 units are officially on the Town's Subsidized Housing Inventory (SHI).

Benefits of the Master Development Plan and associated documents

- Caps development of entire HVOD (including Town-owned land) to what is on the Master Development Plan map plus a maximum potential of 25,000 square feet of limited additions after 10 years. (Laundry/utility room conversions are already included in the FAR calculation since they do not represent additional floor-area ratio.)
- Eliminates possibility for residential buildings in the buffer zone.
- CHR gifts approximately 3.5 acres (identified on the Hancock Village Master Development Plan) of the buffer zone to the Town
- Removes proposed Beverly side recycling building from the buffer zone. (Originally included in the MOA)
- CHR pays for the construction of a playground on the Town land closest to the Baker School
- CHR contributes $1 million to the Town for area improvements
- Project generates 148 units on Subsidized Housing Inventory
- Project creates 55 (and possibly 63) affordable units
- CHR provides for roadway Improvements to Independence Drive
- CHR upgrades tennis courts on Baker School property.
- CHR contributes funding towards roadway improvements to Independence Drive
- CHR provides new traffic signalization on Independence at Sherman Road
- Closes access to Hancock Village from Russett Road
- No additional traffic <u>and</u> removal of existing Hancock Village traffic from residential roads (Russett, Beverly and Asheville)
- Asheville building set further back from neighborhood (relative to MOA).

Master Development Plan and supporting documents relative to the Memorandum of Agreement

The Master Development Plan differs in several respects from what is spelled out in the MOA. For the most part, this represents how any broadly-focused document such as the MOA would be refined and finalized. However, some of these differences could be viewed as not in keeping with the initial agreement. Due to a Court-imposed deadline, the MOA had to be drafted and executed quickly and, out of necessity, focused mostly on the parameters that would be imposed on any new construction. Once the subsequent

negotiations began, a number of issues had to be revisited and addressed. Most notably, the parties fundamentally disagreed about whether the MOA applied to the entire Brookline portion of Hancock Village and therefore represented the complete and final development of Hancock Village, as the Town argued, or whether the MOA's restrictions on future development were not intended to apply to modifications to the existing units.

This disagreement presented the parties with a choice: cut-off negotiations or, in the interests of avoiding the 40Bs, mutually agree to modify the Master Development Plan, accepting that this would mean explicitly referencing development not addressed directly by the MOA. Ultimately, the parties chose the latter, and agreed on the following:

- Conversions: As part of the HVOD Project, CHR may convert 13 existing laundry/utility rooms, currently attached to existing townhomes, to bedrooms. No additional square footage or height will be allowed.
- Limited Additions to existing townhomes: Once ten years have passed from the issuance of the first Building Permit for any new building component of the HVOD Project, the owner may, at its discretion, construct a maximum of 25,000 additional square feet of development to serve as additions to the existing townhouses. Each individual addition may not exceed 175 square feet; none may be more than one story high; none may be used as a bedroom or an additional unit; and all are subject to design guidelines. The townhomes are approximately 20 feet wide so this would allow for an approximate 8 foot "bump-out" per unit.

In exchange, CHR agreed to:

- Increase the number of units eligible for the Subsidized Housing Inventory from 144 to 148
- Increase the number of affordable units from 54 to 55
- Eliminate the Recycling Center that was to be located on the buffer zone west of Independence Drive
- Upgrade the municipal tennis courts on Baker School property

Finally, CHR asked that it be allowed, at its discretion, to eliminate the proposed 100% AMI restriction on the 18 units in the Gerry building and instead supply a corresponding number of 100% AMI-restricted units in previously-existing but renovated townhouses, arguing that this increased diversity in housing stock will provide greater flexibility for marketing efforts. The Housing Advisory Board (HAB) examined CHR's proposal, and requested that the replacement be made with 26 100% AMI-restricted units (18 one-bedroom units and 8 two-bedroom units) for a total of 34 bedrooms. CHR has agreed to abide by those terms if it opts for such a replacement.

Master Development Plan relative to the approved Residences of South Brookline Comprehensive Permit and the pending Puddingstone Comprehensive Permit, a/k/a/ "the 40Bs."

The following provides some data comparing and contrasting the Master Development Plan with the approved Comprehensive Plan for the Residences of South Brookline

(ROSB) and the pending Comprehensive Permit application for Puddingstone at Chestnut Hill (Puddingstone):

	Combined 40Bs (approved ROSB and pending Puddingstone)	**Master Development Plan**	**Difference**
Apartment units	387	368 (net)	-19
Apartment buildings	18	3	-15
Apartment buildings in the S-7	11	0	-11
Total bedrooms	763	524 (net)	-239
Number of affordable units at 50% AMI	77	0	-77
Number of affordable units at 80% AMI	0	37	+37
Number of affordable units at 100% AMI	0	18	+18
Total rent-restricted units	77	55	-22
Number of units eligible for the SHI	387	148	-243

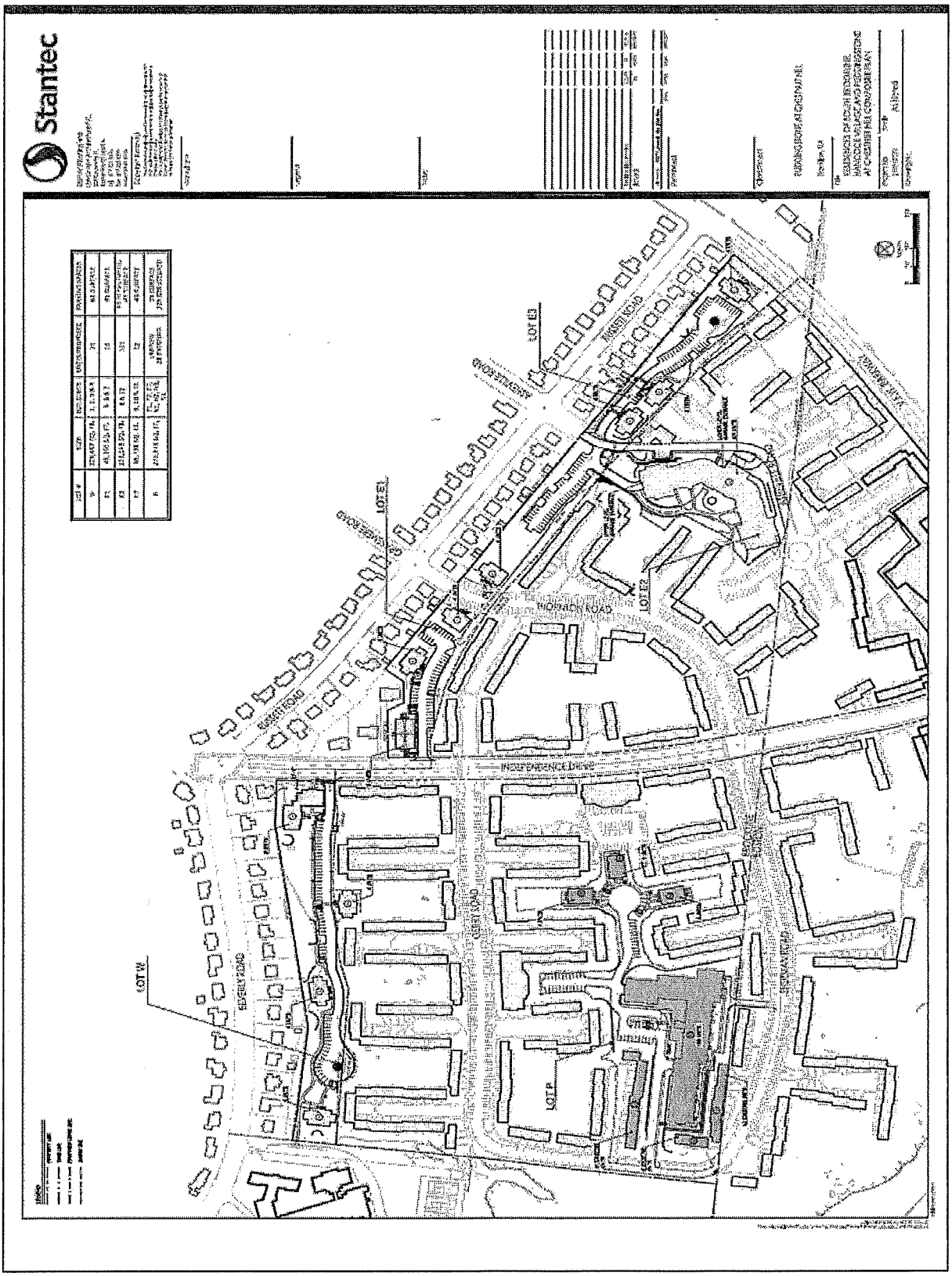
Further, the Master Development Plan

- Caps development of Hancock Village at a 0.48 Floor Area Ratio. In contrast, as-of-right development in the S-7 district is limited to 7,000 square foot single-family parcels, and the M 0.5 District is limited to 0.5 FAR. Assuming it remains in place, the NCD could, theoretically, operate to further constrain future buildout, although the NCDC has not yet had to take up such a request.
- Protects 3.5 acres of the buffer zone from development and conveys the property to the Town
- Provides that CHR:
  - Pay for the construction of a playground on the Town land closest to the Baker School
  - Contribute $1 million to the Town for area improvements
  - Upgrade the public tennis courts at the Baker School.
- Closes access to and egress from Hancock Village via Russett Road, resulting in the diversion of any additional traffic and removal of existing Hancock Village traffic from public roads (Russett, Beverly and Asheville)
- Partially relocates the Asheville Building, by setting it back farther back from the abutting residential neighborhood.

A site plan of the composite 40Bs is attached.

Current Status of the Chapter 40B Projects

Residences of South Brookline (ROSB): The Comprehensive Permit for the 161-unit Residences of South Brookline remains valid. The proposed HVOD development and the Comprehensive Permit share certain similarities, but CHR's development of the HVOD Project does not represent an exercise of its Comprehensive Permit. Pursuant to the terms of the MOA, CHR will relinquish its ROSB Comprehensive Permit upon receipt of a building permit for the final HVOD Project building. If Town Meeting does not adopt the HVOD warrant articles, CHR could proceed with construction pursuant to the Comprehensive Permit. If one or more of the plaintiffs in the appeal of the Comprehensive Permit elect to vacate the appeal's dismissal, CHR could still proceed, but it would do so at-risk.



(A larger map will be mailed to Town Meeting Members. A copy of the map will also be available in the Selectmen's Office.)

Puddingstone at South Brookline: Unless Town Meeting approves the warrant articles at Fall Town Meeting, as identified below; CHR may reinstitute its pending application for a Comprehensive Permit. It is likely that the ZBA would request, and that CHR would grant, an extension of the state-imposed deadline to provide time for the ZBA to conduct an adequate review.

The Hancock Village Neighborhood Conservation District
As noted above, one of CHR's overriding goals in entering the Master Development Plan negotiations was the elimination of the Hancock Village NCD. The MOA expressly excludes development within the HVOD Project area from the purview of the NCD and further requires that the parties identify mutually agreeable mechanisms to modify the NCD to apply to development beyond the HVOD Project. The parties did in fact explore approaches to amending the by-law, but ultimately agreed to restrict future development by applying very strict guidelines including, but not limited to, a maximum FAR (below what is currently allowed by the existing zoning), a cap on the square footage allowed for future developments and oversight by the Planning Board.

So, in exchange for CHR agreeing to limit any future development only to what is explicitly provided for in the HVOD Zoning By-Law, the Town agreed to support a warrant article eliminating the NCD. The Town believes that the Master Development Plan will meet the NCD's goals of channeling and, where necessary restricting, future development to conform to certain overarching goals benefiting both the neighborhood and the historic features of the property, particularly given that the alternative is what is proposed in the two Chapter 40B projects alongside a potential legal challenge by the property owner to the validity of the NCD.

Required actions
In order to effectuate this plan, Town Meeting approval of the following warrant articles, expanded upon below, is required:

1. Amend the Zoning By-law to create a Hancock Village Overlay District (HVOD) and to approve the Hancock Village Master Development Plan
2. Authorize the Board of Selectmen to execute a Master Development Agreement
3. Authorize the Board of Selectmen to negotiate and execute a Local Action Unit (LAU) Development Agreement
4. Authorize the Board of Selectmen to accept and enforce a deed restriction on Hancock Village
5. Authorize the Board of Selectmen to accept a gift of land, identified as "Open Space Areas" on the Master Development Plan
6. Repeal the Hancock Village Neighborhood Conservation District

EXPALANTION SPECIFIC TO THIS ARTICLE
The Board of Selectmen is proposing the creation of a zoning overlay district on Hancock Village in order to allow the construction of three residential rental buildings providing for

a total of 382 residential units, structured and surface parking, roadway improvements and modifications, a Community Center Building and a Recycling Building; the conversion of 13 utility/laundry rooms to bedrooms; and the potential construction of a maximum of 25,000 square feet of additions to existing town houses in not less than 10 years from the issuance of the first building permit for a building. At least 55 affordable units will be provided for households with incomes ranging from 80% to 100% of Area Median Income (AMI) and 148 units will be eligible for inclusion on the Town's Subsidized Housing Inventory (SHI), subject to State approval. The Hancock Village Overlay District (HVOD) establishes a maximum FAR on the property and 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.

Therefore, we request that Town Meeting approve by a 2/3 vote the Hancock Village Overlay District.

PLANNING BOARD REPORT AND RECOMMENDATION
(Articles 10-15)

Warrant Article 10, submitted by the Board of Selectmen, would create a Hancock Village Overlay District (HVOD), as delineated on the Hancock Village Master Overlay District Boundary Map, dated August 31, 2017. Warrant Articles 11 through 15 are interrelated and mutually supportive of Article 10. The Planning Board's comments are focused on Article 10.

The overlay district would apply to the entire Brookline component of Hancock Village. If the Owner utilizes its provisions, and in doing so foregoes the underlying zoning, the HVOD zoning would replace virtually all dimensional, parking, landscaping, affordable housing, and other zoning regulations in the Zoning By-Law. Construction Activity, a term defined in the accompanying zoning to include construction within the HVOD of buildings, parking and roadways, must be in conformance with the Hancock Village Master Development Plan, dated August 31, 2017 and is explicitly incorporated into the Zoning By-Law. The accompanying zoning language, a Master Development Agreement between the Town and the Owner, a Local Action Unit (LAU) Agreement with the State, and a related deed restriction establish parameters for what can and cannot be built in the overlay district as well as mitigation to be provided and/or paid by the property owner to the town.

The proposed development plan is for: three new residential buildings -- Asheville (112 units), Gerry (36 units) and Sherman (234 units); a Community Center and a Recycling Facility. A second recycling building present in earlier versions of the Master Development Plan was eliminated at the request of neighborhood representatives. There will be a mix of structured parking under the new residential buildings and additional surface parking. The surface parking must be in conformance with what is shown on the Master Development Plan, and the total number of spaces created must fall within the range

specified on the Master Development Plan. Conversion of 13 specified existing laundry/utility rooms into 13 bedrooms is also allowed. Finally, after ten years have passed from the issuance of the first building permit for one of the proposed new buildings, the developer may, if he wishes, build one story additions on previously existing units. None of the additions may exceed 99 square feet and the total square footage of these new additions may not exceed 25,000 square feet. Further, each Addition will be reviewed by the Planning Board to make sure it conforms to design guidelines set forth in the zoning, the intent of which is to maintain the character of the existing buildings. The total Floor Area Ratio (FAR) for the entire district is limited to 0.48, representing enough square footage for the existing buildings, the new buildings and the 25,000 square feet of additions, and nothing more.

Fifty-five of the newly built units will be affordable, and that number would increase to 63 if the Owner opts to take advantage of a provision allowing some of the affordable units to be located in previously existing townhouses.

Hancock Village, built in the mid-1940's in a Garden Village style, has 530 rental units in Brookline and 261 in Boston. The Town has been discussing redevelopment of the Hancock Village property with its owner, Chestnut Hill Realty (CHR), for over 10 years. This includes the 2013 Board of Appeals review and approval of a 40B Comprehensive Permit for the 161-unit Residences of South Brookline (ROSB) and a pending review of a 40B application for Puddingstone at Chestnut Hill. The latter has been put on hold to see if the compromise plan represented by the proposed zoning will be approved by Town Meeting. Similarly, the property owner has agreed not to apply for a Building Permit to construct ROSB unless the warrant articles before Town Meeting are not approved. Together, these 40B projects would generate approximately 249 more bedrooms than what is being proposed under the Master Development Plan, and provide for eleven multi-family buildings in the S-7 zoning district, commonly referred to as the "green buffer zone." Further, ROSB includes an Asheville building that is essentially 12 feet closer to the abutters, and situated on higher ground, than what is allowed in the HVOD.

The project proposed in the HVOD addresses several significant issues raised by the abutting single family neighborhood: the preservation of the "green buffer zone" in the S-7 Zoning district, and the visual impact of new construction within Hancock Village on nearby single family homes. The proposed overlay district **eliminates** the eleven multi-family buildings in the Residences of South Brookline and precludes development of residential buildings in the buffer zone. Although specified surface parking will be allowed in this area by the HVOD, the spaces have been moved away from the backyards of the abutters' property with required setbacks of at least 40 feet. Fencing and extensive landscaping will be required to screen it. CHR has agreed to close the current access to Hancock Village via Asheville Road that crosses the buffer zone, thus eliminating both existing and new Hancock Village traffic on Russett Road. CHR will build a public playground on the part of the buffer zone near the Baker School and provide maintenance of the buffer zone grounds. Upon completion of the third new building, CHR has agreed to give approximately 3.6 acres of green buffer space to the Town, preserving it in perpetuity and protecting it from any future development. Additional benefits to the

neighborhood would include: the renovation of the tennis courts at the Baker School, improvements to Independence Drive making it more pedestrian and bicycle friendly, and a gift to the Town of one million dollars to be used for improvements in the area. Finally, in order to address any concerns regarding future use of G.L. c.40B to bypass the HVOD zoning, the Owner has agreed to enter into a deed restriction following the completion of the third building that would preclude any future use of c. 40B or any other similar statute to circumvent the Zoning By-Law.

The proposed zoning is comprehensive and, in conjunction with the Master Development Agreement, deed restriction and associated documents will provide a clearly delineated project representing the complete and final build-out of the property that is consistent with a master plan. When considered alongside the host of benefits that will flow to the Town, the Planning Board believes the proposed zoning will lead to development that is much better for the Town than the approved and pending 40B projects.

The Planning Board also supports the creation of a Hancock Village Conformance Review Committee (HVCRC) as described in the proposed zoning amendment to insure that the Hancock Village Overlay District Project is in conformance with the plans. Further, the Planning Board maintains that it is the appropriate body to review the design of potential Additions. Therefore the Planning Board is supportive of Article 15, which would eliminate the Hancock Village NCDC. However, the Planning Board strongly recommends that the zoning amendment be revised to clarify and expand the role of the HVCRC to include design review of the façade details, articulation, materials and colors of the buildings, with the acknowledgement that the footprints, height and program are already prescribed by the amendment. The Planning Board urges the Board of Selectmen to add explicit language to the zoning amendment setting forth the role and responsibilities of the Planning Board relative to design review. Therefore, the Planning Board unanimously recommends **FAVORABLE ACTION** on Article X, as well as the interrelated and mutually supportive Articles XI through XV inclusive.

SELECTMEN'S RECOMMENDATION

A report and recommendation by the Board of Selectmen under Article 10 will be provided in the Supplemental Mailing.

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation by the Advisory Committee under Article 10 will be provided in the Supplemental Mailing.

XXX

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 11

ELEVENTH ARTICLE

Submitted by: Board of Selectmen

To see if the Town will vote to authorize 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," dated August 31, 2017, prepared by Stantec, as most recently filed with the Town Clerk, 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, or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Board of Selectmen is seeking authorization to enter into a Master Development Agreement with Chestnut Hill Realty that details the obligations and restrictions imposed upon the parties. These obligations and restrictions imposed upon the property owner include but are not limited to:

- Establishing the unit mix of the 382 units
- Basing the issuance of a Building Permit for the Sherman Building (a/k/a the Puddingstone Building) in part on State-certification of 148 units on the Town's Subsidized Housing Inventory.
- Imposing a series of restrictions on the construction of additions including: prohibiting additions prior to 10 years from the issuance of the first Building Permit for a building in the Hancock Village Overlay District, limiting each addition to a maximum of 175 square feet not to exceed one story, and requiring review by the Planning Board.
- Imposing a maximum buildout based on a 0.48 Floor Area Ratio
- Requiring traffic improvements and mitigation to be provided by the property owner. The owner will be responsible for providing prescribed Roadway Improvements to Independence Drive plus a traffic signal at the intersection of Sherman and Thornton Roads and Independence Drive.
- Constructing a public playground on Town property near Baker School that previously constituted part of the buffer area.
- Conveying title to the Town of approximately 155,116 square feet, identified as "Open Space Areas" on the Hancock Village Master Development Plan.

- Maintaining and landscaping the public park for a period of 30 years
- Imposing strict requirements during construction

It is the intention of the Board to have the Master Development Agreement executed far enough in advance of Town Meeting so as to allow Town Meeting Members to review its terms prior to voting on the series of Hancock Village warrant articles. Copies of the Master Development Agreement, once executed, will be available at the Selectmen's Office. Therefore, we request that Town Meeting vote to authorize the Board of Selectmen to enter into the Master Development Agreement.

SELECTMEN'S RECOMMENDATION

A report and recommendation by the Board of Selectmen under Article 11 will be provided in the Supplemental Mailing.

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation by the Advisory Committee under Article 11 will be provided in the Supplemental Mailing.

XXX

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.

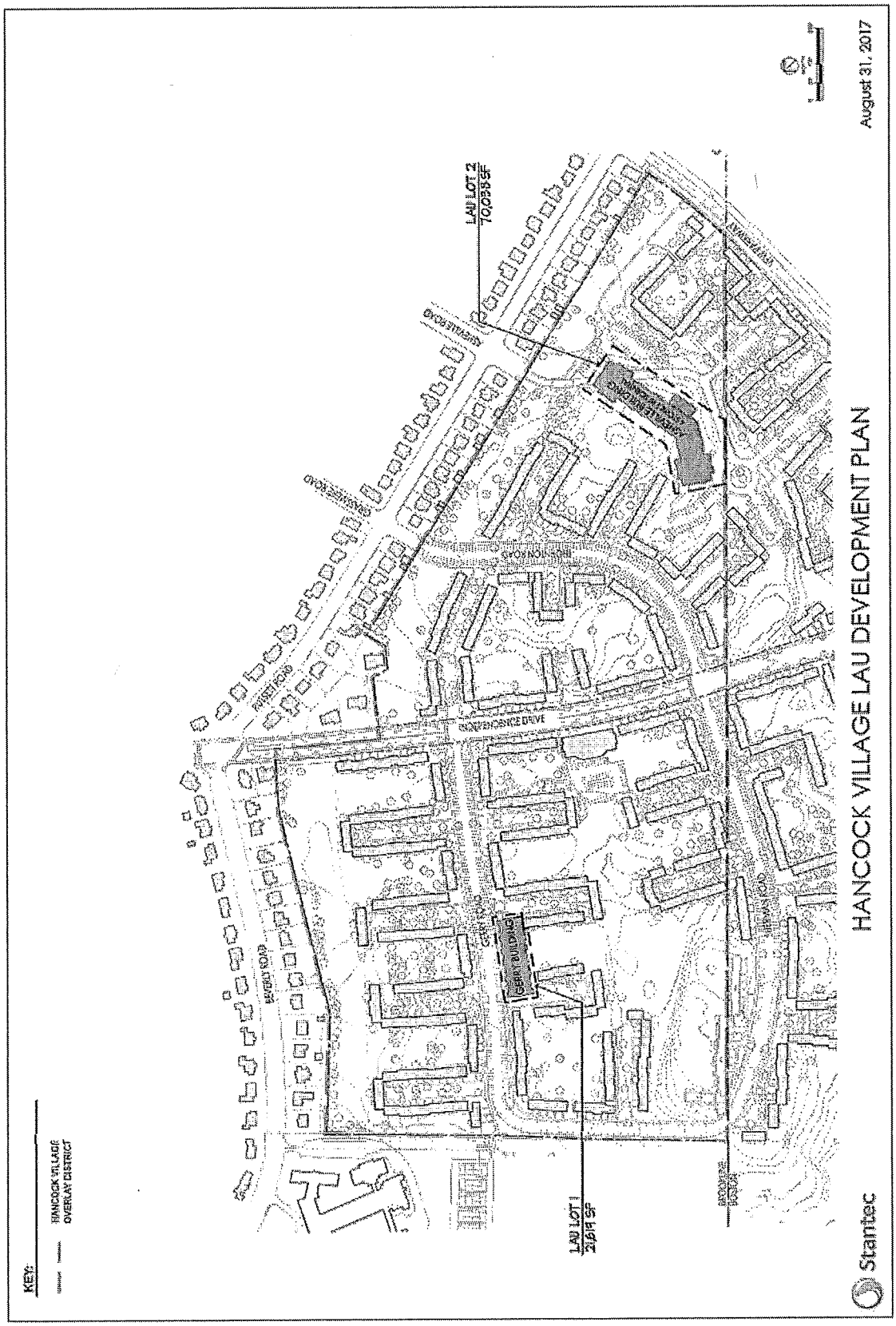
RECOMMENDATION:
By a vote of 17–7–1, the Advisory Committee recommends FAVORABLE ACTION on the motion offered by the Selectmen.

ARTICLE 12

TWELVTH ARTICLE

Submitted by: Board of Selectmen

To see if the Town will vote to authorize 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," dated August 31, 2017, prepared by Stantec, as most recently filed with the Town Clerk, 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, or take any other action relative thereto.



(A larger map will be mailed to Town Meeting Members. A copy of the map will also be available in the Selectmen's Office.)

PETITIONER'S ARTICLE DESCRIPTION

The Board of Selectmen is seeking authorization to negotiate and subsequently enter into a Local Action Unit (LAU) Development Agreement with Chestnut Hill Realty. A duly executed LAU is necessary to secure State-certification of 148 units to be placed on the Town's Subsidized Housing Inventory (SHI). The LAU Development Agreement establishes the requirements for number, income levels and basic location of subsidized units. The LAU Development Agreement requires that the parties enter into a Regulatory Agreement, consistent with DHCD standard procedures, to insure that the subsidized units will be available for income-eligible tenants in perpetuity. The LAU Development Agreement relates exclusively to affordable units available for households earning not more than 80% of the Area Median Income (AMI) with 80%. Units dedicated to households with not more than 100% AMI are addressed by the Master Development Agreement.

The Town and CHR have entered into conversations with DHCD relative to the LAU both directly and with the help of housing consultants. These conversations will continue with the ultimate goal of securing State-certification of 148 units to be placed on the Town's SHI.

It is the intention of the Board to have the LAU Development Agreement executed far enough in advance of Town Meeting so as to allow Town Meeting Members to review its terms prior to voting on the series of Hancock Village warrant articles. Copies of the LAU Development Agreement, once executed will be available at the Selectmen's Office. Therefore, we request that Town Meeting vote to authorize the Board of Selectmen to enter into the Local Action Unit Development Agreement.

SELECTMEN'S RECOMMENDATION

A report and recommendation by the Board of Selectmen under Article 12 will be provided in the Supplemental Mailing.

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation by the Advisory Committee under Article 12 will be provided in the Supplemental Mailing.

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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 13

THIRTEENTH ARTICLE

Submitted by: Board of Selectmen

To see if the Town will authorize 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, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Town Meeting approval is required to authorize Board of Selectmen to enforce a deed restriction that will prevent current and future owners of Hancock Village to take advantage of Chapter 40B or any other Massachusetts General Law that allows a property owner to override municipal by-laws to develop property in order to meet a State objective. The deed restriction reinforces the "one-and-done" principle that has been and continues to be a critically important objective of the Town.

SELECTMEN'S RECOMMENDATION

A report and recommendation by the Board of Selectmen under Article 13 will be provided in the Supplemental Mailing.

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation by the Advisory Committee under Article 13 will be provided in the Supplemental Mailing.

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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 14

FOURTEENTH ARTICLE

Submitted by: Board of Selectmen

To see if the Town will authorize 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," and dated August 31, 2017 available for review at the Office of the Town Clerk, 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, or to act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Town Meeting approval is required for the Town to accept a gift of approximately 3.5 acres of the greenspace or so-called "buffer area" (zoned S-7) from the owner of Hancock Village. The Master Development Agreement provides for conveyance of said property within 30 days of issuance of the final Certificate of Occupancy for the HVOD Project.

Therefore, we request that Town Meeting vote to authorize the Board of Selectmen to accept approximately 3.5 acres of greenspace, identified on the Hancock Village Master Development Plan as "Open Space Areas 155,116 SF" from the owner of Hancock Village.

SELECTMEN'S RECOMMENDATION

A report and recommendation by the Board of Selectmen under Article 14 will be provided in the Supplemental Mailing.

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation by the Advisory Committee under Article 14 will be provided in the Supplemental Mailing.

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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

A Vote of Nolletem Was Passed Unanimously

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 15

FIFTEENTH ARTICLE

Submitted by: Board of Selectmen

To see if the Town will vote to amend the Town's General By-Laws to delete Section 5.10.3(d)(1) thereof, and to rescind the establishment of the "Hancock Village Neighborhood Conservation District" pursuant to Article 6 of the November 15, 2011, Special Town Meeting, or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The Hancock Village Master Development Plan, incorporated into the Hancock Village Overlay District By-law, will establish and define the redevelopment plan for all of Hancock Village. All development within the Development Areas as well as the conversions, both of which are identified on the Hancock Village Master Development Plan, will be subject to review by appropriate Town staff as well as the Hancock Village Conformance Review Committee (HVCRC) consistent with specified guidelines. All contemplated Additions are subject to specific size and aggregate amount limitations in the HVOD By-Law, and will also be individually reviewed by the Planning Board for conformance with design guidelines established in the by-law. Future construction of buildings, accessory structures, roadways or parking areas in all of Hancock Village must conform to the Master Development Plan.

The Town believes that the Hancock Village Master Plan represents significant progress towards the objectives related to planning, conservation, historic preservation, open space and impact mitigation that motivated the imposition of the Neighborhood Conservation District. The need to maintain the oversight authority of the NCDC for Hancock Village is sufficiently reduced to allow for the removal of the Hancock Village NCD.

All other provisions of Section 5.10 relative to Neighborhood Conservation Districts of the General By-laws shall remain in full force and effect.

Therefore, we request that Town Meeting vote to repeal Section 5.10.3(d)(1) of the General By-laws relating to the creation of the Hancock Village Neighborhood Conservation District.

SELECTMEN'S RECOMMENDATION

A report and recommendation by the Board of Selectmen under Article 15 will be provided in the Supplemental Mailing.

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation by the Advisory Committee under Article 15 will be provided in the Supplemental Mailing.

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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 C~~ommittee on Town Organization and Structur~~e, and to request that C~~ommittee to~~ present a report to the May 2018 Annual Town Meeting.

Select Board

May

Passed by a Counted Vote of 160 In Favor and 3 Opposed

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 16

MOTION OFFERED BY BETSY DEWITT (TMM5)
(APPLICABLE ONLY IN THE EVENT ARTICLE 16
IS NOT REFERRED IN ITS ENTIRETY)

FIRST VOTE:
(Deletions from existing General By-Law Article 3.21 shown as ~~strikethroughs~~; additions shown as **bold underline**.) (Further additions to original CTO&S and Select Board Motion shown in ***bold underlined italics***).

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~~***30A***, §§~~23A et seq.~~***18-25*** (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 *said* 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 ***General*** 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 immunity from discovery*, 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

SIXTEENTH ARTICLE

Submitted by: Neil Gordon, TMM1

To see if the Town will vote to amend Article 3.21 of the Town's General By-Laws as follows (bold underlined language is new; strike-out language is deletion):
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 pertinent to known topics of public concern (or a website link containing such information) as is being or has been provided to the relevant governmental body**.

(b) (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 (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 shall become effective on July 01, 2008.~~

Or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

Pursuant to Article 3.21 of the Town By-laws (adopted in 2007 after a Brookline PAX initiative), meeting notices and agendas are required to be posted electronically on the Town website, and disseminated electronically to all who ask. That has, after an adjustment period and with some "Town Hall" leadership and effort, been a great success.

This Warrant Article addresses a gap in providing information to the public, and proposes that relevant information that is being or has been provided to boards, committees and commissions be posted electronically on the Town website, as well. After several requests from the floor of Town Meeting and otherwise, some bodies (and especially the Board of Selectmen) have made a welcome effort, but many have not (in part due to a lack of

relatively straightforward infrastructure). Having more information available to the public on a timely basis will encourage public discourse and debate, at hearings and otherwise.

We note from the 2007 by-law Warrant Article's Combined Report by the Board of Selectmen, "As stated in the 'Purpose and Applicability' section, the purpose of the proposed by-law is to 'take advantage of the internet', **'better implement the spirit of the OML,'** and **'improve opportunities for broader and more meaningful participation in the business of Town governmental bodies'. No one can argue with those admirable goals. All governmental units at all levels should strive to improve openness and transparency."** The Advisory Committee, in recommending favorable action by a vote of 17-3 added: " **...a reasonable and timely attempt to further the important public goal of greater citizen participation in Brookline's town government."** (emphases added)

SELECTMEN'S RECOMMENDATION

Article 16 is a petitioned article, which seeks to expand the Town's electronic notice requirements to include documents that are available in electronic form 48 hours or more before the meeting also posted along with the agenda. This would only pertain to documents that are distributed 48 hours of more before the meeting. The intent is to make it possible for residents to become more informed about an item on the agenda.

The Selectmen are in agreement that increased accessibility to meeting materials would be a benefit to the community, which could result in smoother meetings and a more informed community. An issue raised was about the availability of the documents and materials electronically, but the article has been amended to include the language concerning materials "that can feasibly be provided in electronic format." There is also an issue about the timing of changes to materials prior to meetings, but the posting of electronic documents 48 hours would not alleviate this concern.

Ultimately, the Board was supportive of the intent of the warrant article, and it reflects changes that the Board has already implemented concerning their materials. Although there will be difficulties with materials from certain departments, specifically larger maps from planning or other materials that may not be feasible to post online, this is a process that the Board favors.

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on October 17, 2017, on the following vote. (bold underlined language is new; strike-out language is deletion):

VOTED: that the Town 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 can feasibly be provided in electronic format.**

(b) (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 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.

Section 3.21.6 Effective Date

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

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.

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation by the Advisory Committee under Article 16 will be provided in the Supplemental Mailing.

XXX

ARTICLE 17

SEVENTEENTH ARTICLE

Submitted by: Richard Murphy

To see whether the Town will vote to amend the Town's General Bylaws by adding a new Tree Preservation Bylaw, as follows:

ARTICLE 8.37: TREE PRESERVATION BYLAW

8.37.1. PURPOSE: The intent of this Tree Preservation Bylaw is to encourage the preservation and protection of trees during significant demolition and/or construction activity by designating areas of a lot where trees must be protected, and requiring mitigation for trees that are removed by the replanting of trees or the collection of fees to support the Town's tree planting and maintenance efforts.

8.37.2. DEFINITIONS: For the purposes of this Tree Bylaw, the following definitions shall apply:

2.1 Caliper: Diameter of a tree trunk (in inches). For trees up to and including four (4) inches in diameter, the caliper is measured six (6) inches above the existing grade at the base of the tree. For trees larger than four (4) inches in diameter, the caliper is measured twelve (12) inches above the existing grade at the base of the tree.

2.2 Certified Arborist: A professional arborist possessing current certification issued by the International Society of Arboriculture (I.S.A.) and/or the Massachusetts Arborist Association (M.A.A.).

2.3 Diameter at Breast Height (DBH): The diameter of a tree trunk at four and one-half (4.5) feet above the existing grade at the base of the tree. If a tree splits into multiple trunks below four and one-half (4.5) feet above the existing grade, the DBH shall be considered to be the measurement taken at the narrowest point beneath the split.

2.4 Invasive Species: Any plant or tree listed on the most recent version of the Massachusetts Prohibited Plant List as published by the Massachusetts Department of Agriculture.

2.5 Protected Tree: Any existing tree with a DBH of six (6) inches or greater that has any portion of its trunk within a Tree Yard at grade level. Invasive Species (as defined herein) shall not be considered Protected Trees.

2.6 Reviewing Agent: Any agent delegated in writing by the Board of Selectmen or Town Administrator to administer and implement this Tree Protection Bylaw.

2.7 Tree Preservation Fund: An account established under this Bylaw pursuant to M.G.L. 44 § 53E½ for the deposit of contributions in lieu of tree replanting as required by this Tree Preservation Bylaw.

2.8 Tree Protection & Mitigation Plan: A plan submitted to the Reviewing Agent for approval prior to the commencement of demolition and/or construction on any property on which a Protected Tree is located.

2.9 Tree Removal: The mechanical destruction or demolition of a living tree, or any act (a) that has caused a tree to die within the previous 12 months or (b) is likely to cause significant decline or death as determined by the Reviewing Agent.

2.10 Tree Save Area: The minimum area beneath the canopy of the tree which must be left undisturbed in order to preserve a sufficient root mass to give the tree a reasonable chance at survival. This area is represented by a concentric circle centering on the tree's trunk and extending outward toward the tree's dripline. The minimum Tree Save Area shall be determined by multiplying the tree's DBH (in inches) by twelve (12) inches, with the product constituting the required minimum Tree Save Area.

2.11 Tree Yard: The minimum front, side and rear yard setback area of a parcel in a residential zoning district as specified in Town of Brookline Zoning Bylaw Section 4.07, Table of Use Regulations.

8.37.3. TOWN OF BROOKLINE TREE FUND: There is hereby established a Town of Brookline Tree Preservation Fund ("Tree Fund") pursuant to M.G.L. 44 § 53E½. Any contributions collected per Section 5.2(b) of this Tree Bylaw shall be deposited in the Tree Fund, and shall be used solely for the purpose of buying, planting and maintaining trees within the residential neighborhoods of the Town.

8.37.4. SCOPE AND APPLICABILITY

4.1 Within all residential districts of the Town, it is prohibited to remove a protected tree during construction or within 24 months prior to application for a demolition or building permit for: (a) Demolition of an existing structure of 250 gross square feet or greater; (b) Construction of any building or structure on a vacant lot; or (c) Construction of one or more structures or additions to structures on a lot that increases the Gross Floor Area by 50% or greater, as defined by Town of Brookline Zoning Bylaw Section 2.07 1.

4.2 The requirements of this Tree Bylaw shall not apply to: (a) The subdivision of land under Town of Brookline Subdivision Rules and Regulations; (b) Those areas of property under the jurisdiction of the Wetlands Protection Act (Chapter 131 and 310 CMR); (c) Public Shade Trees pursuant to M.G.L. Chapter 87; (d) Emergency projects necessary for public safety, health and welfare, as determined by the Reviewing Agent or the Town's Tree Warden; (e) Trees severely damaged as the direct result of a natural disaster; (f) Trees that are hazardous as determined and confirmed in writing by a Certified Arborist; or (g)

Trees currently infected by a disease or insect infestation of a permanent nature, as determined and confirmed in writing by a Certified Arborist.

8.37.5. TREE PROTECTION & MITIGATION

5.1 Protection: Each Protected Tree to be retained on property that is planned for demolition and/or construction activity shall be protected by the establishment of a marked-off Tree Save Area. The Tree Save Area shall be delineated within the submitted Tree Protection & Mitigation Plan, shall be installed prior to any demolition or site work, and shall remain in place until work is completed on the property, excluding final landscaping. The applicant shall submit written documentation, prepared, dated and signed by a Certified Arborist, to the Reviewing Agent confirming that the required Tree Save Area has been installed as identified in the Tree Protection & Mitigation Plan before work on the property commences.

5.2 Mitigation: The removal of a Protected Tree(s) from a property in connection with one or more of the circumstances set forth in Section 4.1 shall require mitigation based upon the aggregate DBH of Protected Trees removed. Mitigation shall be achieved by satisfying one or a combination of the following provisions:

(a) Replanting of Trees: For each inch of DBH of Protected Tree(s) removed, no less than one-half inch of caliper of new tree(s) shall be replanted subject to and in accordance with the following: (1) Each new tree must have a minimum caliper of at least four (4) inches; (2) Such replanting, either on the applicant's land or on land abutting the applicant's land with the express written approval of the owner of such abutting land, shall occur prior to the issuance of a Final Certificate of Occupancy, or be otherwise assured at such time to the satisfaction of the Reviewing Agent in a manner consistent with the Rules and Regulations established under this By-law;

(b) Contribution to the Town of Brookline Tree Preservation Fund: The Reviewing Agent in consultation with the Planning Board shall establish a Tree Fund contribution schedule, subject to approval by the Board of Selectmen, assigning a value per inch of DBH of Protected Tree(s) to be removed and not otherwise mitigated, which shall be not less than $500.00 per inch of DBH. Tree Fund contributions shall be received by the Town prior to the issuance of a demolition or building permit. Mitigation measures shall be detailed in the submitted Tree Protection and Mitigation Plan. The removal or proposed removal of a Protected Tree(s) that has been mitigated for, in conjunction with a previous applicable permit, shall not require any additional mitigation under subsequent permits, unless such mitigation has not been completed or otherwise assured to the satisfaction of the Reviewing Agent.

5.3 Unauthorized Removals: The removal of any Protected Tree that is not identified on the Tree Protection & Mitigation Plan shall require mitigation at the rate specified in Section 5.2. In addition, any person removing any Protected Tree not identified on the Tree Protection & Mitigation Plan in violation of this bylaw shall be subject to a fine of $300 per Protected Tree, per day, until the mitigation required under Section 5.2 of this

By-law is complete, and no demolition or building permit shall be issued for the subject property for at least two (2) years from the date of such mitigation completion.

5.4 Plan Review and Permit Issuance:

(a) Tree Protection & Mitigation Plan Submittal: Prior to the issuance of a permit in connection with one or more of the circumstances set forth in Section 4.1 on property on which a Protected Tree is located or was located within twelve (12) months prior to application, the owner of the property shall submit a Tree Protection & Mitigation Plan to the Reviewing Agent along with the applicable application and fee.

(b) Tree Protection & Mitigation Plan Requirements: The submitted Tree Protection & Mitigation Plan shall be a to-scale survey or site plan that indicates the applicable Tree Yard, existing improvements, proposed construction, Protected Trees, Tree Save Area and preservation and maintenance procedures in accordance with the Rules and Regulations in effect at the time. It must also specify any tree removals and proposed mitigation measures per Section 5.2. All such plans must be prepared, stamped, dated and signed by a registered land surveyor or licensed architect.

(c) Re-Submittal: If demolition or construction has not commenced within twelve (12) months of the date that a Tree Protection & Mitigation Plan was submitted for a property, or if removal of a previously unidentified Protected Tree is necessary during the course of construction, an amended Tree Protection & Mitigation Plan shall be submitted identifying any changes from the previous plan and associated mitigation measures.

(d) Reviewing Agent Action: If the Tree Protection & Mitigation Plan is consistent with the protection and mitigation requirements contained herein and any established Rules and Regulations, and applicable Tree Fund contributions have been submitted, the Reviewing Agent may issue any applicable permit or notify the appropriate Town Department. If the proposal does not meet or satisfy these requirements, the Reviewing Agent shall notify the applicant and the appropriate Town Department, and no permit(s) shall be issued until the requirements are met. If the Reviewing Agent fails to act on an application within thirty (30) days after the application has been made, it shall be deemed to be approved.

5.5 Maintenance of Protected and Replanted Trees:

(a) Protected Trees: Each Protected Tree retained shall be maintained in good health for a period of no less than twenty-four (24) months from the date of Final Inspection, or issuance of a Certificate of Occupancy if applicable. Should such tree die or significantly decline in the opinion of the Reviewing Agent within this twenty-four (24) month period, the owner of the property shall be required to provide mitigation consistent with the requirements for the removal of a Protected Tree as contained herein within nine (9) months from said determination.

(b) Replanted Trees: All new trees planted to mitigate the removal of Protected Tree(s) shall be maintained in good health for a period of no less than twenty-four (24) months from the date of planting. Should such tree die or be removed within this twenty-four (24)

month period, the owner of the property shall be responsible for replacing the tree with a tree equal to or greater than the size of the original Replanted Tree at installation; such replacement tree shall be planted within nine (9) months of the death or serious decline of the original Replanted Tree.

5.6 Minimum Tree Maintenance or Planting Requirement:

Notwithstanding any provision of this Tree Protection By-law, the owner or developer of any residential or commercial lot who applies for and receives a demolition or building permit for: (a) demolition of an existing structure of 250 gross square feet or greater; (b) construction of any building or structure on a vacant lot; or (c) construction of one or more structures or additions to structures on a lot that increases the Gross Floor Area by 50% or greater, shall be required as a condition of such permit to maintain and/or plant a minimum of 5 inches DBH of tree per 1,000 square feet of such lot.

8.37.6. ADMINISTRATION

6.1 Enforcement: The Building Commissioner is hereby authorized to enforce all of the provisions of the Tree Preservation Bylaw.

6.2 Appeals: Any person who is aggrieved by refusal, order, or decision of the Reviewing Agent or Building Commissioner under this Tree Bylaw may appeal to the Zoning Board of Appeals within 20 days from the date of such refusal, order, or decision.

5.11.7. RULES AND REGULATIONS

The Planning Board may promulgate or amend Rules and Regulations which pertain to the administration of this Tree Bylaw, and shall file a copy of said rules in the office of the Town Clerk. Such rules may prescribe the size, form, contents, style, and number of copies of plans and specifications, the procedure for the submission and approval of such plans, and the procedure for determining final compliance with these regulations. The adoption or amendment of Rules and Regulations shall be after a public hearing to receive comments on the proposed or amended Rules and Regulations. The public hearing shall be advertised once in a newspaper of general local circulation, at least 14 days prior to the date of the public hearing.

And, to amend Article 10.3 of the Town's Non-Criminal Disposition Bylaw by adding the following: Table of Specific Penalties under Article 10.3:

Article 8.37 Tree Preservation By-law:

For each violation: $300.00 per Protected Tree, per day, until mitigation required under Article 8.37 is complete.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

In response to broad citizen concern over the loss of large heirloom trees and other significant tree cover on properties that are clear-cut prior to development, a proposed Tree Protection By-law was submitted to Town Meeting as Article 11 in the Warrant for the May 24, 2016 Annual Town Meeting. Town Meeting voted to refer the Article to a Selectmen's Committee to "evaluate the best way to provide tree protection in the Town" and report back to the 2017 Annual Town Meeting. The Committee provided an update, but after having several meetings which included reviewing the practices of various Massachusetts communities that have adopted Tree Preservation measures, the Committee has not made a recommendation. This Article is based on a recent comprehensive study of tree preservation measures that was conducted by the Town of Concord and is filed now to avoid the further destruction of significant trees in Brookline. It requires residential property owners to protect trees within a defined setback area of a lot during significant demolition and/or construction activity. If trees are removed from the setback area, the bylaw requires property owners to either plant replacement trees or pay fees to a Town Tree Fund for planting elsewhere in town. It is intended to encourage the preservation and maintenance of trees, similar to ordinances and by-laws adopted by several other communities.

PLANNING BOARD REPORT AND RECOMMENDATION

This warrant article, submitted by citizen petitioner Richard Murphy, proposes to amend the Town's General Bylaws by adding a new Tree Preservation Bylaw.

As a result of Fall 2016 Town Meeting, a Selectmen's Tree Study Committee was established to study the possible benefits of a tree protection ordinance. The nine-member committee, which includes Mr. Murphy and Planning Board member Robert Cook, met extensively during the past year to consider the purpose and intent, as well as the applicability, jurisdiction, implementation and enforcement of such an ordinance in Brookline. The Committee also considered various regulatory mechanisms that could be included in a draft tree protection ordinance. During this time, the Committee met with representatives from Cambridge, Newton, Springfield, Wellesley, and Lexington to discuss the implementation strategies these municipalities have used when enforcing the protection of trees on private property in their respective communities.

The Planning Board supports the Committee's extensive study of tree protection regulations in other towns. It also supports its recommendation for a two phase process: 1) modifying the existing Stormwater Management Bylaw by submitting a warrant article at Spring 2018 Town Meeting, and 2) working with the Building and Planning Departments on a requirement for Site Plan Review, which would include protections for trees.

Therefore, the Planning Board unanimously recommends NO ACTION on Article 17.

SELECTMEN'S RECOMMENDATION

The petitioner has indicated that he would like withdraw this article given the work plan of the Selectmen's Tree Protection Committee. The report of the Committee can be found in the reports section of this Combined Reports. The Board feels that their recommendation of a two-step approach using the Stormwater Management By-Law and Site Plan Review process makes sense. Therefore, a unanimous Board of Selectmen voted NO ACTION on October 17, 2017.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Warrant Article 17 is a citizen petition that asks Town Meeting to adopt a tree protection bylaw that would encourage the preservation and protection of trees during major demolition and/or construction projects. It would designate lot setback areas where trees must be protected, and would require mitigation for trees that are removed, including replacement or paying fees into a tree fund.

By a vote of 17–2–2, the Advisory Committee recommends NO ACTION on Article 17. Subsequent to the Advisory Committee's vote, the petitioner informed the Committee that he has decided not to move Article 17 at this Town Meeting.

BACKGROUND:
The petitioner brought a similar Article to the 2016 Annual Town Meeting. Following a 5–0 recommendation for referral by the Board of Selectmen and a 16–1–4 recommendation for referral by the Advisory Committee, Town Meeting voted referral of the substance of that Article to a Selectmen's Committee, with the hope that the appointed Tree Preservation Committee would return to Town Meeting with a new Warrant Article for the May 2017 Town Meeting. The Committee's work was not complete at that time and, instead, it offered a brief interim report on its progress. The petitioner would like Town Meeting to approve a tree preservation bylaw now in order to protect significant trees which are currently at risk of being removed.

The tree protection bylaw has come before Town Meeting in previous years as well. At the Fall 2001 Town Meeting a Warrant Article proposing a tree protection bylaw was referred to a Moderator's Committee to evaluate the feasibility, effectiveness, and community benefits of such a bylaw for Brookline. That Moderator's Committee reported back to the 2003 Annual Town Meeting, concluding that no tree protection bylaw should be implemented until the Town had adequate resources to increase appropriate staffing (estimated to be at least a ¾ Full-Time-Equivalent [FTE] position) to enforce such a bylaw. Since the Moderator's Committee report, additional language has been added to Section

5.09 (design review guidelines) of the Town's Zoning Bylaws to consider preservation of trees and landscape in the review of all projects requiring design review. Public shade trees are protected from removal under M.G.L. Chapter 87.

DISCUSSION:
New concepts introduced in the petitioner's current version of a tree protection bylaw are the notion of a "tree save area," which seeks to preserve a large enough root mass to give a tree a reasonable chance for survival, and a "tree yard", which uses the metrics of front, side and rear yard setbacks, as specified in the Town's zoning bylaw Section 4.07. Warrant Article 17 contains some language drawn from the Town of Concord "Tree Preservation Bylaw" which was adopted at its April 2017 Annual Town Meeting.

Tom Brady, the Town's Tree Warden, informed the Advisory Committee that the Tree Preservation Committee is looking into a two-step process and would like Town Meeting to allow the Committee to finish its work. The proposal by the Committee will start with a modification of the stormwater bylaw to add greater protection to trees. This will allow time for the Building Commissioner to advance the integration of a full Site Plan Review process into the permitting framework the Town has in place. This new Site Plan Review process would then incorporate tree protection and preservation as a component of the review. It is expected the full incorporation of the Site Plan Review process will take 2–3 years, hence the 2-step process which is proposed.

In October 2017, The Tree Preservation Committee offered an update on its work. That update will be distributed to Town Meeting.

Many municipalities in Massachusetts, including Lexington, Newton, Wellesley, Cambridge and Springfield, have tree protection mechanisms currently in place. Mr. Brady reported that the Selectmen's Tree Preservation Committee met with his colleagues in those five municipalities during the Committee's January 18, 2017 meeting. Tom Brady summarized the results of that meeting by stating that all five communities said that their bylaw did not work as well as was hoped; many of those bylaws or ordinances have been amended over time.

The Advisory Committee identified a number of concerns and shortcomings of Warrant Article 17, including: (1) it does not apply to property owners who want to clear cut their land (unless they are planning a development of some kind on the property); (2) it does not apply to subdivisions; (3) the $500 fine is likely not legal; (4) there is no enforceability; (5) it would require the addition of at least 0.5 FTE to the Building Department; and (6) any appeal should go to the Board of Selectmen and not the Zoning Board of Appeals.

RECOMMENDATION:
The Advisory Committee recommends NO ACTION by a vote of 17–2–2.

XXX

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 18

EIGHTEENTH ARTICLE

Submitted by: Michael A. Burstein, TMM12

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".

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

The article would change Brookline from having a Board of Selectmen to having a Board of Selectwomen. Men and other registered voters in town whose sex, gender, or gender expression would not normally be defined as female would still be allowed to run for and hold the office of Selectwoman, as they are now. Just as women on the Board of Selectmen now can refer to themselves unofficially as Selectwomen, men on the Board of Selectwomen would be allowed unofficially to refer to themselves as Selectmen.

SELECTMEN'S RECOMMENDATION

Article 18 is a petitioned article that would change the name of the Board of Selectmen to the Board of Selectwoman. Members would officially be Selectwomen, but a person would be able refer to him/herself unofficially as Selectman.

While the Selectmen agree with the intent of the article, there was consensus that there were changes needed. The Board understands that multiple communities across the Commonwealth have adopted gender-neutral language, and want to follow suit. Although there wasn't a term that better described the work of the Board, there was agreement that boards are not limited to one gender and the name should properly reflect that.

The Board voted 4-0 FAVORABLE ACTION on October 24, 2017 on the following motion:

VOTED: To amend the Town's general bylaws and zoning bylaw as follows:

Change the name of the Board of Selectmen to the "Select Board", and to amend each of the Town's General and Zoning By-laws to substitute the term "Select Board" for the term "Board of Selectmen"; to substitute the word "Select persons" for the word "Selectmen"; and to substitute the word "Select person" for the word "Selectman"; and further affirm that upon the effective date of such amendment, the term "Board of Selectmen" shall be taken to mean "Select Board" and the term "Selectmen" shall be taken to mean "Select persons" and the term "Selectman" shall be taken to mean "Select person" for the purposes of all laws, regulations, contracts, agreements or other documents that refer to or are applicable to the Town of Brookline.

ROLL CALL VOTE:

Aye:	Absent:
Wishinsky	Franco
Heller	
Greene	
Hamilton	

*The Board and Advisory Committee votes on this article have slight differences. The Board's current vote uses "Select person(s)" (not "Select Board Members"), whereas the AC has the opposite preference. The Board will attempt address these changes at a subsequent meeting.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 18 would amend the Town's general and zoning bylaws, renaming the Board of Selectmen and the members thereof. In the Article as it originally appeared in the Warrant, "Board of Selectmen" would be replaced with "Board of Selectwomen," and individual members of such board would be referred to as "Selectwomen" rather than as "Selectmen."

By a vote of 16 to 3, with 1 abstaining, the Advisory Committee recommends FAVORABLE ACTION on a motion that would change "Board of Selectmen" to "Select Board," and the members thereof to "Select Board members."

BACKGROUND:
When society defined the distinct roles of men and women, job descriptors and titles were defined accordingly. In a Town, those selected to serve as the executives, originally being men, were known as Selectmen.

As women entered the workforce in non-female traditional jobs, firefighter replaced fireman, police officer replaced policeman, and mail carrier replaced mailman. The Advisory Committee motion on Article 18 would do the same for the Town's executive board, by replacing "Board of Selectmen" with "Select Board" and "Selectman" with "Select Board member."

DISCUSSION:
There was general consensus among Advisory Committee members that changing from gender-specific to gender-neutral language was appropriate. However, the discussion centered not on the notion of change, but on the specifics of replacing traditional names and titles. Various alternatives to "Board of Selectmen" were proposed by Advisory Committee members, Town Meeting members and others. The Advisory Committee quickly reached consensus on "Select Board," a term that has been adopted in a number of Massachusetts towns and is often used informally, including in Brookline. The term "Select Board" achieves the goal of a gender-neutral name, while retaining the term's traditional roots.

Various alternatives to "Selectmen" were also proposed and considered, with the discussion centered not only on how to describe board members in the Town's bylaws, but also how they would be referred to otherwise. A few felt that there was little need to change the Town's executive titles of "Selectmen"; the term was familiar and had now become, in their view, gender-neutral. After initially considering changing "Selectman" and "Selectmen" to "Selectperson" and "Selectpersons," the Advisory Committee concluded that it was not necessary for the Town's bylaws to prescribe titles, and instead recommends the plain English of "Select Board member." As the Town's culture and practice evolve over time, titles can evolve as well, without a need for periodic amendments to the Town's Bylaws.

RECOMMENDATION:
By a vote of 16–3–1, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town amend the Town's General Bylaws and Zoning Bylaw as follows:

Substitute "Select Board" (a) for "Board of Selectmen" (and such variants as "BoS", "BOS", "Board of Selectman"), and (b) for "Selectmen" in contexts in which that term refers to the Select Board as a whole, acting as a board;

Substitute (a) "Select Board member" for "Selectman", and (b) "Select Board members" for "Selectmen" in contexts in which that term refers to one or more (or all) Selectmen individually but not to the entire Select Board acting as a Board.

(1) Passed by a Majority Vote

(2) Passed by a XXX Counted Vote of 155 In Favor and 2 opposed

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 19

NINETEENTH ARTICLE

Submitted by: Alex Coleman

To determine whether the Town will:

(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.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

(a) The Town By-Laws will be changed relative to the executive board of the Town and its members. The name of the executive board currently called the "board of selectmen" will be stricken and replaced by "select board" and the terms currently used to refer to its members "selectman, selectmen, selectwoman, and selectwomen" will be stricken and replace by "select board member(s)" or "member(s) of the select board" in all places they appear in the Town By-laws and in all current active and future Town documents and communications.

(b) The Town By-laws will require the use of gender-neutral language in all currently active and further Town documents and communications

Petitioner's Description of Article's Purposes and Intent

This Warrant Article is intended to further implement and model the Town's commitment to inclusion and diversity particularly with respect to Brookline Protected Classes by using gender-neutral language. There is ever growing awareness that language really does make a difference when it comes to inclusion, appreciation for the benefits of diversity, and sending a message of welcome to all members of the Brookline community, particularly those in protected classes. The Office of and Commission for Diversity, Inclusion, and Community Relations has increasingly adopted the practice of using gender-neutral language. Sex, gender, gender identity, and gender expression are not binary. There are

language conventions that we have used that are now outdated and counterproductive. This warrant article is intended to reflect our current awareness of the importance of language and the nature and value of inclusivity that gender-neutral language helps promote.

This Article would add Brookline to the ever growing number of towns that have changed the name of the Town's executive board from "Board of Selectmen" to "Select Board." In Chapter 87 of the Acts of 2015 the Legislature approved similar changes to the Charter of the City of Newton, striking "board of aldermen" and replacing with "city council"; striking "alderman" and replacing with "councilor"; and striking "committeeman" and replacing with "committee member." Many other Towns have made the change as well, including Amherst almost 20 years ago.

There is nothing to legally preclude the actions proposed by this warrant article under the laws of the Commonwealth and I have been so advised by a variety of Commonwealth officials, including among others, Assistant Attorney General Kelli Gunagan, the Secretary of State's Office attorney and its Elections Division. Furthermore, the Massachusetts General Court in its most recent Legislative Research and Drafting Manual, 5th edition, 2010 in Part 3 "Grammatical Issues" devotes section 2 to "Gender Neutral Drafting" in which it encourages the use of gender neutral language and offers some (now dated) guidance. There are resources within the Town and the Commonwealth that can provide guidance with respect to the use of gender-neutral language.

SELECTMEN'S RECOMMENDATION

Article 19 is an amendment to Town By-laws to change from Board of Selectmen/Selectman to Select Board/Select Board Member. This would be reflected in a revision of all of the Town By-laws and future Town documents and communications. In addition, all future Town documents and communications would have to reflect the use of gender neutral language.

The Board agrees with the intent of the original article as written, similarly to Article 18. The need for usage of gender neutral language is apparent, and the Board supports that notion. In addition to the approved language from Article 18, the Board felt it was necessary to include contextual language to stress the importance of this issue.

On October 24, 2017 the Board voted 4-0 FAVORABLE ACTION on the following motion:

Voted: That the Town adopt the following resolution:

Whereas, the use of gender-neutral language by the Town can be expected to further enhance and demonstrate Brookline's commitment to being an inclusive, diverse and welcoming community; and

Whereas, ever-increasing awareness exists that language matters, and in particular with regard to the subtle and not so subtle, and intended and unintended consequences of language, including implicit or explicit bias; and

Whereas, the Town has been a leader in issues relating to gender identity and expression, including in defining the Town's protected classes; and

Whereas, there is ample precedent for and encouragement of the use of gender-neutral language by Massachusetts cities and towns; and

Whereas, linguistic conventions that differentiate and identify people by perceived gender may fail to respect the broad spectrum of sex, gender, gender identity, and gender expression living, working and visiting our community; now, therefore,

Be it resolved, that the term "Board of Selectmen" shall mean "Select Board," and the terms "Selectmen" or "Selectwomen" shall mean "Select person" or "Select persons" and the terms "Selectman" and "Selectwoman" shall be taken to mean "Select person," in all currently active and future documents and communications originated by the Town, unless the context demands otherwise; and

Be it further resolved, that the Town, including without limitation, its municipal officers, boards, committees and commissions, strive to use gender-neutral language, where appropriate and practicable, in all documents and communications pertaining to the business of the Town.

ROLL CALL VOTE:

Aye:	Absent:
Wishinsky	Franco
Heller	
Greene	
Hamilton	

*The same difference between the Board and Advisory Committee votes described under article 18 exists in this motion. Any change to the Board's position in article 18 would likely result in this motion to be reconsidered.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 19 was petitioned as a bylaw amendment, proposing to (1) to rename the Board of Selectmen and its members, and (2) "to require the use of gender-neutral language in all currently active and future Town documents and communications."

The "division of labor" between Articles 18 and 19 was worked out in discussions with the Moderator and the petitioners. Renaming the Board of Selectmen and its members is the subject of the Advisory Committee motion under Article 18. The question of amending the Town's bylaws to require the use of gender-neutral language will instead be addressed as a resolution, which is the Advisory Committee's motion under Article 19. By a vote of 19–3–2, the Advisory Committee recommends FAVORABLE ACTION on the resolution that appears below.

BACKGROUND:
Articles 18 and 19 were independently petitioned. Both Articles proposed renaming the Board of Selectmen and its members. Article 19 further proposed amending the Town's bylaws to require the use of gender-neutral language in all currently active and future Town documents and communications.

The question of renaming the Board of Selectmen and its members is addressed in the Advisory Committee's Article 18 motion. Accordingly, the Advisory Committee's motion on Article 19 addresses only the use of gender-neutral language in Town documents and communications. The Advisory Committee's motion under Article 19 is a resolution that the Town strive to use gender-neutral language, where practicable and appropriate, in all documents and communications pertaining to the business of the Town.

Articles 18 and 19 reflect growing concern about the use of gender-specific language, which may be inappropriate or offensive in some circumstances. Some Brookline residents have argued that gender is not a binary category and that we should generally attempt to use gender-neutral language. The use of the term "Board of Selectmen" for the Town's executive body seems particularly anachronistic and inappropriate at a time when that board almost always includes one or more women.

DISCUSSION:
In the words of the Advisory Committee's proposed resolution, "the use of gender-neutral language by the Town of Brookline, whenever appropriate, can be expected to further enhance and demonstrate Brookline's commitment to being an inclusive, diverse and welcoming community." On that subject, there was no contrary argument, and the Advisory Committee's discussion on Article 19 focused almost entirely on the "resolved" clauses.

The second "resolved" clause was discussed in depth. As compared with the original language of Warrant Article 19, even as a resolution, the scope has been narrowed, as follows: (1) gender-neutral language is recommended only "where practicable and appropriate," rather than "in all… documents and communications, and (2) only when "pertaining to the business of the Town."

Several Advisory Committee members felt that words such as "practicable" and "appropriate" provided inadequate guidance to the Town. The prevailing counterargument was that any attempt to define specific circumstances and situations, in effect attempting

to identify and define every likely interaction of the Town in conducting its business, would be laborious, and in the end, also inadequate. We leave it to the Town and individuals concerned to determine, in (its) their own judgment and from time to time, just what "practicable" and "appropriate" mean in the context of Article 19.

RECOMMENDATION:
By a vote of 19–3–2, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED: That the Town adopt the following resolution:

WHEREAS, the use of gender-neutral language by the Town can be expected to further enhance and demonstrate Brookline's commitment to being an inclusive, diverse and welcoming community; and

WHEREAS, ever-increasing awareness exists that language matters, and in particular with regard to the subtle and not so subtle, and intended and unintended consequences of language, including implicit or explicit bias; and

WHEREAS, the Town has been a leader in issues relating to gender identity and expression, including in defining the Town's protected classes; and

WHEREAS, there is ample precedent for and encouragement of the use of gender-neutral language by Massachusetts cities and towns; and

WHEREAS, linguistic conventions that differentiate and identify people by perceived gender may fail to respect the broad spectrum of sex, gender, gender identity, and gender expression living, working and visiting our community; now, therefore,

BE IT RESOLVED, that the term "Board of Selectmen" shall be taken to mean "Select Board," the terms "Selectmen" and "Selectwomen" shall be taken to mean "Select Board Members," and the terms "Selectman" and "Selectwoman" shall be taken to mean "Select Board Member," in all currently active and future documents and communications originated by the Town, unless the context demands otherwise; and

BE IT FURTHER RESOLVED, that the Town, including without limitation, its municipal officers, boards, committees and commissions, strive to use gender-neutral language, where appropriate and practicable, in all documents and communications pertaining to the business of the Town.

Passed by a Majority Vote

XXX

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; AND

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~~ 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.

Carried by an Electronic Recorded Vote of 168 In Favor, 14 Opposed and 23 Abstentions

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 20

SCHOOL COMMITTEE RECOMMENDATION

The School Committee supports the spirit of Warrant Article 20, a Resolution to Support the Establishment of Indigenous Peoples Day. We believe the spirit of Warrant Article 20 is consistent with the long established efforts of the Public Schools of Brookline (PSB) to ensure that our curriculum and learning expectations are more inclusive of the multiple perspectives and experiences that have typically been underrepresented in American education. Specifically, the School Committee sees alignment between the aims of Warrant Article 20 and the PSB's ongoing work to include a more complete and accurate representation of the history, culture, and accomplishments of indigenous peoples and a more complete representation of European exploration and exploitation of North America and other continents.

The Brookline School Committee values community members' support for curriculum and instruction that represents and values many different perspectives and continues to fulfill the PSB's mission to develop students' knowledge and ability to pursue a productive and fulfilling life, to participate thoughtfully in a democracy, and succeed in a diverse and evolving global society.

BACKGROUND

In 2009, the PSB's social studies department began rewriting the district's learning expectations for social studies. At that time, curriculum teams began developing new units about Indigenous Peoples for 2nd, 3rd, 4th, 5th and 8th grades which are now in use. Subsequently, in the spring of 2016, the Deputy Superintendent for Teaching and Learning directed the district's Curriculum Coordinators to assess curriculum materials for hidden bias or dubious inferences. At that time our PK-8 Social Studies Coordinator, Dr. Geoff Tegnell, worked with teachers at each grade level to review our grade-level texts, atlases, and teacher resources in order to assess these materials for: 1) accuracy of information; 2) inclusion of multiple perspectives; and 3) stereotypes, bias, and questionable inferences. Dr. Tegnell submitted these reviews to Superintendent Bott in the fall of 2016.

This review found that some of our curriculum resources understated the consequences of exploration, settlement, and westward expansion on Indigenous Peoples. In addition, some of our materials provided inadequate information about modern Indigenous Peoples and about Indigenous Peoples of distinction. In response to these concerns, teacher teams revised curricula and identified instructional materials that are more equitable and inclusive. For example, PSB purchased texts for our 4th grade Exploration and Colonization unit that better convey the negative impact of European conquest of the Americas on Indigenous Peoples. Dr. Tegnell and Heath School teacher Karen Shashoua received a National Endowment for the Humanities grant to study the origins of Hopi culture at Mesa Verde, access artifacts, and develop curricular materials about modern

Hopi life for 2nd grade teachers. The social studies department also added texts about Indigenous Peoples of distinction for our 5th grade curriculum, such as The Life of Joseph Brant by Ryan Nagelhout.

Further, recent social studies department's actions are instructive of the type of efforts that will be continued whether or not Warrant Article 20 is adopted. In September of 2017, the Office of Teaching and Learning shared resources with all social studies teachers on how to better include the perspectives of Indigenous Peoples in relation to Columbus' exploration and exploitation. These resources included June Sark Heinrich's pedagogical guidelines, "What Not to Teach about Native Americans," suggestions for books that represent the Indigenous Peoples perspective on Columbus, and Online lessons about Columbus' actions in the Caribbean as they relate to Indigenous Peoples. This outreach to social studies teachers also reminded them to approach teaching about Columbus and the Indigenous Peoples he encountered with developmentally appropriate pedagogy, an appreciation for the complexity of historical events, and by including the Indigenous Peoples experience of Columbus' "discovery" of the Americas and the consequences it had for them.

In addition, in preparation for providing Indigenous Peoples-focused professional development opportunities, the Brookline's social studies department has reached out to experts such as Northeastern University's Chris Parsons and Tufts University's Joan Lester, a small group of teachers is attending an EDCO-sponsored workshop "Teaching about Native Americans", and Dr. Tegnell is collaborating with Barbara Brown, the Director of Hidden Brookline, to investigate the history of Indigenous Peoples in Brookline.

Brookline High School (BHS) regularly teaches about Indigenous Peoples in two of the required courses: 9th Grade Pre-Modern World History and 11th Grade United States History. Educators teach about Columbus in a unit on European Colonization of the Americas in the 9th-grade course. BHS continues to progress in refining their social studies curriculum to ensure all aspects of American history are equally included in class instruction.

Students are educated to understand difficult choices, opportunities and challenges people of all backgrounds faced during the history of America, and the impact of their actions. Students are taught about the trials people faced throughout history, as well as the moments of recognition, reconciliation, and aspirations toward equal justice.

ARTICLE 20

TWENTIETH ARTICLE

Submitted by: Patricia Connors, TMM3, Cornelia van der Ziel, TMM15, Raquel Halsey, Vishni Samaraweera

TO SEE IF THE TOWN WILL VOTE TO 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 and Hispaniola (present-day countries of the Dominican Republic and Haiti) on October 12, 1492; 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 kidnapping, deaths, and enslavement of tens of millions of 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.

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, and to celebrate 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 committee shall include representatives from the following: the Town's Commission for Diversity, Inclusion & Community Relations, the North American Indian Center of Boston, United American Indians of New England, Cultural Survival, IndigenousPeoplesDayMA, and other Indigenous representation as well as Brookline community representation from all segments of the community such as schools, non-profit organizations and businesses,

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.
Or take any action relative thereto.

SOURCES for WHEREAS clauses

Columbus Day has been celebrated unofficially:
http://www.history.com/topics/exploration/columbus-day

The first voyage of Columbus to the Americas also initiated the transatlantic slave trade:
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(http://library.uniteddiversity.coop/More_Books_and_Reports/Howard_Zinn,_A_peoples_history_of_the_United_States.pdf)

Columbus' second voyage of 1493 was one of conquest: Indians are Us?, Ward Churchill,1994

The example of the Taino/Arawak people: A Little Matter of Genocide, Ward Churchill, 1997

though the introduction of European diseases: Indians are Us?, Ward Churchill,1994

the devastation of Indigenous populations: The Indigenous Peoples' History of the United States, Roxanne Dunbar-Ortiz, 2014
Other localities: Wikipedia.org/wiki/Timeline-for-support-for-Indigenous-Peoples%27-Day, last edited November 10, 2016

Indigenous Peoples' Day was first proposed: Wikipedia, op cit
in 1990, representatives: Wikipedia, op cit

PETITIONER'S ARTICLE DESCRIPTION

As we write this, there is increasing awareness about the pain and damage caused by symbols such as confederate flags and statues, attention should also be paid to the longstanding request of many Native people to abolish the Columbus Day holiday, which to them is a celebration of the deaths of millions of their people, and instead declare Indigenous Peoples Day on the second Monday in October in order to bring more awareness to the history and continued presence of Native people here in the US.

The "Whereas clauses" provide an explanation of this warrant article. Here is some additional relevant information:

More details about Columbus

In this Resolution, we did not set forth some of the more gruesome actions of Columbus and his men, including:

-Widespread rape and enslavement of Indigenous women and girls. In addition to putting the Natives to work as slaves in his gold mines, Columbus also sold sex slaves as young as 9 to his men. Columbus and his men also raided villages for sex and sport.

-In the year 1500, Columbus wrote: "A hundred castellanoes are as easily obtained for a woman as for a farm, and it is very general and there are plenty of dealers who go about looking for girls; those from nine to ten are now in demand."

-Several accounts of cruelty and murder include Spaniards testing the sharpness of blades on Native people by cutting them in half, beheading them in contests and throwing Natives into vats of boiling soap. There are also accounts of suckling infants being lifted from their

mother's breasts by Spaniards, only to be dashed headfirst into large rocks. -Bartolome De Las Casas, a former slave owner who became Bishop of Chiapas and repented his previous actions, described these exploits. "Such inhumanities and barbarisms were committed in my sight as no age can parallel," he wrote. "My eyes have seen these acts so foreign to human nature that now I tremble as I write."

-Columbus forced the Native Arawak or Taino people to work in gold mines until exhaustion. Those who opposed were beheaded or had their ears cut off.

-In the province of Cibao all persons over 14 had to supply at least a thimble of gold dust every three months and were given copper necklaces as proof of their compliance. Those who did not fulfill their obligation had their hands cut off, which were tied around their necks while they bled to death—some 10,000 died handless.

-The Spanish used dogs against the Indigenous people. These dogs wore armor and had been fed human flesh. Live babies were also fed to these war dogs as sport, sometimes in front of horrified parents. There was also a practice known as the montería infernal, the infernal chase, or manhunt, in which Indians were hunted by war-dogs.

(The above points are direct quotations from https://indiancountrymedianetwork.com/history/events/8-myths-and-atrocities-aboutchristopher-columbus-and-columbus-day/)

Some Brookline area history

-The first mention of "Muddy River" acknowledges an Indian presence with an estimated population of 50,000 in the area from the mouth of the Merrimac River to Cape Ann of in 1632. (History of Brookline, Massachusetts, Bradford Kingman, 1892)

-Brookline historical accounts by non-Native people refer to a Native defensive fortification near what is now known as Beacon and Powell Streets. (Brookline, a Favored Town, Charles Knowles Bolton, 1897) Other accounts refer to signs of an Indigenous village that was located in the area where the Ackers family subsequently established a farm, near the present-day Brookline Reservoir, by Boylston and Eliot Streets. (A History of Brookline, Massachusetts from the First Settlement at Muddy River Until the Present Time, John William Denehy, 1906 and History of the Town of Brookline, John Gould Curtis, 1933, prepared under the direction of the Brookline Historical Society)

-Brookline residents Joseph Smith and Lancelot Talbot are known to have purchased 7 Native Americans from the colonial government in 1675 to be sold as slaves in the Caribbean (www.hiddenbrookline.org)

Contemporary statistics

-Indigenous peoples of North America comprise approximately 2% of the U.S. population, with many more Indigenous people living here who are labeled as "Hispanic" or "Latinx" and whose ancestors are from Mexico, El Salvador, Ecuador and other countries. The

Native American population of Massachusetts is 1% or less, but represents many different Native Nations and cultures. There are more than 500 federally recognized tribal nations in the U.S.

-Suicide is the second leading cause of death for Native youth aged 10-24. (www.cdc.gov/nchs/data/)

-Native Americans have the lowest high school graduation rates in the country. (https://nces.ed.gov/pubs2016/2016007.pdf)

-One in three Native American females have been sexually assaulted, and many Indigenous people believe this number is much higher. This compares with one in six of the total female population of the U.S. having been the victim of attempted or completed rape. (www.rain.org).

-Nearly 30 percent of Native Americans and Alaska Natives lived in poverty in 2014 – approximately double the nation's overall poverty rate. And about 7.5 percent of Native American and Alaska Native homes did not have safe drinking water or basic sanitation as of 2013, according to the government's Indian Health Service. More than 10,000 people on the Navajo reservation alone – the largest in the US – lack safe drinking water. (https://www.usnews.com/news/articles/2016-06-16/some-native-americans-lack-access-to-safe-clean-water-Native men, women and children occupy the most severely overcrowded and rundown homes in the United States). (https://www.theguardian.com/commentisfree/2017/apr/06/americasforgotten-crisis-50-percent-native-american-tribe-homeless

-U.S. popular culture and school curricula do not accurately depict the history or ongoing existence of Indigenous peoples. Indigenous people speak routinely of being stereotyped and dealing with misunderstandings or lack of knowledge about their culture and history. Stereotypes do harm. ("All the Real Indians Died Off" and 20 other Myths About Native Americans, Roxanne Dunbar-Ortiz and Dina Gilio-Whitaker, 2016).

MOTION TO BE OFFERED BY THE PETITIONERS

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 ~~kidnapping, deaths, and~~ enslavement of ~~tens of millions~~ at least 10-12 million ~~of~~ 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 aspiring).
-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 component 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 Louse 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 ~~to celebrate~~ 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.

PETITIONER'S ADDITIONAL EXPLANATION

This Warrant Article sets forth in some detail a history of Columbus' impact on Indigenous Peoples. In order to understand why Columbus Day should not be celebrated as a public holiday, non-Native people need to comprehend exactly why Columbus is not a hero despite what most people have been taught. The several WHEREAS clauses here detail history regarding Columbus about which many people may not be aware. Petitioners seek to educate through these clauses. Sanitizing or gutting this language in order to make it less explicit undercuts this intention.

SELECTMEN'S RECOMMENDATION

A report and recommendation by the Board of Selectmen under Article 20 will be provided in the Supplemental Mailing.

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation by the Advisory Committee under Article 20 will be provided in the Supplemental Mailing.

XXX

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.

BROOKLINE COMMISSION for the arts

Statement of Support for A Resolution to Honor John Wilson

Brookline Commission for the Arts

November 7, 2017

Rob Daves, TMM Precinct 5, presented A Resolution to Honor John Wilson at the scheduled meeting of the Brookline Commission for the Arts (BCA) on November 7, 2017.

Members of the BCA present at this meeting unanimously approved this resolution and expressed enthusiastic support to honor the life of longtime Brookline resident and venerable sculptor, printmaker and graphic artist John Wilson. The BCA will apply volunteer effort and will work to identify opportunities among its programs and resources throughout the Town of Brookline to contribute to the success of this resolution. The BCA also strongly supports the installation of John Wilson's sculpture of Martin Luther King, Jr. in the Town Hall lobby.

Submitted by: Amy Browning Emmert, Chairman, Brookline Commission for the Arts

Amy Browning Emmert

ARTICLE 21

TWENTY-FIRST ARTICLE

Submitted by: Rob Daves, TMM5, Tommy Vitolo, TMM6

A Resolution to Honor John Wilson

TO SEE IF THE TOWN WILL ADOPT THE FOLLOWING RESOLUTION:

WHEREAS, John W. Wilson (1922 – 2015) was a nationally celebrated artist whose work is included in many major museums and his *Bust of Martin Luther King, Jr.* graces the Rotunda of the U.S. Capitol;

WHEREAS, born in Roxbury to recent immigrants from British Guiana (now Guyana), he showed superior artistic talent at an early age and despite racial barriers, he received a scholarship to the School of the Museum of Fine Arts, graduating with highest honors;

WHEREAS, he went on to study education at Tufts University graduating in 1947 with a bachelor's degree, and art in France and Mexico before joining the faculty of Boston University and rising to full professor;

WHEREAS, he studied under the modern artist Fernand Léger in Paris and Karl Zerbe at the Museum School in Boston, and was part of a group that later became known as Boston Expressionists;

WHEREAS, John Wilson and his family, despite initially encountering racial bias finding a home, lived in Brookline for more than 50 years;

WHEREAS, John Wilson's work embodies the emotion and perspective of life as a black man—a view rarely expressed in mainstream American art at that time;

WHEREAS, John Wilson's magnificent bronze sculpture of the head of Martin Luther King, Jr. evokes the great leader's inspiration; and

WHEREAS, a group of engaged Brookline citizens think that it is fitting that, just as our nation's Capitol Rotunda features a work of Dr. King by John Wilson, so too should Town Hall, the center of our local government, have an inspirational sculpture by same artist, an artist who lived his life just a few blocks away.

NOW, THEREFORE, BE IT

RESOLVED, that Town Meeting call upon the people of Brookline to honor the life and legacy of longtime Brookline resident John Wilson;

RESOLVED, that Town Meeting, representing the people of the Town of Brookline, honor John Wilson by supporting the installation of his sculpture of Martin Luther King, Jr. in the Town Hall lobby; and

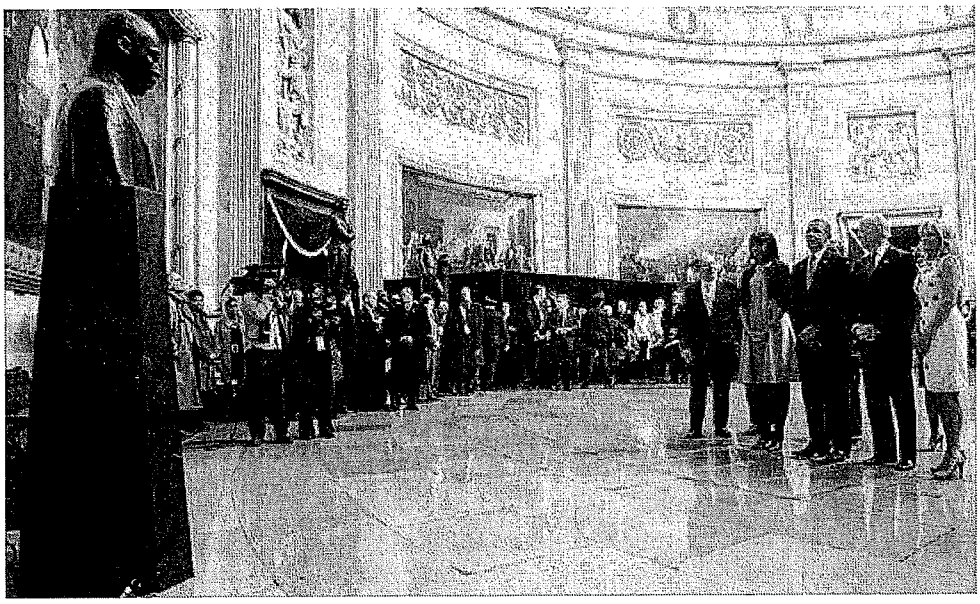
RESOLVED, that Town Meeting encourage the School Committee to include the art and story of John Wilson where appropriate in its curriculum.

Or take any other action relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

On the day of President Barack Obama's second inauguration, the President, Michelle Obama, and a group of prominent politicians stopped in front of the *Bust of Martin Luther King, Jr.* that stands under the dome of the U.S. Capitol Building. They admired the bronze sculpture and paid respect to the great civil rights leader. The bust is by John Wilson, the artist chosen from among 180 sculptors who entered the competition for the commission.

John Wilson is a nationally celebrated artist. His work is included in many major museums around the country; it has been widely exhibited and is avidly sought after by collectors. Ironically, he is less well known in his own hometown of Brookline where he lived and worked for 50 years.



John W. Wilson was born in Roxbury, MA in 1922 and died in Brookline in 2015. In a time when few thought it was possible for an African American to have a career as a professional artist, he persevered to interpret the world from his perspective, producing work that confronts injustice and is charged with emotion. And as he grew older, his art depicted moments of deep human connection, causing viewers to reflect on how we interact

with each other. His drawings and sculpture of his children, his wife, and his neighbors capture a most moving portrait of a Brookline family.

*****

John W. Wilson and his four siblings were born in Roxbury to parents who had recently emigrated from British Guiana (now Guyana). Racism prevented his father from gaining employment commensurate with his abilities, which caused him to turn to the beliefs of black nationalist Marcus Garvey. John, too, experienced disillusionment when, despite his superior talents, he failed to win a scholarship to Saturday classes at the School of the Museum of Fine Arts. But his parents encouraged their son to pursue a career in art, even though it was commonly thought that a black person could never become a professional artist. With the assistance of white instructors at the Roxbury Boys Club, John was eventually able to enter the Museum School, graduating with highest honors in 1945. He also pursued a B.A. degree in education at Tufts.

At the Museum School, with the encouragement of avant-garde German artist Karl Zerbe who had fled the Nazis, he developed his skill as a draftsman and heightened his sensibilities about social injustice. He was strongly interested in the paintings he saw at the MFA, but was acutely aware of the complete absence of black figures. It was during this time that he became interested in the socially conscious themes of painters Thomas Hart Benton and George Grosz, but was especially moved by Richard Wright's novel *Native Son*. Wilson recalled, "What Richard Wright was doing was forcing you to get into the psyche of black people so that you would relive it… I wanted to create images that would be as powerful."

After graduating from Tufts in 1947, Wilson won a fellowship and hoped to travel to Mexico to learn to paint murals. The grant however could only be used for travel to Europe and he ended up in the studio of Cubist Fernand Léger. There he learned "the language of vision… using colors, shapes lines and volume to create a new insightful interpretation of the world,"-- concentrating on the formal elements of composition to make a unified whole.

After two years in Paris, Wilson visited New York City where he met and married Julie Kowitch, a teacher. He soon received another grant that allowed Julie and him to go to Mexico, as he had long been fascinated by the work of muralists such as Jose Clemente Orozco and Diego Rivera whose "public art functioned to engage people and was not stuck in a museum."

In Mexico Wilson created one of his most powerful works, *The Incident*, which combines the muralist's ability to engage viewers and Richard Wright's empathic representation of the view of a black person in society. It depicts a black family witnessing a lynching just outside their window. The mother shields her baby from the horrific sight and the father, despite holding a rifle, was not able to prevent the tragedy.

What is most important is the way the mural demands that the viewers witness the crime. It was an unusually violent theme for Wilson but he described the work as being able to exorcise the psychological impact that images of lynchings, which were widely distributed

in the media at that time, had on him. "Even though I have lived a relatively benign life and have never experienced physical violence, and I am relatively easy going, nevertheless there has always been this subterranean conflict, this sense of apprehension and vulnerability that my life was as only as good as luck. When I was growing up, I didn't realize to what extent I was being traumatized."

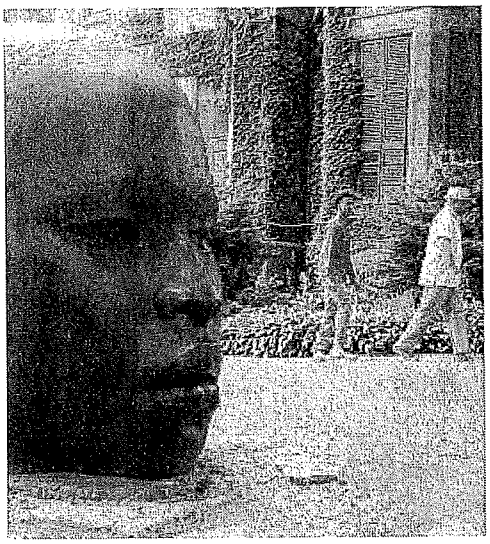
The Wilsons loved life in Mexico, with its lack of discrimination against blacks and easy acceptance of their mixed race marriage. But after the birth of their first child they wanted to return to the United States where the civil rights movement was beginning to grow. They went to Chicago, New York, and in 1964 came to Boston. John joined the faculty of Boston University and served as Professor of Art from 1964 to 1986.

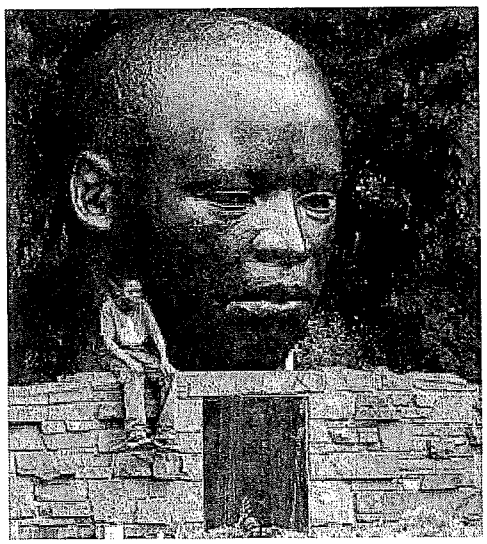
John and Julie bought a house on Harris Street, where his wife and daughter continue to reside, but had to purchase it surreptitiously with the help of a friend since the owners weren't willing to sell to an interracial couple.

While living in Brookline, Wilson's art began to evolve toward portraiture. "I want my work to be visually naturalistic, but to convey the feel of the person. The eternal energy and emotion shapes the outer form." His art delved into the deep human connections, not only with portraits of the members of his family but also with anonymous, universal figures.

Wilson's art had always exhibited a sculptural quality but he had never received formal training in sculpture or bronze casting. Inspired by the power of the Buddha sculptures he saw as a student in the Museum School, as well as by the giant Mesoamerican Olmec stone heads unearthed in south-central Mexico, Wilson was determined to create a colossal head for a public space. He envisioned a large, bronze head that was not only confrontational in its enormous size, but also universal in its presentation. As Barry Gaither, Director of the Museum of the National Center for Afro-American Artists, wrote, Wilson's desire to create monumental heads can also be found in "his response to Ralph Ellison's 1947 *Invisible Man* which echoed his own sense of the invisibility of African-Americans in American culture." Long before receiving commissions for monumental sculptures, Wilson began to work out his ideas in charcoal drawings and clay models.

His dream was fulfilled by two major commissions. The first was the 7-foot *Eternal Presence* (photo below left) that stands today in front of the National Center for Afro-American Artists in Roxbury, a museum he helped found. The second was the 8-foot bronze head of *Martin Luther King, Jr.* (photo below right) erected in the Martin Luther King Jr. Park in Buffalo, New York.





The terms of the Buffalo competition prescribed a full length figure. According to Wilson, "I really didn't want to do it, because I didn't want to do a kind of academic figure. There are thousands of these statues of important men in their conventional clothes standing in public places. Nobody sees them except the pigeons… They become part of the wallpaper of the environment." Wilson complained to a friend who then suggested that he make one of his "big symbolic heads." For Wilson, "a light bulb went off, and I said 'I don't care what they want' and I sat down and did some drawings and did a maquette [a study model] of a head.… and sold them on this idea." Today, Wilson's 8-foot bronze head of Martin Luther King, Jr. stands majestically on top of a 6-foot stone wall, designed by the artist.

The Committee to Commemorate John Wilson

This spring, after learning that a 30 inch bronze study for the giant MLK head was available at a local gallery, a group of Brookline residents representing diverse backgrounds came together and decided to raise the funds to purchase it and offer it as a gift to the Town. The sculpture, intended to honor John Wilson, is also intended, as we enter Town Hall, to represent and remind us of the values and aspirations of our community. We think it is fitting that John Wilson's art, which graces our nation's Capitol Rotunda , should also inspire those entering our local seat of government, just blocks from where he spent most of his life.

Our committee believes that when we see the world through the eyes of our neighbor, we can truly understand and respect each other. Over the next few months we want to encourage our community to commemorate John Wilson by sharing the inspiring story of this exceptional man and his art. His understanding of social justice issues and the creative expressions of his experience raising a family in Brookline are enlightening.

John Wilson's magnificent bronze head, mounted on a white 50-inch pedestal, will welcome visitors to our Town Hall and give each one of us the emotional experience of getting close to and looking into the eyes of Dr. King.

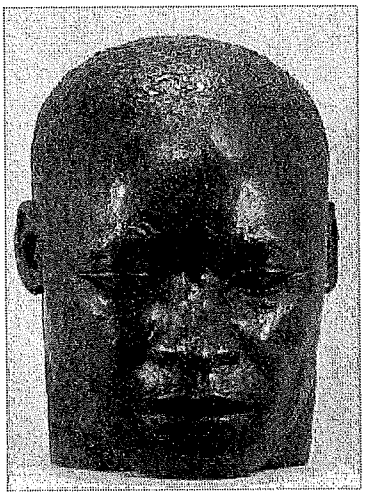
Sculpture has the longest memory of all the arts. It is the reason we find sculptures in civic spaces, reminding us of what matters most. John Wilson was a longtime resident of Brookline and an African American artist with a national reputation. His bronze sculptures of Martin Luther King, Jr. are among the finest ever done of this great world figure. We want to give one of them a central place of honor in Brookline. Two stories coalesce: a local artist of great humility and epic perseverance and the courageous vision of Dr. King. The work is cast in bronze and it is one for the ages.

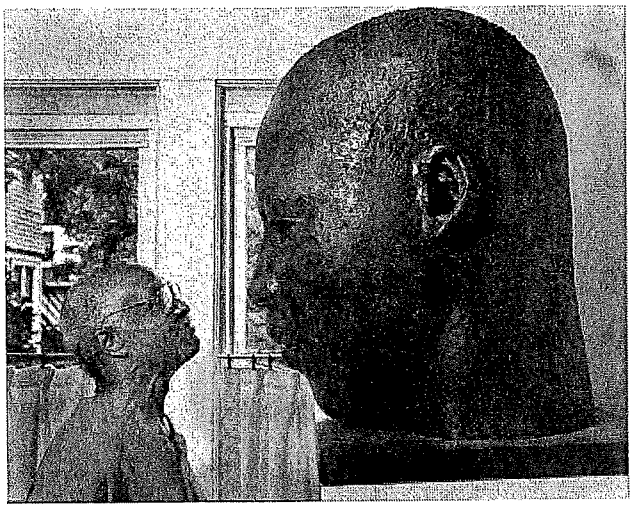
Committee to Commemorate John Wilson Project Statement

Committee to Commemorate John Wilson
Members—Affiliations or Experience

Jenny Amory, Brookline Community Foundation
Lucy Aptekar, Board of Advisors, Tufts School of the MFA
Barbara Brown, Hidden Brookline, BU
Malcolm Cawthorne, Brookline High School, Hidden Brookline
Rob Daves, TMM, Hidden Brookline, MLK Committee
Murray Dewart, TMM, Sculptor
Mary Dewart, TMM
Amy Emmert, Brookline Commission for the Arts
Sarah Fujiwara, Brookline Arts Center
Lloyd Gellineau, Brookline Office of Diversity, Inclusion and Community Relations
Lynette Glover, Business Community
Michael Glover, Brookline School Committee
Mark Gray, TMM
Bernard Greene, Selectman
Skip Griffin, Business Community
Chobee Hoy, Business Community
Jeff Mello, St.Paul's Church
Bernard Pendleton, artist and teacher
Lauren Riviello, Brookline Arts Center
Charles Terrell, TMM
Carol Troyen Lohe, Library Trustee; Curator Emeritus, MFA
Anne Turner, Brookline Community Foundation Friends Group
Thomas Vitolo, TMM

Advisors to Committee
Julie Wilson, wife of John Wilson
Erica Wilson, daughter of John Wilson





John Wilson said, "I am a black artist. I'm a black person," "...My experience as a black person has given me a special way of looking at the world and a special identity with others who experience injustice. What I am doing to some extent in my art is exorcising some of these conflicting kinds of messages that this racist world has given me. ...[I chose] some of the themes I have dealt with not because I sat down and said I wanted to make a political statement, but because of emotional experiences. I grew up in a world that said I could be killed if I stepped out of line. ... There is a core of anger and frustration I have to vent."

Sources

John Wilson: A Retrospective 2004 Grinnell College, Essays:
John Wilson: Art and Life by Pamela Franks
John Wilson: Faces of the Soul: An Interview with the Artist by Saadi A. Simawe
John Wilson: Black Artist by Dave Williams

Lecture by Edmund Barry Gaither, Director of the Museum of the National Center for Afro-American Artists, at Martha Richardson Fine Arts Gallery, May 2017.

SELECTMEN'S RECOMMENDATION

Article 21 is a resolution to honor the life and legacy of longtime Brookline resident John W. Wilson. This would entail the installation of an art piece by Mr. Wilson, which would be a sculpture of Martin Luther King, Jr. in the Town Hall lobby. In addition, the School Committee would be encouraged to include the art and story of Mr. Wilson in its curriculum where appropriate.

Mr. Wilson was a resident of Brookline for over 50 years, and his wife and daughter still live here. Mr. Wilson was a prolific artist, and his works were commissioned around the country. He created a bust of Martin Luther King, Jr. that stands in the rotunda of the US Capitol. A 30 inch bronze study for a giant MLK head became available at a local gallery, and a group of residents have decided to privately raise funds to purchase the bust. As a way to honor Mr. Wilson, the bust would be installed prominently in the Town Hall lobby.

The Selectmen support the resolution and want to accept the gift. It was noted that Mr. Wilson faced vicious racism in his lifetime, but he managed to accomplish a good deal and made an incredible contribution to the world. The Selectmen sought this as an opportunity to expand Mr. Wilson's work around the community, where there is currently a charcoal portrait by the artist installed in the Pierce School.

The Board recommends FAVORABLE ACTION, by a vote of 5-0 taken on September 19, 2016, on the vote offered by the Advisory Committee.

ADVISORY COMMITTEE'S RECOMMENDATION

SUMMARY:
Article 21 is a resolution would recognize the work of John Wilson, an artist who lived in Brookline for more than half a century. In addition to calling attention to John Wilson's life and work, the resolution supports the installation in Town Hall of his sculpture of the head of Martin Luther King, Jr. The Advisory Committee unanimously agreed that acquiring and exhibiting the bust of Martin Luther King, Jr. would be a wonderful way to honor John Wilson and thus recommends FAVORABLE ACTION.

BACKGROUND:
John Wilson was born in Roxbury in 1922 and lived in Brookline from 1964 until his death in 2015. His wife and daughter still live here. He was chosen to create the bust of Martin Luther King, Jr. that stands in the rotunda of the United States Capitol. As the petitioners explain, John Wilson is a nationally celebrated artist, and his work is exhibited in many major museums. (Some of his prints have been on exhibit recently at the Museum of Fine Arts).

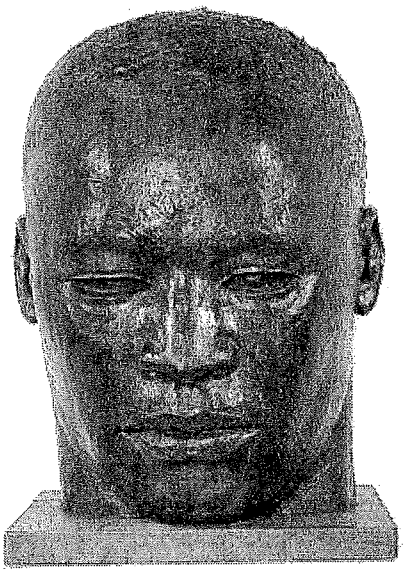


Figure 1: 30-inch bronze maquette of Martin Luther King by John Wilson

In addition to the bust of Dr. King at the Capitol, Mr. Wilson had other major commissions for sculptures– one, the seven-foot-high *Eternal Presence* at the National Center for Afro-American Artists in Roxbury, and an eight-foot sculpture of the head of Dr. King in the Marin Luther King, Jr. Park in Buffalo.

This past spring, after learning that a 30-inch bronze *maquette* (artist's preliminary model or study) for the 8-foot Martin Luther King, Jr. head was available at a local gallery, a group of Brookline residents representing diverse backgrounds came together and decided to raise the funds to purchase it and offer it as a gift to the Town. (See photo.)
The bust would be purchased with privately-raised funds, and several pledges have been gathered toward the $97,000 purchase price ($95,000 for the sculpture and $2,000 for the base, which is a discounted offer arranged with the gallery and the Wilson family).

The petitioners seek a resolution to honor John Wilson by placing the 30-inch study in the lobby of Town Hall, and by asking the School Committee to include the story of John Wilson in its curriculum where appropriate.

DISCUSSION:
The Selectmen have enthusiastically endorsed the idea of exhibiting the bust as proposed. The petitioners explained that the Town would carry insurance on the bust, and they assured the Advisory Committee subcommittee that the 30-inch bronze sculpture, which would be securely fastened to its base and then to the floor, would be unlikely to be casually stolen.

The Article as submitted did not make it clear that the proposed acquisition is a study of the Buffalo sculpture, not the one in the Capitol rotunda, and the petitioners subsequently agreed that the language should be amended to clarify that point. The question was raised as to how many copies were extant, and how many copies could be made if the mold still exists. There are 12 copies, and the one the petitioners want to purchase is number 2. No further copies can be made, as the mold is no longer extant.

RECOMMENDATION:
By a vote of 25 to 0, with no abstentions, the Advisory Committee recommends FAVORABLE ACTION on the following motion under Article 21(changes from the original Article as it appears in the Warrant are shown in **bold** type):

VOTED: That the Town adopt the following resolution:

A Resolution to Honor John Wilson

WHEREAS, John W. Wilson (1922–2015) was a nationally celebrated artist whose work is included in many major museums, and **graces several public spaces around the country, including the Rotunda of the U.S. Capitol**;

WHEREAS, born in Roxbury to recent immigrants from British Guiana (now Guyana), he showed superior artistic talent at an early age and despite racial barriers, he received a scholarship to the School of the Museum of Fine Arts, graduating with highest honors;

WHEREAS, he went on to study education at Tufts University graduating in 1947 with a bachelor's degree, and art in France and Mexico before joining the faculty of Boston University and rising to full professor;

WHEREAS, he studied under the modern artist Fernand Léger in Paris and Karl Zerbe at the Museum School in Boston, and was part of a group that later became known as Boston Expressionists;

WHEREAS, John Wilson and his family, despite initially encountering racial bias finding a home, lived in Brookline for more than 50 years;

WHEREAS, John Wilson's work embodies the emotion and perspective of life as a black man—a view rarely expressed in mainstream American art at that time;

WHEREAS, John Wilson's magnificent, **monumental** bronze sculpture of the head of Martin Luther King, Jr. **(1983), installed in Martin Luther King, Jr., Park, Buffalo, New York,** evokes the great leader's inspiration; and

WHEREAS, a 30-inch tall bronze study for that masterpiece recently became available; and

WHEREAS, a group of engaged Brookline citizens think that it is fitting that, just as our nation's Capitol Rotunda features a work by John Wilson, so too should Town Hall, the center of our local government, have an inspirational sculpture by same artist, an artist who lived his life just a few blocks away.

NOW, THEREFORE, BE IT

RESOLVED, that Town Meeting call upon the people of Brookline to honor the life and legacy of longtime Brookline resident John Wilson;

RESOLVED, that Town Meeting, representing the people of the Town of Brookline, honor John Wilson by supporting the installation of his sculpture of Martin Luther King, Jr. in the Town Hall lobby; and

RESOLVED, that Town Meeting encourage the School Committee to include the art and story of John Wilson where appropriate in its curriculum.

XXX

Passed by a Unanimous Vote

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 ONE ~~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 level~~s~~, such as loosening many drug mandatory minimum sentencing guidelines and making 1~~8~~9 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.

(1.) Passed as a Substitute Motion by an Electronic Recorded Vote of 116 In Favor, 81 Opposed and 11 Abstentions

(2.) Passed as the Main Motion by a Counted Vote of 180 In Favor and 8 Opposed.

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~~ states 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 22

RECOMMENDATION OF THE COMMISSION FOR DIVERSITY & COMMUNITY RELATIONS

The Commission supports Article 22, Criminal Justice Reform, including the whereas clauses, with whatever edits the petitioners accept for their final motion.

The Commission discussed the two slightly different approaches to the Whereas clauses by the petitioners and the Advisory Committee and voted for the petitioners stronger version dues to difficult politics on these issues.

Favorable Action	8
Opposed	0
Abstentions	1

ARTICLE 22

TWENTY-SECOND ARTICLE

Submitted by:

To see if the Town will adopt the following Resolution:

1. WHEREAS: starting in the 1970's the USA, "land of the free," began a steadily "progressing" incarceration addiction -- fueled by (bipartisan) political fear-mongering, "retribution," and racial bias, culminating now with 5% of the world's population but 25% of its inmates. Many consider this the most important civil rights issue of our generation.
2. WHEREAS: Our Commonwealth now incarcerates at five times the '70's rate, most inmates costing near $50,000/year but more for aging inmates long past likely recidivism -- now over $1 billion a year. MA's incarceration rate is 2.5x Spain's, 3x Canada's, over 5x Germany's, & 7x Japan's. Only 6 countries are higher (Cuba, Russia, Thailand, Panama, Azerbaijan, El Salvador) Meanwhile, our state and local governments -- and crime prevention social services (including prisons) -- are shockingly underfunded.
3. WHEREAS: Our elected DA's have never wavered from supporting the foregoing trends or from opposing all meaningful sentencing reform; and often tout MA's lesser incarceration rate than most states -- i.e., we're among the best of the worst;
4. WHEREAS: US Criminal "Justice" ("C/J") racial disparities are especially horrific, and with "collateral consequences" for families and communities of color. MA's incarceration rate for Blacks being *eight times* Whites'; Hispanics *five times.*
5. WHEREAS: across the US, many (blue & red) states embrace "Smart on Crime" resources prioritizing crime prevention -- by reducing jail spending (for excessive "retribution") with no public safety purpose. Texas by 2014 closed three prisons, reducing 6% its 2009 jail rate; Connecticut by 2016 closed 3 prisons, lowering inmates from near 20,000 in 2008 to under 15,600; even Louisiana will soon reduce inmates by 10% -- & save $262 million over the next decade.
6. WHEREAS: Mandatory-Minimum sentences ("man/min's"), with zero evidence they deter crime, and which in fact impede in-prison and post-release treatment, have proliferated for 4 decades, though merely shifting discretion from judges in open court to prosecutors behind closed doors -- who decide the charges and the plea bargains (coercing trial waivers).
7. WHEREAS there are now many reform bills, including the long-awaited (Gov-Speaker-Sen.Pres) "consensus" bill from Council on State Government "Justice Re-Investment" project (*Act Implementing the Joint Recommendations of the [MA C/J] Review*) with some worthwhile tinkering, but zero "front-end" reform, e.g. sentencing

or "diversion" (for less serious offenders to stay out of court and not get CORI records); i.e., no serious "Re" in its "Re-Investment."

8. WHEREAS some other good bills propose "trees" reforms, like for drug man/min's, none address the Big Picture Forest -- like non-drug man/min's, (even bigger) sentencing reform, or far wider procedures for diversion. And, while drug man/min's are the most insidious, they're a "low-hanging fruit" of mass incarceration, which is mostly property and "violent" (e.g. from "serious" to kicking somebody while "shod with" sneakers) crime. And, the worst man/min racial disparities are for guns -- about 80% being minorities! (Yes, some may need jailing, but who, how much, and who -- DA or judge --decides, and, should they have no treatment?)

9. WHEREAS: US and MA public opinion polls show strong preference for rehabilitation, drug and mental health treatment, and police -- over jails and prisons; and a burgeoning grassroots-community movement -- including religious groups -- has been pushing for sentencing reform, racial justice, diversion, and Smartness-on-Crime; and

10. WHEREAS: The Mass. Sentencing Commission -- reconstituted by Gov. Patrick late 2014 -- under M.G.L. c. 211E is (A) mandated to propose (1) sentencing reform guidelines by legislation, and (2) other sentencing-related legislation (e.g. diversion); and (B) authorized to propose legislation circumventing man/min's, e.g. by Safety Valves. But after much hard work it has -- unlike the 1994 Commission -- focused only on changing the current "administrative" Guidelines ("consulted" in superior court, so having far less impact, none in district courts).

NOW, THEREFORE BE IT RESOLVED that Brookline by vote of its elected T/Mtg URGES:

A. *Sentencing reform* and *diversion* much broader than the now pending statehouse bills -- with appropriate procedures for prosecutors' input and appeals when dissatisfied -- including:

1. shifting to prevention significant amounts of our wasteful, criminogenic $1billion+/year now for warehousing inmates (many being minorities, still-formative youths, or aging);

2. to allow some defendants -- e.g. for misdemeanors and lesser felonies --to avoid court, get needed treatment (hopefully with more resources from #1), and keep clean their CORI's;

3. for more man/min's than drug crimes, some "Safety Valves" -- with criteria for judges to depart downward, and allowing DA's to then appeal; and

4. including from the Sentencing Commission under G.L. c. 211E, legislatively mandated (to consult) Sentencing Guidelines -- including such broad but tightly defined man/min Safety Valves and also diversion-- that (per USSCt caselaw) are only advisory to follow.

B. And, the Board of Selectmen to (1) promptly convey this to our legislative delegation, all statewide elected officers, and Chief Justice Gants; and (2) designate a member of

the Diversity Commission to keep both boards informed about ongoing, future General Court developments.

, or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

These issues are complex, timely, indeed urgent. The legislative session ending in July 2018 might be the last CJ reforms for a while. For questions please email the other PAX co-chair, Marty Rosenthal [martyros@world.std.com] For a few Whereas clauses, some background:

1. 1990 Wm. Weld, campaign promise "to reintroduce inmates to the joys of busting rocks."
2. SJC CJ Gants to Judiciary Committee 6/9/15; https://www.prisonpolicy.org/global/2016.html
3. See http://www.mass.gov/mdaa/policy-and-legislation/where-we-stand.html. One longtime Mass. DA at a 11/24/15 public hearing in Gardner Auditorium said:

   [As for] the global comparison ... there are places in the world 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.
4. See #10, below: "Selected Race Statistics"; & SJC CJ Gants, Mass.Inc. Keynote (3/16/15)
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. ... Google anything by or about (e.g. NYT, WSJ) "Prof. John Pfaff, Fordham Law School
9. See e.g., https://massinc.org/wp-content/uploads/2017/06/Public-Opinion-on-Criminal-Justice-Reform-in-Massachusetts.pdf
10. See http://www.mass.gov/courts/court-info/trial-court/sent-commission/

SELECTMEN'S RECOMMENDATION

A report and recommendation by the Board of Selectmen under Article 22 will be provided in the Supplemental Mailing.

ADVISORY COMMITTEE'S RECOMMENDATION

A report and recommendation by the Advisory Committee under Article 22 will be provided in the Supplemental Mailing.

XXX

ARTICLE 23

TWENTY_THIRD ARTICLE

Reports of Town Officers and Committees

Report to Town Meeting by the Moderator's Committee on the Posting of Police Reports

June 2017

Introduction

At the November 2016 Town Meeting, Warrant Article 30 proposed that the Brookline Police Department post police reports online:

> *This article shall require the Brookline Police Department to post every police report online on the town website within forty-eight hours of the incident. The Brookline Police Department shall create a link on the town website which shall list all police incident reports by the date of their occurrences. Each report shall have a title which accurately reflects said occurrence. Full and accurate reports shall be filed online no later than forty-eight hours after the event. If the incident is under investigation a descriptive title of the event shall be posted. At the conclusion of the investigation the full police report shall be filed online with the date the investigation was completed and posted online.*

After the Board of Selectmen voted 5-0 and the Advisory Committee voted 18-0-1 to recommend that Article 30 be referred to committee, Town Meeting voted accordingly. This moderator's committee was formed to study the "desirability and feasibility" of posting police incident reports online. Moderator Sandy Gadsby appointed Lynda Roseman, Leonard Weiss, Selectman Bernard Greene, Tom Elwertowski, Brian Bergstein, Police Deputy Superintendent Myles Murphy, and Officer John Canney to the committee. Murphy and Bergstein were co-chairs.

The committee's meetings (http://www.brooklinema.gov/AgendaCenter/Moderators-Committee-on-the-Posting-of-P-107-107) included one public hearing. Members also interviewed four employees of the police department and the author of the warrant article and researched the data-publication practices of several other cities and towns.

The author of the warrant article said his goal was to ensure that the citizens of Brookline are as aware as possible of what is happening in their neighborhoods. In particular, he said, he was motivated by the fact that many people did not know about a dog attack in his neighborhood.

The committee also took it as a given that proper dissemination of information is a crucial responsibility of the police department because transparency strengthens the town's trust in and understanding of the work that officers do. Any reasonable steps to make police operations in Brookline more transparent should be welcomed.

Nonetheless, **the committee concluded that posting police reports as specified in the warrant article would not be desirable because it would not enhance public awareness.** It would substantially increase the likelihood of an illegal disclosure of private information in police records. It also would go far beyond what other cities and towns do (see appendix for details). Instead the committee recommends that the police department take other, simpler steps to improve public disclosure while protecting citizens' privacy.

Public Disclosure Today

The Brookline Police Department maintains a log of almost all officer activity. This log tracks all calls into dispatch, including requests from the public and activities initiated by officers. There were more than 90,000 such calls for service in 2014 and 2015 and 69,000 of them in 2016. These log items are short notes only, tersely describing an officer's actions. The log is publicly available in police headquarters, viewable on a laptop at the front desk.

The majority of the incidents in the log do not lead to detailed police reports with extensive narrative information. Those are generated only for the most serious incidents. Brookline police average about 6,500 of these reports per year. But their contents are not entirely public information. Before being released to crime victims, journalists, and other interested parties upon written request, a member of the police department staff must redact a report to make sure that it complies with local, state, and federal laws protecting private information such as Social Security numbers and medical conditions, and that it does not reveal certain details pertaining to juveniles or to active investigations. For example, a police report that is released to a member of the public may reveal that someone was taken to the hospital after being hit in the head. It likely would be a legal violation, however, to reveal that the person had a fractured skull. (Such medical-transport reports tend to make up half or more of all police reports generated in Brookline.)

To inform the public of certain crimes and other incidents of note, the police department disseminates information on Twitter and Facebook and on a blog on the police department website, with brief descriptions of incidents selected by the police department's Community Services Division (see http://blog.brooklinepolice.com/ and appendix for examples). The police chief discloses town-wide crime statistics in semi-annual reports to Town Meeting and the Town Administrator (http://www.brooklinepolice.com/147/Annual-Reports), and the department tallies such figures even more regularly through an aggregation engine called Compstat. The department also feeds data on significant incidents to a third-party service known as CrimeReports.com, which maintains a database of the events and plots them on a map. (See appendix for details and comparison to other towns.)

The committee believes the police department is meeting its obligation to notify the public about crime trends and other safety issues.

Even the author of the warrant article acknowledged to the committee that the posting of incident reports was probably unnecessary for meeting his goal of ensuring public access to relevant information about their neighborhoods. He told the committee that his article was written in haste, right before a warrant article deadline, to address the concerns of neighbors who felt a dog attack had not been publicized well enough. Upon meeting with the committee, he said he was learning for the first time about some of the police department's existing practices for reporting information about crime trends and individual crimes and other notable incidents, both online and in the publicly available logs at police headquarters.

Recommendations

The committee unanimously agreed that the police department should not post all incident reports on its website. Taking such a step would be burdensome and impractical. Of the 6,500 reports per year that the department generates, written requests from the public come in for about 1,500 of them. Records access officer Amanda Williams told committee members Tom Elwertowski and Brian Bergstein that she spends a minimum of 5-10 minutes vetting and redacting any police report before it can be released. Performing the redaction work on an additional 5,000 reports a year would require at least 50 to 100 days of labor—and would potentially increase the town's legal liability for improper disclosures. The committee found no other municipality that follows this practice. (See appendix for a description and comparison of the online availability of police information provided by Brookline and nearby communities.)

The committee does believe, however, that the department should take several steps to improve its information disclosure practices.

- The department should strive to make its reports in public channels, especially the blog, as descriptive as possible.
- The department should make much more explicit on its website what the blog is: a snapshot of incidents selected by the Community Services Division of the police department, and not a comprehensive list of crime reports. This explanation should clearly state the criteria for selection.
- The department's website should clearly state that the selection of cases in the blog may differ from what appears in the police blotter section of the *Brookline TAB*.
- The department should make it much clearer that Brookline feeds data to CrimeReports.com. That notice should also clarify that Brookline may have trends that do not clearly show up in CrimeReports.com's limited categories of information. (Table 2 in the appendix shows that CrimeReports does not, for example, break down animal incidents by type.)

The department took up some of these recommendations even before this report was completed. For example, the blog now includes a clearer disclosure about what items are included and not included.

The committee also discussed whether the department could post its daily log online, given that this file is today available for anyone to view at police department headquarters. Because it describes overviews of incidents and their locations but is generally not supposed to give names or other details that require redaction, it would be feasible for the department to make this log available on the website as well. But the committee does not feel that step would be desirable. Several committee members questioned the public-interest value of opening the entire log file to anyone on the Internet. Deputy Superintendent Murphy raised concerns that making even the terse log information more readily available could subject the town to more privacy complaints and increase its legal liability for accidental disclosure of private information. Notably, other towns that put log-like files online (see appendix for examples) do not post their entire logs unredacted.

Appendix

To determine how Brookline's online availability of police information compares with other municipalities', 13 other jurisdictions were reviewed in March 2017: Arlington, Belmont, Boston, Cambridge, Concord, Dedham, Needham, Newton, Somerville, Waltham, Watertown, Wellesley and Weston.

Five provide brief summaries of most incidents (Concord, Dedham, Newton, Waltham, Watertown). Five provide information for significant incidents (Arlington, Belmont, Boston, Brookline, Cambridge). One offers an email signup for neighborhood alerts (Wellesley). And three offer only a contact page for requesting records (Needham, Somerville, Weston).

Table 1, which follows, compares reporting by city or town on the randomly selected date of March 10, 2017. Definitions of each term follow the table.

Municipality	Format	Number of Items for 3/10/17	Time	Address	Desc	Responder	Export	Frequency
Brookline	web page	3	day	street	yes			2-3 days
Brookline	CrimeReports	4	day*	rounded			yes	daily
Arlington	CrimeReports	0	day	rounded			yes	daily
Belmont	CrimeReports	2	minute	rounded			yes	daily
Boston	PDF	265	minute	full		yes		weekdays
Boston	Socrata	265	minute	street			yes	daily
Cambridge	web page	14	minute	street	yes			daily
Concord	PDF	51	minute	masked	yes			weekly
Dedham	PDF	48	minute	street	yes	yes		weekly
Newton	text file	81	minute	full		yes		daily
Waltham	PDF	95	minute	full			yes**	daily
Watertown	PDF	62	minute	masked				weekly

* occasionally by minute, ** feature did not work.

Format: Some municipalities deliver events as a PDF document. One provides a text file. Some list events on a web page (blog). Some upload events to another website which provide various viewing and downloading capabilities.

Comprehensiveness: Some municipalities list all or most events (often 50+ per day) while others list only significant events (usually < 10 per day).

Time: Some municipalities provide a time to the minute for incidents. Other report only the day and occasionally the hour.

Address: Some municipalities provide a full address; some round the address number down to a multiple of 100, some mask the address number with a code so that different locations can be distinguished but not identified. Some provide only a street name. If geocoded data (latitude, longitude) is provided, it is not more accurate than the available address.

Description: Some municipalities provide a description comprising a sentence or more. Most provide just a category and subcategory.

Responder: Some municipalities include the name of responding officers.

Export: Some municipalities provide the capability to download incident data in a format suitable for spreadsheets and other analytical tools. Most use Socrata (https://socrata.com), a service for filtering, viewing, and downloading government data. Larger municipalities customize and use Socrata directly while smaller municipalities use CrimeReports (https://www.crimereports.com), a standardized presentation of police data built on top of Socrata.

Frequency: Some municipalities publish incidents daily and others weekly.

Examples by Municipality

Brookline

Brookline describes significant incidents in a blog (http://blog.brooklinepolice.com) every one to three days.

> 3/10/17 – Found Property
> An officer responded to Gibbs St. for a report of found property. The reporting party stated he picked up a wallet on Atherton Rd. on the evening of 3/6/17 or 3/7/17. An attempt to contact the owner was made but, was unsuccessful.
>
> 3/10/2017 – Arrest
> Officers responded to Risley Rd to apprehend a subject for a probation violation. The subject was placed under arrest without incident.

Brookline Police Blog excerpt

Data is also uploaded to the data to the CrimeReports website (https://www.crimereports.com/agency/brookline-police-department-ma) where it can be viewed or downloaded.

incident_id	797,056,229	address_2		updated_at	03/17/2017 03:30:23 AM
case_number	2017-0001133	city	BROOKLINE	location	POINT (-71.1225826 42.3478166)
incident_datetime	03/10/2017 12:00:00 AM	state	MA	hour_of_day	0
incident_type_primary	Property Crime	zip	02446	day_of_week	Friday
incident_description	FOUND PROPERTY	country		parent_incident_type	Property Crime
clearance_type		latitude	42.3478166		
address_1	1 Block GIBBS ST	longitude	-71.1225826		
		created_at	03/11/2017 04:30:20 AM		

incident_id	797,056,230	address_2		updated_at	03/17/2017 03:30:23 AM
case_number	2017-0001141	city	BROOKLINE	location	POINT (-71.142365 42.3027086)
incident_datetime	03/10/2017 12:00:00 AM	state	MA	hour_of_day	0
incident_type_primary	Community Policing	zip	02467	day_of_week	Friday
incident_description		country		parent_incident_type	Proactive Policing
WARRANT:PROBATION VIOLATION		latitude	42.3027086		
clearance_type		longitude	-71.142365		
address_1	1 Block RISLEY RD	created_at	03/11/2017 04:30:20 AM		

Brookline Police data from CrimeReports (same incidents as blog)

Arlington

Arlington uploads data to CrimeReports (http://www.arlingtonma.gov/departments/police/crime-reports).

Belmont

Belmont uploads data to CrimeReports (http://www.belmontpd.org/Pages/BelmontPD_Webdocs/crimereports).

Boston

Boston provides a Public Journal of incidents as a PDF. It is one of several daily news items

(http://bpdnews.com).

Report Date & Time	Complaint #	Date & Time of Occurrence	Location of Occurrence
3/10/2017 12:32:00 PM	172019020	3/10/2017 11:46:00 AM	D14 - 12 WADSWORTH ST
Nature of Incident			
BURGLARY - RESIDENTIAL - ATTEMPT			
Officer			
116111 JESSICA COPPNEY			
Arrests			
MUHAMMAD, IBRAHIMA	12 PRATT ST BSTN, MA	B & E - Attempted, B&E Residence, Day	

Report Date & Time	Complaint #	Date & Time of Occurrence	Location of Occurrence
3/10/2017 11:52:00 AM	172019023	3/10/2017 11:52:00 AM	B2 - 102 INTERVALE ST
Nature of Incident			
LARCENY ALL OTHERS			
Officer			
103765 JOHN MACLAUGHLAN			

Boston Police Public Journal excerpt

Boston also uploads incidents to the Boston Open Data site (https://data.cityofboston.gov/Public-Safety/Crime-Incident-Reports-August-2015-To-Date-Source-/fqn4-4qap/data) where it can be viewed or downloaded.

INCIDENT NUMBER	I172019020	REPORTING AREA	799	Location	(42.3551479°, -71.12674488°)
OFFENSE CODE	00521	SHOOTING		MONTH	3
OFFENSE CODE GROUP	Residential Burglary	OCCURRED ON DATE	03/10/2017 11:46:00 AM	DAY OF WEEK	Friday
OFFENSE DESCRIPTION	BURGLARY - RESIDENTIAL - ATTEMPT	Hour	11	UCR PART	Part One
DISTRICT	D14	YEAR	2017	STREET	WADSWORTH ST
				LAT	42.3551479
				LONG	-71.12674488

INCIDENT NUMBER	I172019023	REPORTING AREA	328	Location	(42.31049939°, -71.07733579°)
OFFENSE CODE	00619	SHOOTING		MONTH	3
OFFENSE CODE GROUP	Larceny	OCCURRED ON DATE	03/10/2017 11:52:00 AM	DAY OF WEEK	Friday
OFFENSE DESCRIPTION	LARCENY ALL OTHERS	Hour	11	UCR PART	Part One
DISTRICT	B2	YEAR	2017	STREET	INTERVALE ST
				LAT	42.31049939
				LONG	-71.07733579

Boston Police data from Socrata (same incidents as Journal)

Available details vary between the two presentations. The PDF includes a full address and responding officer; the downloadable data provides only a street name and omits the responder.

Cambridge

Cambridge provides a daily incident blog (https://www.cambridgema.gov/cpd/newsandalerts).

02/10/2017 12:51 INCIDENT 17000883 LARCENY UNDER $250 c266 S30	BROADWAY A Lowell resident reported her driver's license and debit card as stolen.
02/10/2017 13:02 INCIDENT 17000885 LARCENY FROM BUILDING c266 S20	MELLEN ST Cambridge Police were dispatched to Mellen Street on a report of a past larceny from a building.

Cambridge Police Incident Blog excerpt

Concord

Concord provides a weekly Dispatch Log (http://www.concordnet.org/1416/Dispatch-Call-Logs) of incidents in PDF format.

```
For Date: 03/10/2017  -  Friday

17-6172          0022   M V Stop
  Location/Address:     FAIRHAVEN RD + CONCORD TPKE

17-6174          0026   Suspicious Activity
  Location/Address:     [CON 6589] WALDEN ST
                   Received radio call from Ofc Mulcahy Car 6 reporting
                   checking on MA CO  parked in the Hapgood Forest
                   parking lot. Ofc Mulcahy reports DMV with note advising M/V to be removed
                   in the morning.
```

Concord Police Dispatch Log excerpt

Dedham

Dedham provides a weekly incident log (http://www.dedhampolice.org/crimewatch_incidents.htm) in PDF format.

2017000004359	03/10/2017 17:18	BUSSEY ST	WALK AND TALK	SEE DISPATCHER REMAR

Responding Officers
Patrol Officer Matthew E Blake

Incident Dispatcher Remarks:
WALK & TALK

2017000004358	03/10/2017 19:15	PROV HIGHWAY	ATTEMPTED LARCENY	REPORT

Responding Officers
Patrol Officer Collin G O'Sullivan

Incident Dispatcher Remarks:
BLACK MALE WITH RED PUFFY JACKET LEFT WITH LIGHT SKINNED FEMALE WEARING GLASSES APPROX 18:00 LEFT COUNTERFEIT CREDIT CARD LEFT UNKNOWN DIRECTION AND CONVEYANCE

Dedham Police Incident Log excerpt

Needham

Needham provides an Incident Report Request page (http://www.needhamma.gov/forms.aspx?FID=257).

Newton

Newton provides a daily Police Log (http://www.newtonpolice.com/POLICE_LOG/CURRENT) of incidents in TXT format.

```
17009281   3/10/2017   1242   108 LOVETT RD                                ALM/BURG   SETIABUDI G      496
17009283   3/10/2017   1245   ONE NEWTON PLACE / 275 WASHINGTON ST         MVA        PAGLIA RICH      491
```

Newton Police Log excerpt

Somerville

Somerville provides a contact page (http://somervillepd.com/index.php/services/records-requests) for its Records Bureau.

Waltham

Waltham provides a weekly Police Blotter (http://www.city.waltham.ma.us/police-department/pages/police-blotter-arrest-log) of incidents in PDF format.

Incident #: 17008851 Date: 2017-03-10 11:56:04 Type: LF/PROP

Location: 157 MYRTLE ST

Incident #: 17008849 Date: 2017-03-10 11:49:42 Type: ALM/BURG

Location: RENT-A-CENTER / 343 MOODY ST

Waltham Police Blotter excerpt

Watertown

Watertown provides a weekly Dispatch Log (http://watertownpd.org/resources/arrest-dispatch-logs) of incidents in PDF format.

```
17-4855          0959   Mental Health Issue                    Arrest(s) Made
  Location/Address:     [WAT 2809] CVS PHARMACY - MAIN ST
        Refer To Arrest:     17-4855-AR

17-4856          1003   Directed Patrol                        Services Rendered- Polic
  Location/Address:     [WAT 3674] STOP + SHOP - PLEASANT ST
```

Watertown Police Dispatch Log excerpt

Wellesley

Wellesley provides a signup page (http://www.wellesleypolice.com/index.cfm/page/Community-Notifications-from-Wellesley-Police/pid/10763) for various email categories. One alert category is serious crime.

Weston

Weston (http://www.weston.org/215/Police-Department) provides a link to the town public records request page.

Table 2: Animal incidents per year in Brookline, according to CrimeReports.com. The descriptions contain no references to specific animals.

Major Category	Description	2009	2010	2011	2012	2013	2014	2015 *	2016 †	2017 ‡	Total
Proactive Policing	ANIMAL BITE	31	22	21	23	20	41	25	33	12	228
Proactive Policing	ANIMAL DISTURBANCE	2	7	7	2	2	3	1	11	4	39
Proactive Policing	ANIMAL VIOLATION	1	1		2	1	5	2	1		13
Proactive Policing	INJURED/DEAD ANIMAL	3	6	1	7	3	7	1	1		29
Quality of Life	CRUELTY TO ANIMAL	1	1	1							3
All		38	37	30	34	26	56	29	46	16	312
* 6 months (Jan–Jun 2015), † 7.6 months (mid-May–Dec 2016), ‡ 5 months (Jan–May 2017)											

Final Report of the Selectmen's Committee on Senior Tax Policy
October 9, 2017

Executive Summary

The Selectmen's Committee on Senior Tax Policy was established by the Board of Selectmen in January 2017 in response to concern about the impact of property taxes on low- and moderate-income seniors. In particular there were concerns about the impact expected property tax overrides will have on seniors and the growing number of Brookline senior homeowners who no longer quality for the Massachusetts Circuit Breaker Income Tax Credit no matter how low their income.

The work of the committee led it to file three Warrant Articles for review and acceptance at the November 2017 Special Town Meeting:

1. A proposal to change the interest rate on deferred real property taxes from a fixed rate of five percent to the one-year average rate on 10-year Constant Maturity Treasury Notes. This rate will reset annually and will apply to all deferrals issued in the relevant fiscal year.
2. A proposal to authorize the Board of Selectmen to petition the state legislature to increase the maximum qualifying gross income amount for purposes of M.G.L. Chapter 59, Section 5 clause Forty-First A, expanding eligibility for the Senior Tax Deferral program.
3. To see if the Town will vote to accept the provisions of Section 3D of Chapter 60 of the Massachusetts General Laws, establishing a taxation aid committee and fund that would provide assistance to elderly and disabled taxpayers.

The Committee makes the following additional recommendations, to provide assistance to low- and moderate-income senior property owners:

1. An effort be established (voluntarily) to work with seniors and existing organizations that serve seniors to:
   - Make seniors aware of existing and new programs offered by Brookline and local financial institutions that may alleviate or mitigate their property tax burden.
   - Work with seniors to increase familiarity with financial products offered by the financial institutions that may help them meet their tax liabilities.
   - Work with financial institutions to make them aware of the needs and concerns of senior citizens so that such financial institutions may be better able to serve the needs of seniors.
2. That the Board of Selectmen increase the number of Senior Tax Work Off slots, assuming adequate supervision and work are available to ensure seniors in the program are providing value to the Town.

3. That the Town explore providing relief from the high cost of housing in Brookline to low- and moderate-income senior renters.
4. That the Town explore collecting information about the housing costs of Brookline seniors. The Committee especially recommends that information about the percentage of seniors' annual income that is devoted to housing expenses be obtained. This information could be obtained via a stand-alone census of seniors or through an insert in a Town-wide mailing.

Finally, the Committee recognizes that the changing nature (increasing) of property taxes combined with new initiatives at the state level and other communities, combined with the aging of Brookline's population may require public process regarding tax relief on an ongoing basis.

Introduction

The Selectmen's Committee on Senior Tax Policy was established by the Board of Selectmen in January 2017. The committee was established following the passage of Warrant Article 33 at the Fall 2016 Special Town Meeting. Article 33 requested the establishment of such a committee.

The Board of Selectmen appointed seven Brookline residents to serve on the Selectmen's Committee on Senior Tax Policy (See Appendix B). The Committee was supported by Chief Assessor Gary McCabe. Mr. McCabe participated in all committee meetings and was an essential source of information.

The Selectmen adopted the following charge for the Committee on Senior Tax Policy:

- To evaluate residential property tax relief for low- and moderate-income senior homeowners. The Committee may accomplish this by:
  - Reviewing information about Brookline's residential taxpayers to understand the current, and possible future, composition of the residential taxpayer base, including the number of low- and moderate-income senior homeowner taxpayers;
  - Evaluating the effectiveness and adequacy of statutorily available tax relief programs for low- and moderate-income senior homeowners and, as needed, offering improvements to the implementation of the programs in Brookline;
  - Investigating the efforts of peer Massachusetts communities to provide residential tax assistance to seniors and determining the effectiveness and appropriateness of adoption of similar programs and policies by Brookline; and
  - Considering the creation of innovative programs that could be implemented to assist senior homeowners with low and moderate incomes.
- To develop appropriate policy recommendations, proposals for adjustment to local implementation of statutorily provided residential tax assistance programs for senior residential taxpayers with low- or

moderate-incomes, suggestions for new tax assistance programs that would benefit senior residential taxpayers with low or moderate incomes, and draft of warrant articles necessary to implement the committee's recommendations.

- To provide to the Board of Selectmen by no later than August 3, 2017 a report of the information the committee has gathered and its recommendations.
- In carrying out its charge the committee shall at all times be mindful that granting additional relief to low- and moderate-income senior homeowners will increase the burden on other groups of taxpayers.

Summary of Meetings

The committee met eight times and invited affected and interested parties to its meetings to help the committee carry out its charge and to provide personal and expert testimony. For a more complete record of individual meetings please refer to the committee's meeting minutes (http://brooklinema.gov/1371/Senior-Tax-Policy-Committee).

- **February 1, 2017**: Introductory meeting of the committee that included a discussion of the Committee's charge, a presentation by the Petitioner of Article 33, and discussion of existing property tax reduction/elimination programs available to seniors.
- **March 1, 2017:** Review of relevant census and public data in an attempt to quantify the number of seniors who would benefit from tax relief. The committee discussed broadly the difficulties of senior property owners and renters.
- **April 5, 2017**: Detailed review of existing property tax relief programs run by the Assessor's Office and of the Commonwealth's Circuit Breaker Program. Information about a local option program run in Sudbury was also presented.
- **May 3, 2017:** Discussion of the information presented to the committee at its previous three meetings and where the group wants to focus its attention and, potentially, make recommendations for action.
- **June 7, 2017:** Specific conversation about the low take-up rate for Brookline's existing property tax relief programs and further refinement of what recommendations and Warrant Articles the Committee will file.
- **July 12, 2017:** Testimony from representatives of Brookline Bank and Eastern Bank about the challenges the existing Senior Tax Deferral Program presents them. Also, discussion of three draft Warrant Articles to be filed at the fall 2017 Town Meeting.
- **August 23, 2017:** Vote by the Committee to file three Warrant Articles for the fall 2017 Town Meeting.
- **September 18, 2017:** Discussion of a draft committee report and a vote was taken on a final report.

Fact Base

The committee's work was conducted in a cordial and constructive manner at all times. There was general awareness and conclusion that:

- Brookline desires as a town to allow its seniors to "age in place" and "age in the community." Seniors are a cherished resource and greatly contribute to community diversity, which is highly valued.
- There are an increasing number of Brookline senior homeowners with low- or moderate-incomes whose homes have risen greatly in assessed value since they were purchased. One consequence is that a growing number of Brookline senior homeowners who might otherwise have qualified for the Massachusetts Circuit Breaker Income Tax Credit because their incomes are sufficiently low no longer quality due to their homes' valuation exceeding the program's cut-off point, which is based on a statewide average of assessed value for all single-family residences. This is largely due to the significant increase in property values throughout Brookline relative to other parts of the state. This combined with the 2015 Brookline override, and anticipated future overrides, has made property taxes a pressing concern of an increasing number of Brookline's low- and moderate-income seniors.
- It is difficult to discern exactly how many Brookline senior homeowners are undergoing significant financial hardship because of increasing property taxes. Existing data is disparate and incomplete and not sufficiently targeted. However, U.S. Census data indicates that in 2015 66.6% of Brookline seniors lived in owner-occupied homes and condos and about one-third (32.4%) of Brookline senior homeowners (1,215) paid more than 30% of their household income for housing costs.[1,2] According to the American Community Survey, spending more than 30% of household income on housing expenses is an indication of excessive housing costs. Today, considering the 2015 Override and the increase in the number of Brookline seniors, that number could be larger.
- The existing tax assistance programs available through the Town provide limited relief. In FY2017, there were 11 seniors receiving 41C exemptions, 5 surviving spouse/minor child/elderly getting 17D exemptions, and 10 seniors in the tax deferral program. The exception to this is the Senior Tax Work Off Program where demand outpaced the available number of slots; 30 seniors participated in the work off program in FY2017. One cause of the underutilization may be the low asset and income ceilings set by statute for some of the relief programs; other causes may be a lack of knowledge or reticence on the part of individuals to be seen as needing

[1] SO103 [Brookline] Population 65 Years and Over, 2011-2015, American Community Survey 5-Year Estimates

[2] Housing costs include annual property taxes, mortgage payments, insurance, condo fees, rent, and the cost of utilities (water, sewer, electricity, gas, oil, telephone). They do not include the cost of repairs.

help.

- The Committee sought to find solutions that benefit the largest number of seniors in need.

The Committee decided, with the exception of one member, not to engage in creating additional preference for one group of taxpayers over another. It is understood that any reduction in taxes for one group by definition requires an increase in the burden to others.[3]

Recommendations

The Senior Tax Committee offers a total of seven recommendations. The committee's recommendations are divided into two groups - five within its charge from the Board of Selectmen and two outside of the mandate it received at the time of creation.

The five recommendations that fall within the committee's charge are concrete recommendations that can be implemented with the approval of Town Meeting, and, in the case of Article 6, also with the approval of the General Court. These recommendations were developed in direct response to the Selectmen's requests of the committee.

The two recommendations that fall outside of what the committee was empowered to investigate will require the Selectmen to implement additional public process. These recommendations are offered to identify for the Selectmen areas that merit further investigation and consideration.

The recommendations offered by the committee are a sub-set of the proposals and ideas that were vetted. After careful consideration, the committee declined to advance conversations on several of the ideas it discussed because of a lack of information, expense, or for public policy reasons. The following are ideas that were discussed but not pursued. These items are not being offered as recommendations:

- Forgiveness of any future property tax increases resulting from a future operating override or debt exclusion. To qualify a senior property owner would have needed to have resided in the same Brookline home for 20-years, be at least 80 years of age, and have a home with an assessed value of less than $1.5 million. This proposal was not pursued for several reasons
    - Basing such relief on the length of time seniors have resided in Brookline was deemed inappropriate;
    - The committee believed more income targeted, and therefore better, efforts could be undertaken to assist seniors struggling to pay their taxes;
    - A majority of the committee though it inappropriate to shift a portion of a subset of seniors' future property taxes onto other groups of

[3] For a Minority Report on this issue see Appendix A

taxpayers.

- Establishment of a property tax credit equal to the amount of the Commonwealth's Senior Tax Circuit Breaker income tax credit. To qualify for the subsidy a senior would need to have not received the Circuit Breaker income tax credit, have met all the income and filing qualifications, and have failed to receive the credit only because the value of their home exceeds what is allowed. This proposal was not pursued for two reasons:
    - A majority of the committee sensed that it would apply to a small group of seniors while requiring a significant amount of political process to be put into place;
    - A majority of the committee thought it inappropriate to shift a portion of a subset of seniors' future property taxes onto other groups of taxpayers.
- Capping the senior tax deferral program at its current 5% rate, preventing it from reaching the 8% maximum rate allowed under state law in the future. This proposal was not pursued for three reasons:
    - Implementation of the proposal could result in taxpayers not participating in the program subsidizing taxpayers who elect to enroll in the deferral program with a below market rate interest rate;
    - Concern that setting an interest rate ceiling that could, in the future, be below the market rate might lead to odd incentives - property owners may be motivated to defer their taxes and instead invest the dollars in an attempt to benefit from the difference between the deferral program interest rate and what could be obtained from stocks, bonds or CDs, or from the simple appreciation in property values;
    - Given that interest rates are at historic lows, the question of capping the rate below 8% was not seen as an immediate problem and there was consensus that, if the interest rate approached an uncomfortable level in the future, Town Meeting could revisit the maximum rate question.
- Establishing a means tested program that limits the amount of property tax qualified seniors pay in a calendar year to no more than 10% of their annual income. Qualified seniors would only be able to reduce their property tax bill by a maximum of 50% in a year. Such a program is currently in place in Sudbury, MA. This proposal was not pursued for three reasons:
    - Brookline has a residential exception and the committee declined to pursue conversations that would have altered the existing shift of the residential taxes;
    - The program would be expensive to implement and no source of funding was readily evident;
    - A majority of the committee thought it inappropriate to shift a portion of a subset of seniors' future property taxes onto other groups of taxpayers.

<u>Within the Charge:</u>

At its August 23rd meeting, the committee voted unanimously to submit three Warrant Articles to the Fall 2017 Special Town Meeting. The articles are the result of testimony and conversation the Committee had during its meetings.

Two of the articles (Articles 6 and 7) aim to address two issues that the committee believes are responsible for the low-enrollment in the Tax Deferral Program – the higher than market-rate interest charged on deferred tax payments, and the low (by Brookline standards) income limit on eligibility. The third article would establish an additional resource that could be tapped to provide relief to senior taxpayers in need, or to increase awareness about the availability of relief to those that qualify.

The Committee filed articles are as follows:

> *Article 6*
> To see if the Town will vote to authorize the Board of Selectmen to petition the Legislature for a special act authorizing the Town to increase the maximum qualifying gross receipts amount for purposes of M.G.L. Chapter 59, Section 5 clause Forty-First A, from the amount of income determined by the commissioner of revenue for the purposes of subsection (k) of Section 6 of Chapter 62 for a single person who is not a head of household to that of married persons filing jointly, or take any other action relative thereto.
>
> *Article 7*
> To see if the Town will vote to reduce the rate of interest on real property taxes that are deferred under the provisions of M.G.L. Chapter 59, Section 5 clause Forty-first A from five per cent per annum to the one-year average of the U.S. 10 year treasury constant maturity rate for the calendar year preceding the beginning of any fiscal year the eligible property owner enters into a tax deferral and recovery agreement with the board of assessors as provided in said Section 5 clause Forty-first A; provided that such rate of interest shall not be more than the maximum rate allowed under said clause Forty-First A, or take any other action relative thereto.
>
> *Article 8*
> To see if the Town will vote to accept the provisions of Section 3D of Chapter 60 of the Massachusetts General Laws, thereby establishing a taxation aid committee and aid to the elderly and disabled taxation fund as provided in said Section 3D; or take any other action relative thereto.

The Committee strongly recommends Town Meeting pass the three Warrant Articles in their present form.

The Committee makes two additional recommendations that fall squarely within its charge.

First, an effort be established (voluntarily) to work with seniors and the existing organizations that serve seniors to:

- Make seniors aware of existing and new programs offered by Brookline and local financial institutions that may alleviate or mitigate their property tax burden.
- Work with seniors to increase familiarity with financial products offered by the financial institutions that may help them meet their tax liabilities.
- Work with financial institutions to make them aware of the needs and concerns of senior citizens so that such financial institutions may be better able to serve the needs of seniors.

This recommendation is the result of the Committee's conclusions that state law, and public policy and practical considerations limit the types of efforts that can be undertaken by Town government. The Town, for example, should not dispense financial or tax planning advice to residents. Similarly, the Town should be wary of creating new programs where reasonable alternatives already exist operated by financial institutions with the expertise and resources necessary to facilitate outcomes favorable to seniors.

Second, the number of available Senior Tax Work Off slots should be expanded gradually, assuming adequate supervision and work is available to ensure enrolled seniors provide value to the Town.

The Committee also wishes to voice support for a staff led effort to prevent the opening of tax taking proceedings against senior taxpayers who have failed to pay their property taxes within the fiscal year prior to their account becoming delinquent. Action on delinquent accounts is usually taken in May following the May 1st tax bill due date. In lieu of tax taking proceedings, the Town has the option to place a lien against a property for the amount of unpaid taxes, plus any accrued interest. While the interest rate charged on a lien is high – far higher than that charged to participants in the tax deferral program despite the same practical result - the placing of a lien(s) is deemed preferable to the taking of a property and the eviction of a senior. The Committee strongly supports this policy choice and hopes it will quickly be adopted and implemented by the relevant Town boards/commissions and officials.

Outside the Charge:

The Committee believes the five recommendations that fall within its charge are first steps toward making it easier for low- and moderate-income senior property owners to remain in Town. The Committee believes two additional considerations, that go beyond its charge, should be explored and potentially implemented in the future. Its recommendations are as follows:

1. That the Town explore providing relief from the high cost of housing in Brookline to low- and moderate-income senior renters.

2. That the Town explore collecting information about the housing costs of Brookline seniors. The Committee especially recommends that information about the percentage of seniors' annual income that is devoted to housing expenses be obtained. This information could be obtained via a stand-alone census of seniors or through an insert in a Town-wide mailing.

These recommendations require additional public process before they could be adopted and implemented. These recommendations are simply offered to identify for the Selectmen areas that merit further investigation and consideration.

The Committee understands that this matter may need to be revisited by a successor committee within three years to evaluate progress, review new data, and reevaluate need.

Acknowledgements

The Selectmen's Committee on Senior Tax Policy thanks all Brookline residents, Town Meeting Members, Brookline and Eastern Bank, and community leaders that offered their views to the committee. The Committee also thanks Finance Director Jeana Franconia for her assistance to the committee in discharging its responsibilities.

The Committee especially wishes to expresses its thanks and gratitude to the Town's Chief Assessor Gary McCabe. Mr. McCabe participated in all committee meetings and was an invaluable source of legal and practical information.

Appendix A: Minority Report on Issue of Creating Preferences for Certain Groups of Taxpayers

While I fully support the three warrant articles and the other recommendations of our Senior Tax Policy committee that appear in our Final Report, I am extremely disappointed that, after eight months of analysis and meetings, our committee did not produce any recommendations for new property tax exemption programs for Brookline's needy senior homeowners with low or modest incomes.

I am especially troubled that a large majority of the committee's members took the stance that they would not approve of (or even seriously consider) ANY new programs that involved any form of tax exemption to needy senior homeowners (no matter how low the seniors' incomes or how small the dollar amounts of the proposed exemptions).

As explained by the committee's majority: *"The committee does not wish to engage in creating a preference for one demographic group or group of taxpayers over another.* It is understood that any reduction in taxes for one group by definition requires an increase in the burden to others." [Italics added.]

The warrant article that created this committee – and was overwhelmingly approved by Town Meeting in November 2016 – contained no such restrictive language. Nor did the Selectmen's charge.

Moreover, this self-imposed restriction ignored the Town's long history of warrant articles that created a tax preference for particular demographic groups over others. Just last May, for example, at our 2017 Annual Town Meeting, town meeting members voted in favor of Warrant Article 6, which doubled the Town's existing property tax exemptions for select demographic groups such as homeowners who are disabled veterans or blind homeowners, regardless of their income levels or assets. Another example is our Town's history of granting residential property tax exemptions to homeowners who reside in the house that they own in Brookline. Perhaps most indicative of the Town's willingness to use tax revenues to favor specific demographic groups is the Town's decision that a minimum of 50% of the Town's tax revenues be used for funding the Town's school system despite the fact that fewer than 25% of Brookline households contain children under 18 years of age, thereby favoring one particular demographic group (households with children under age 18) over the vast majority of Brookline's households without children. These governmental tax preferences for specific demographic groups are a strong expression of our town's values.

In voting in favor of the warrant article that established this committee, Town Meeting clearly expressed a preference for viewing needy seniors, and specifically needy senior homeowners, as a valued demographic group that was deserving of some kind of favored tax treatment and the expenditure of at least some Town revenue on programs to provide enhanced property tax relief.

As the original petitioner whose warrant article led to the formation of this committee, I had hoped that the committee would recommend a number of new tax exemption programs for senior homeowners with low or modest incomes in addition to an improved tax deferral program. This was desirable for two reasons. First, because it would enable needy seniors to select a program that was best suited to their particular situations and needs, and second, because the tax deferral program, even if improved according to our recommendations, has certain inherent limitations. For example, senior homeowners whose homes have conventional (non-portfolio) mortgages are unable to take part in the program at all (according to the local bankers who met with our committee) because their mortgage holders cannot or will not cede their status as first lienholders to the Town as required for participation. Additionally, the program's participants are likely to see a significant increase in their federal income taxes because they no longer are able to claim their property taxes as an itemized deduction. Moreover, their property taxes can only be deferred up to a maximum of 50% of the home's value, and interest rates on the entire unpaid balance of a senior's deferred property taxes will automatically jump to 14% as soon as the senior dies. All of these drawbacks may serve to limit senior participation in the tax deferral program. Yet our committee produced no recommended new alternative tax relief programs for those senior homeowners who cannot or do not wish to participate in the tax deferral program.

Nor did our committee recommend any proposal that specifically addresses the problem of senior Brookline homeowners with low or modest incomes who no longer qualify for the state Circuit Breaker income tax credit of up to $1,070 solely because their homes' valuations now exceed the program's cut-off point. Since this was one of the key reasons for creating this committee, the committee's failure to come up with such a proposal is both noteworthy and disappointing.

While I believe that our committee did an excellent job of analyzing and making recommendations to improve Brookline's tax deferral program, our committee's unduly narrow interpretation of our charge unfortunately resulted in our failure to spend sufficient time considering and developing innovative tax exemption program proposals to provide enhanced tax relief to needy Brookline senior homeowners. I urge that a successor committee be created with the express charge of recommending new tax exemption programs for senior homeowners with low and modest incomes.

I also urge that the Town survey its seniors to collect data about the housing costs of seniors, the number of senior homeowners with mortgages, and especially the percentage of seniors' annual household income being devoted to housing expenses. Identifying, for example, how many Brookline senior homeowners spend at least 50 or 60% of their annual household income on housing costs could be very revealing about the degree and extent of tax relief that might be needed. This data would provide any successor committee with more complete and accurate information on which to base its work than our committee was able to access.

Respectfully submitted,

Susan Granoff
TMM Precinct 7

Appendix B: Committee Membership

Selectman Ben Franco, Chair
Frank Caro, Town Meeting Member Precinct 10
Neil Gordon, Town Meeting Member Precinct 1
Susan Granoff, Town Meeting Member Precinct 7 & Petitioner of Article 33
Jeffrey Kushner, Town Meeting Member Precinct 14
Harold Petersen, Vice Chair, Brookline Board of Assessors
Sandra Spector, Senior Center volunteer

SELECTMEN'S COMMITTEE UPDATE

FEASIBILITY AND APPLICABILITY OF TREE ORDINANCE IN BROOKLINE

October 2017 Town Meeting

As a result of the Fall Town Meeting 2016, a Selectmen's Committee was established to study the possible benefits of a tree protection ordinance. The intent of the tree protection by-law would be to preserve mature trees that have aesthetic appeal, contribute to the distinct character of the community, improve air quality, provide glare and heat protection, reduce noise, aid in stabilization of soil, provide natural flood- and climate-control, create habitats for wildlife, enhance property values, and provide natural privacy to neighbors.

The Committee has held ten meetings to consider the purpose and intent, as well as the applicability, jurisdiction, implementation and enforcement of such an ordinance in Brookline. The Committee has considered various regulatory mechanisms which could be utilized in a draft tree protection ordinance.

In order to provide protection of trees considered significant to the health and character of the community, the Committee has evaluated the experience and viability of existing tree ordinances in some other communities in Massachusetts. To better understand the implications and effectiveness of any proposed bylaw the Committee met with representatives from Cambridge, Newton, Springfield, Wellesley, and Lexington to discuss the implementation strategies they have used when enforcing the protection of trees on private property in their respective communities.

The Committee then met with representatives from the Building and Planning Departments to consider bylaw models and implementation strategies that would be most effective for Brookline. The feedback from staff was clear and unambiguous. Rather than create a stand alone bylaw, staff recommended that the goals and objectives of a tree protection measure could, and should, be addressed through the implementation of a comprehensive site plan review process, a planning model increasingly adopted by other communities. Comprehensive Site Plan Review could incorporate a myriad of issues, including the protection and preservation of trees, into one process. The end result would be a municipal permitting framework that could be applied consistently and efficiently to projects and display enforceable and measurable performance standards. Mr. Michael Yanovitch, Deputy Building Commissioner, noted Framingham currently has a Site Plan Review process in place that may serve as a starting point for this discussion. After hearing from Michael Yanovitch, Maria Morelli of the Planning Department, and Building Commissioner Dan Bennet, the committee concurs that the Site Plan Review model may serve the Town well with regards to the preservation of mature trees.

The consideration and adoption of a comprehensive Site Plan Review process for the town would be a significant undertaking, one well beyond the purview of this particular Committee. Taking the view that Brookline may want to move in this direction, the Committee discussed our wish to avoid creating an entirely new tree protection bylaw that would be uncoordinated with and might quickly be superseded by a more comprehensive planning approach. We thus weighed the possibilities for interim measures to give trees on private property more protection than they currently have while this larger issue is evaluated. Consideration was given to the adoption of an interim bylaw as well as the possible modification of existing bylaws. After reviewing the language within current bylaws and speaking with town staff, the

Committee is proposing a modification of the existing Stormwater Management Bylaw to enhance the protection of trees on private property as a minimum interim measure.

Thus, the Committee envisions a two-step process. The first step, with the support of Peter Ditto P.E., Director of Engineering and Transportation, would be to modify the language within the existing Stormwater Management Bylaw. This bylaw is on track to be revised by DPW and the Committee sees an opportunity within the Sediment and Erosion Control provisions of the bylaw to improve the protection of private trees during construction and other activities. It is the intent of both the Committee and Mr. Ditto to submit the revisions to the bylaw for consideration at the Spring 2018 Town Meeting.

Upon submittal of those revisions to Town Meeting, the Committee would then be open to working with Building and Planning Department staff, as the Site Plan Review model is considered by future Town Meetings and to propose measures for tree protection that should be incorporated into this larger model.

The Committee respectfully suggests that this two step approach will result in thoughtful and appropriate tree protection in the near term, starting in 2018, while creating a path towards future protective measures that are consonant with a larger Site Review Process, should Town Meeting decide to adopt this approach.

Members of the Committee
Nancy Heller, Board of Selectmen
Thomas Brady, Town Arborist/Tree Warden
Ken Goldstein, Former Selectmen
Harry Bohrs, Brookline GreenSpace Alliance & Former Chair of Advisory Committee
Clara Batchelor, Park & Recreation Commission
Bob Cook, Planning Board
Roberta Schnoor, Conservation Commission
Elizabeth Erdman, Tree Planting Committee
Richard Murphy, Citizen Petitioner of Tree Protection Article

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Neil A. Wishinsky, Chair
Benjamin J. Franco
Nancy S. Heller
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Sean Lynn-Jones, Chairman