

Zoning Warrant Article – Boylston Street Corridor Study Committee

DRAFT 2.25.22

Article XX

To see if the Town will amend the Zoning By-Law and Zoning Map as follows:

- 1) By adopting the following map changes adjusting the boundary between the T-5 and G-1.0 district, such that the entirety of the parcel with Tax Parcel Identification XXX-XX-XX (2 White Place, currently located in the T-5 District) would be fully located within the G-1.0 district.

[insert diagram]

- 2) By adopting the following map change, adding a Brookline Hills Overlay District as shown below, including: parcels with Tax Parcel Identifications XXX-XX-XX (XX Street); and portions of Cypress and Boylston Streets.

[insert diagram including the following sites: Madris, Boylston Place (Mobil gas station and related), existing Boylston Place condos, Buddhist Center, Valvoline/Dunkin Donuts, Audi car dealership, UHaul]

- 3) By adopting the following map change, adding a Boylston Street East Overlay District as shown below, including: parcels with parcels with Tax Parcel Identifications XXX-XX-XX (XX Street); and portions of Boylston Street.

[insert diagram showing the parcels that have Boylston Street frontage, are not located within the Pill Hill Local Historic District, east of Davis Path/ Walnut Path, west of High Street/Washington Street]

- 4) By amending Section 3.01.4 by adding the following items at the end:
 - g. Brookline Hills Overlay District
 - h. Boylston Street East Overlay District
- 5) By amending Section 5.01 – Table of Dimensional Requirements – by adding Footnote 22 after the words “L-0.5” in the row for the L-0.5 District, after the words “M-1.0 (CAM)” for the M-1.0 (CAM) District, and after the words “G-2.0” in the row for the G-2.0 District which Footnote 22 shall read as follows:

“22. See Section 5.06.4 – Special Districts, subsection l. Brookline Hills Overlay District with respect to uses and all dimensional requirements.”
- 6) By amending Section 5.01 – Table of Dimensional Requirements – by adding Footnote 23 after the words “G-1.0” in the row for the G-1.0 District which Footnote 23 shall read as follows:

“23. See Section 5.06.4 – Special Districts, subsection m. Boylston Street East Overlay District with respect to uses and all dimensional requirements.”

Commented [KB1]: where the photographer's studio was and Curds & Co back office is now. This is a minor map change that would provide more business flexibility since it is currently zoned residential, and relying on tenuous pre-existing conditions.

7) By amending Section 5.06.4 – Special Districts – by adding a new item as follows:
“I. Brookline Hills Overlay District

- 1) It has been determined through study by the Boylston Street Corridor Study Committee that for properties near the intersection of Cypress Street and Boylston Street that potential exists for careful, planned redevelopment. It has further been determined that, due to the circulation patterns as well as the adjacency of this area to municipal uses, retail businesses, transit systems and residential neighborhoods, that both residential and commercial uses are appropriate. An analysis of the existing conditions, including existing floor area ratios of properties within and adjacent to this Overlay District, as well as a preference for parking infrastructure to be underground or not visible from public sidewalks are reasons why additional density may be allowed by Special Permit under the criteria of this section.
- 2) The Board of Appeals may grant a Special Permit under this section allowing for a project that meets the following requirements and limitations. Conformance with said requirements and limitations shall be made conditions of the Special Permit.
 - a. Any project that proposes demolition of existing Dwelling Units must demonstrate how the project will result in a net increase of at least 20% more Dwelling Units, or one additional Dwelling Unit, whichever is greater.
 - b. Any project subject to Section 4.08, Inclusionary Zoning, shall provide all required affordable units on site.
 - c. Any proposed building shall be permitted to have more than one principle use. For example, a restaurant or retail business may be located in the same building as a permitted residential or office use without being considered an accessory use.
 - d. Building Height
 - i. For properties located in an underlying “L” (Local Business) or “G” , (General Business) Zoning District, additional height may be granted by the Planning Board to accommodate structures that are six stories or less as measured from the Boylston Street property line.
 - ii. For properties located in an underlying “M” (Multifamily) Zoning District, additional height may be granted by the Planning Board to accommodate structures that are five stories or less as measured from the Boylston Street property line.
 - e. Parking
 - i. Any structured parking above ground shall not face Boylston Street.
 - ii. Any fees charged for parking must be separate from any rental, lease, sale, employment, contract or other arrangement permitting a user to occupy the building.
 - f. The Gross Floor Area Ratio (FAR) for a project permitted pursuant to this section shall not exceed 3.0, except that up to an additional 0.5 of FAR may

Commented [KB2]: Note that our Housing staff like the flexibility of cash payments in lieu of for smaller projects due to the staff time involved with every property that goes through lotteries for resales or rentals, but some Committee members have also discussed desire for on-site affordable units.

Commented [KB3]: Repeat from Waldo-Durgin except I use office as an example rather than hotel

Commented [KB4]: After seeing a sneak preview of the massing diagrams, I am guessing (but could be wrong!) that the Committee will end up in a max of 6 stories for all parcels in this Overlay District except for the Valvoline/ Dunkin Donuts site, which we’re aiming towards 5 stories. We need to remember to add to the Design Guidelines any massing preference within the Audi site (4 versus 6 stories) and any break down of massing we’ve been contemplating on the Boylston Place site.

Commented [KB5]: Repeat from Waldo-Durgin

be granted for Gross Floor Area that is located on the same Lot and utilized for:

- i. Uses 11 through 18A inclusive, 20, 20A, 20C, 21, 29, 30, 32 through 36A inclusive, 36C, 37 and 44);
- ii. Affordable Units in excess of Affordable Housing Requirements as defined in Section 4.08
- iii. Subsidized non-residential space, as affirmatively recommended by the Economic Development Advisory Board

Commented [KB6]: These are the same “storefront uses” that have no parking requirements in the TPOD, except that I’m ADDING daycare use and Deborah’s museum idea as uses to incentivize here.

g. Tree Canopy & Urban Heat Island Mitigation

- i. For any project that removes trees 8 inches or greater in diameter, as measured 4.5’ above ground level, must include a mitigation plan as affirmatively recommended by the Tree Warden. Such mitigation plan shall result in no loss of overall tree canopy within a quarter mile of the property, as affirmatively recommended by the Tree Warden.
- ii. Street trees shall be provided at regular intervals approximately every 25 feet adjacent to any public sidewalks. The size, location and species of all trees at the time of planting and the final design of all landscaping in the public or private way shall be approved by the Director of Parks and Open Space or their designee. In circumstances where trees cannot be provided as stipulated above as determined by the Director of Parks and Open Space or their designee, the applicant shall provide an equivalent amount of trees and/or landscaping at appropriate locations on the site or make a financial contribution to the Town in an equivalent dollar amount for similar improvements in adjacent parks and public spaces.
- iii. Any project within the Overlay District shall be required to demonstrate to the Planning Board measures taken to reduce urban heat island effects.

Commented [KB7]: This concept was floated during the review of the residential project on Green Street, although the Zoning Board of Appeals utilized a different standard for a “counterbalancing amenity”

Commented [KB8]: I believe this will sufficiently incentivize quality tree canopy open space at Old Lincoln School or the Dunkin Donuts site, without tying down exact “no build” areas in zoning. We should discuss; we could also add “no build” areas in the Design Guidelines to document a preference.

- h. All new buildings and renovations to existing buildings shall be LEED Silver Certifiable or higher. Applicants shall provide evidence to the satisfaction of the Building Commissioner that all new construction and renovations of existing buildings are LEED Certifiable Silver or a higher rating via the provision of a LEED scoring sheet. The construction or renovation of such buildings consistent with these plans shall be confirmed prior to the issuance of a Certificate of Occupancy.

Commented [KB9]: Repeat from Waldo Durgin.

- 3) Any application including new structures that seeks relief under this Overlay District shall be deemed a Major Impact Project with respect to Section 5.09, Design Review.”

Commented [KB10]: Repeat from Emerald Isle district, since AG’s office just struck other green building standards, even for Emerald Isle as a contingency of additional zoning relief. This version of language has been approved by AG’s office in the past, so keeping it here!

8) By amending Section 5.06.4 – Special Districts – by adding a new item as follows:

“j. Boylston Street East Overlay District

- 1) It has been determined through study by the Boylston Street Corridor Study Committee that for properties between Davis and Walnut Path and High Street,

Commented [KB11]: All the text in green highlight below is repeated from the Brookline Hills Overlay District – so you don’t have to review it twice! The basic difference between this Overlay District and the one above is that here we are incentivizing review as of right, tied with Zarrillo’s building envelope.

potential exists for careful, planned infill development in addition to incentivizing the reuse of existing buildings to the extent possible. It has further been determined that, due to the circulation patterns as well as the adjacency of this area to municipal uses, retail businesses, transit systems and residential neighborhoods, that both residential and commercial uses are appropriate. An analysis of the existing conditions, including existing floor area ratios of properties within and adjacent to this Overlay District, as well as a preference for parking infrastructure to be underground or not visible from public sidewalks are reasons why additional density and other dimensional requirements, as well as flexibility of uses, may be allowed by Site Plan Review under the criteria of this section.

- 2) Any application that seeks relief under this Overlay District shall be subject to Site Plan Review by the Planning Board to ensure that there is adequate provision of access for fire and service equipment; ensure adequate provision for utilities and storm water storage and drainage; ensure adequate provision of loading and passenger pick-up zones; ensure adequate provision of parking; minimize impacts on wetland resources areas; minimize storm water flow from the site; minimize soil erosion; minimize the threat of air and water pollution; minimize groundwater contamination from on-site disposal of hazardous substances; maximize pedestrian, bicycle and vehicle safety; screen parking, storage and outdoor service areas through landscaping or fencing; minimize headlight and other light intrusion; ensure compliance with the Brookline Zoning By-Laws; maximize property enhancement with sufficient landscaping, lighting, street furniture and other site amenities; minimize impacts on adjacent property associated with hours of operation, deliveries, noise, rubbish removal and storage. All plans and maps submitted for site plan review shall be prepared, stamped, and signed by a Professional Engineer licensed to practice in Massachusetts. Pursuant to the site plan review process, applicants shall provide to the Planning Board and the Director of Engineering a site plan showing:
 - a. Demonstrated design compliance with any General By-Law related to erosion and sediment control and stormwater management;
 - b. Property lines and physical features, including roads, driveways, parking for vehicles and bicycles, loading areas and trash storage for the project site;
 - c. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, and exterior lighting.
 - d. The extent to which the project complies with any applicable Design Guidelines adopted by the Planning Board.
 - e. Compliance with other requirements related to zoning relief provided under this Overlay District as described below.

- 3) The Planning Board may grant a Site Plan Review Permit under this section allowing for a project that meets the following requirements and limitations.

- a. Any project that proposes demolition of existing Dwelling Units must demonstrate how the project will result in a net increase of at least 20% more Dwelling Units, or one additional Dwelling Unit, whichever is greater.
- b. Any project subject to Section 4.08, Inclusionary Zoning, shall provide all required affordable units on site. The Building Commissioner may waive the special permit requirement under Section 4.08 as long as the Site Plan Review Permit provided under this Overlay District includes conditions that document how all other compliance under Section 4.08 and related Affordable Housing Guidelines will be met, per the positive recommendation by the Housing Advisory Board.
- c. The Building Commissioner may waive the special permit requirement for Design Review described in Section 5.09 for any project that is not deemed a Major Impact Project and does not include the following uses: lodging houses and hotels, gasoline service stations, and outdoor automobile sales and storage for sales.
- d. Use Flexibility
 - i. The ground floor of a residential building may have maximum residential use frontage that exceeds Use 6 in Section 4.07 – Table of Use Regulations, if the applicant adequately demonstrates that:
 - (i) the location of residential and non-residential uses of the ground floor are appropriate given the transition between residential and commercial neighborhoods; and (ii) for projects of 10 or more residential units, at least 1,200 square feet of floor space on the ground floor is designed to accommodate retail and restaurant uses with regards to utility access, ventilation design, plumbing and utilities, accessibility and egress design, fire suppression systems, and ceiling height.
 - ii. Any proposed building shall be permitted to have more than one principal use. For example, a restaurant or retail business may be located in the same building as a permitted residential or hotel use without being considered an accessory use.
 - iii. The conversion of use of existing buildings shall not require a special permit or variance related to the Floor Area Ratio, maximum building height, setbacks, open space, and other dimensional requirements.
- e. Building Envelope for New Buildings - The Floor Area Ratio, maximum building height, setbacks, open space and other dimensional requirements for any new buildings may be exceeded as long as the project does not exceed the building envelope as described further below.
 - i. The first floor must be setback from the Boylston Street property line by 8', 12' clear ceiling height, and have 65% minimum transparency.
 - ii. Must provide at least 5% of the property area as Landscaped Open Space.

Commented [KB12]: I think we might want to provide this flexibility in this Overlay District where projects are otherwise as of right -- for example the 8-townhome example for the muffler/tire site. Also see even for smaller project, Mark's Building envelope below requires 12' clear ceiling heights on the first floor -- so that future conversions could potentially work in the long run.

Commented [KB13]: I need to check this language with previous zoning decisions by the AG and Town Counsel with respect to pre-existing construction.

Commented [KB14]: We need to include Mark's suggestion of one entrance per structure, and entrances set back from face of building to Design Standards.

- iii. Height maximum is 35’.
- iv. Allowable height envelope is also formed by a plane that is sloped 1:1, beginning at the rear property line at a height of 10’.
- v. Up to 10’ additional height beyond the building envelope may be allowed for mechanical penthouses provided they are not visible from pedestrians on the adjacent public sidewalk.

[need to insert diagram]

f. Parking

- i. Any structured parking above ground shall not face Boylston Street.
- ii. Any fees charged for parking must be separate from any rental, lease, sale, employment, contract or other arrangement permitting a user to occupy the building

g. Tree Canopy & Urban Heat Island Mitigation

- i. For any project that removes trees 8 inches or greater in diameter, as measured 4.5’ above ground level, must include a mitigation plan as affirmatively recommended by the Tree Warden. Such mitigation plan shall result in no loss of overall tree canopy within a quarter mile of the property, as affirmatively recommended by the Tree Warden.
- ii. Street trees shall be provided at regular intervals approximately every 25 feet adjacent to any public sidewalks. The size, location and species of all trees at the time of planting and the final design of all landscaping in the public or private way shall be approved by the Director of Parks and Open Space or their designee. In circumstances where trees cannot be provided as stipulated above as determined by the Director of Parks and Open Space or their designee, the applicant shall provide an equivalent amount of trees and/or landscaping at appropriate locations on the site or make a financial contribution to the Town in an equivalent dollar amount for similar improvements in adjacent parks and public spaces.
- iii. Any project within the Overlay District shall be required to demonstrate to the Planning Board measures taken to reduce urban heat island effects.

- h. All new buildings and renovations to existing buildings shall be LEED Silver Certifiable or higher. Applicants shall provide evidence to the satisfaction of the Building Commissioner that all new construction and renovations of existing buildings are LEED Certifiable Silver or a higher rating via the provision of a LEED scoring sheet. The construction or renovation of such buildings consistent with these plans shall be confirmed prior to the issuance of a Certificate of Occupancy.

...or act upon anything else thereto.

Commented [KB15]: Mark – worded slightly differently, but I believe same geometry as your language.

Zoning Warrant Article – Required Non-Residential area in General Business

DRAFT 2.25.22

Article XX

To see if the Town will amend the Zoning By-Law as follows:

- 1) **Revise Table 4.07** – Table of Use Regulations, Principal Use 6, Principal Use Column, last sentence as follows (inserted text underlined; deleted text shown strikeout).

In L and G districts, the ground floor of a building must have at least 60% ~~no more than 40%~~ of its frontage along a street, at least 15' deep, devoted to uses other than residential use ~~or, including associated parking or lobby use associated with residential use.~~

...or act upon anything else thereto.

Commented [KB16]: This is a suggested revision that has come up a couple times in cases across Town where proposals have tried to say “how about an art gallery 5’ deep?”, and should be treated the same wherever ground floor non-residential space is required.