

WARRANT

THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF BROOKLINE
SPECIAL TOWN MEETING

Norfolk, ss

To Any Constable of the Town of Brookline

Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to NOTIFY and WARN the Inhabitants of the TOWN OF BROOKLINE, qualified to vote at elections to meet at the High School Auditorium in said Brookline on TUESDAY, the FIFTEENTH day of NOVEMBER, 2005 at 7:00 o'clock in the evening for the Special Town Meeting at which time and place the following articles are to acted upon and determined by the representative town meeting:

ARTICLE 1

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 therefore, and appropriate from available funds, a sum or sums of money therefore, or act on anything relative thereto.

ARTICLE 2

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.

ARTICLE 3

To see if the Town will:

- A) Appropriate additional funds to the various accounts in the fiscal year 2006 budget or transfer funds between said accounts;
- B) Appropriate \$250,000, or any other sum, to be expended under the direction of the Building Commissioner, with the approval of the Board of Selectmen, for engineering or architectural services for plans and specifications for remodeling, reconstructing, or making extraordinary repairs to the Stephen Glover Train Memorial Health Building;

- C) Amend the vote taken at the 2004 Annual Town Meeting, under Article 8, Section 12, Item # 35, by deleting the words “engineering or architectural services for plans and specifications”; and
- 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.

ARTICLE 4

To see if the Town will appropriate a sum of money to pay some or all of the Town’s unfunded pension liability, so-called, and for the payment of any and all other costs incidental and related thereto, and to determine whether this amount should be raised by borrowing, as authorized pursuant to Chapter 485 of the Acts of 2004, or otherwise, or to see if the Town will take any other action relative thereto.

ARTICLE 5

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

Please note that all proposed amendments appear in **bold** type and are **underlined**. Proposed deletions appear in **bold** type and are **[bracketed]**.

§9.04 - PROCEDURE FOR APPLICATION FOR SPECIAL PERMIT

[Prior to the filing of an application for a special permit, the applicant shall submit plans to the Building Commissioner, who shall advise the applicant as to the relevant sections of the Zoning By-law. Each application for a special permit shall be filed in triplicate with the Board of Appeals who shall transmit copies thereof to the Building Commissioner and the Brookline Planning Board. The Planning Board shall, within 20 days of the date of such filing, transmit to the Board of Appeals and to the applicant a report accompanied by such material, maps or plans as will aid the Board of Appeals in judging the application and in determining special conditions and safeguards. The Board of Appeals shall not render any decision on an application for a special permit until said report has been received and considered or until the 20-day period has expired, whichever is earlier.]

An applicant shall follow the following procedures when filing an application for a special permit.

1. Plan Review for Determination of Compliance with the Zoning By-Law

The applicant shall first submit plans to the Building Commissioner, who shall advise the applicant in writing as to whether the plans comply or do not comply with the Zoning By-Law. The application for Plan Review, including all associated plans, drawings and documents, shall be in a form specified by the Building Commissioner.

A written determination of non compliance, hereinafter referred to as the “Denial Letter”, shall identify the following:

- a. All plans, drawing and documents submitted by the applicant that provided the basis for the review and determination by the Building Commissioner; and
- b. Each section of the Zoning By-Law that the plans do not comply with and which will require a special permit from the Board of Appeals.

The Building Commissioner shall issue the Denial Letter within thirty (30) days after the application for Plan Review is complete. Copies of the Denial Letter shall be submitted to the Town Clerk, Planning Board and Zoning Administrator as part of the application for a Special Permit.

2. Compliance with Prior Decisions and Conditions of the Board of Appeals.

As part of the Plan Review procedure, defined by §9.04 1., the Building Commissioner, in consultation with the Zoning Administrator, shall determine whether the applicant’s plans are in compliance with any applicable decision and corresponding conditions previously issued by the Board of Appeals. The Denial Letter shall note whether or not the subject property is in compliance with any prior decision of the Board of Appeals.

3. Special Permit Application to Town Clerk

Four copies of each application for a Special Permit shall be submitted to the Town Clerk. The application shall be filed in a form approved by the Board of Appeals and as specified by the Board’s Rules and Regulations adopted pursuant to Chapter 40A § 12.

4. Determination of Complete Application

Prior to scheduling a hearing before the Board of appeals, the Town Clerk shall submit one copy of the application to the Zoning Administrator who shall determine whether or not the application is complete. Within fourteen (14) days of receiving the application, the Zoning Administrator shall send a letter with a copy to the Town Clerk notifying the applicant that his/her application is complete or what additional information is required to complete the application. If the Zoning Administrator does not issue a letter

within the fourteen day period, the application shall be deemed complete and the Town Clerk shall then proceed to schedule a hearing before the Board of Appeals. Applicants are encouraged to meet with the Zoning Administrator prior to filing with the Town Clerk to review the Rules and Regulations of the Board of Appeals that pertain to applications for Special Permits and to obtain a preliminary determination that all of the necessary information is contained in the application.

Once the Zoning Administrator determines that the application is complete or the fourteen day period has expired, whichever occurs first, the Town Clerk shall maintain a copy and forward copies to the Planning Board and Building Commissioner with the Zoning Administrator's determination, if any.

5. Planning Board Advisory Report

The Planning Board shall, within twenty (20) days of the date an application has been determined complete, submit an advisory report to the applicant and Board of Appeals. The advisory report, which shall be accompanied by appropriate plans, drawings and other supporting documents, will provide a recommendation and proposed conditions as warranted.

6. Time Extension for Completion of Planning Board Advisory Report

An applicant may submit a written request to the Planning Board to extend the 20 day period for filing the advisory report with the Board of Appeals. The Planning Board, following consideration of the request at a public meeting noticed pursuant to §9.08, may grant such a request and provide written notice of such action to the applicant, Board of Appeals, Town Clerk, Building Commissioner and Zoning Administrator.

7. Board of Appeals Decision

The Board of Appeals shall not render a decision on an application for a special permit until the advisory report from the Planning Board has been received and considered or until the 20 day period, or any extension requested by an applicant and granted by the Planning Board for this period, has expired. The applicant may also submit a written request to the Board of Appeals requesting an extension of time or postponement of the public hearing on the application for a special permit. The Board of Appeals shall consider such a request at a public meeting noticed pursuant to §9.08. The Board may also seek a report from the Zoning Administrator regarding the requested extension or postponement. The Zoning Administrator shall provide written notice of the Board of Appeal's decision on the request to the applicant, with copies to the Planning Board, Town Clerk and Building Commissioner.

or act on anything relative thereto.

ARTICLE 6

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

Please note that all proposed amendments appear in **bold** type and are **underlined**. Proposed deletions appear in **bold** type and are **[bracketed]**.

§9.08 - NOTICE TO TOWN MEETING MEMBERS AND OTHERS

At least seven days before any public hearing on an application for a variance, a special permit, or an extension of time pursuant to §9.07, the Board of Appeals, shall mail or deliver a notice of such hearing, with a description of such application or a copy thereof, to each elected Town Meeting Member for the precinct in which the property is located and to those Town Meeting Members **within all immediately adjoining precincts [of a precinct which is within 200 feet of such property as to which such application has been made]**. At least seven days before any Planning Board meeting, whether preliminary or final, on an actual or future application for a variance, special permit, or extension of time, the Planning Board shall mail or deliver a notice of such meeting to the applicants, to immediate abutters to the subject property, to each elected Town Meeting Member for the precinct in which the subject property is located, **[and] to Town Meeting members within all immediately adjoining precincts [for a precinct which is within 200 feet of such property], to [all] the neighborhood associations registered with the Planning and Community Development Department in which the property is located, to immediately adjoining neighborhood associations** and to all those specified on the Planning Board interoffice and distribution lists which may be amended from time to time. Notice to Town Meeting Members shall be in accordance with the names and addresses in the records of the Town Clerk.

or act on anything relative thereto.

ARTICLE 7

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

Please note that all proposed amendments appear in **bold** type and are **underlined**. Proposed deletions appear in **bold** type and are **[bracketed]**.

§5.09 – Design Review

3. Procedure

a. General

- 1) Preapplication—Prior to a formal submission to the Building Commissioner, the applicant is strongly encouraged to **take the following steps, and in the**

case of a Major Impact Project as defined in Section 5.09 3. b. such preliminary steps are required:

- a) consult with the Building Commissioner and Planning Director or their designees for technical advice relative to the community and environmental impact and design review standards of this section; and
- b) meet with abutters, tenants of abutters, Town Meeting Members, neighborhood associations, and other interested citizen groups to review the project plans, and the applicant should actively promote citizen involvement throughout the review process. **In the case of Major Impact Projects, the meeting shall be convened prior to the Planning Board's preliminary meeting as required by Section 5.09 3. b. 4). The Department of Planning and Community Development will assist the applicant in identifying the parties to be notified;** and
- c) meet with the Planning Director or his/her designee to determine if the Planning Board has adopted design guidelines which pertain to the proposed project; and
- d) meet with the Transportation Director and the Planning Director or their designees for advice on the preparation of any required transportation studies

or act on anything relative thereto.

ARTICLE 8

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

Please note that all proposed amendments appear in **bold** type and are **underlined**. Proposed deletions appear in **bold** type and are **[bracketed]**.

§5.09.3.d. Design Advisory Teams

The Planning Board is authorized to appoint a Design Advisory Team (DAT) consisting of the following: one or more Planning Board member(s); professional architect(s), landscape architect(s) or other related design professional(s); and a neighborhood representative to provide [professional] design review assistance to the Planning Board and the Planning and Community Development Department in the review of certain §5.09 projects which may have a significant impact on the character of the area. The Planning Board may, in its discretion, also appoint representatives from other appropriate Town boards and commissions to serve on a DAT, but only if deemed necessary to insure coordinated project review. The Planning Board may appoint a DAT at a regularly scheduled meeting where public notice has been provided pursuant to Section 9.08. At the direction of the Planning Board, the applicant may be required to meet with the DAT to discuss

resolution of design concerns. Following a meeting with the DAT, the applicant must include in any further submissions its response to issues raised by the DAT. The DAT may also submit a report to the Planning Board for its consideration.

or act on anything relative thereto.

ARTICLE 9

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

A. The following amendments are proposed for §9.00 Enforcement. Please note that all proposed amendments appear in **bold** type and are **underlined**. Proposed deletions appear in **bold** type and are **[bracketed]**.

§9.00 - ENFORCEMENT

1. **Enforcement Authority** - This By-law shall be enforced by the Building Commissioner. The Building Commissioner shall not issue a permit for the erection or alteration of any building or part thereof, unless the plans, specifications and intended use of such buildings are in all respects in conformity with the provisions of this By-law.
2. **Conformance with Zoning By-Law** - No person shall use or permit the use of any building or part thereof hereafter erected, or altered in its use or construction in whole or in part, or any building when the open spaces in the lot upon which it stands have been reduced in area or shape, until the Building Commissioner has issued a certificate of occupancy and use under the Commonwealth of Massachusetts State Building Code, and until the Building Commissioner has issued a certificate to the effect that the building so erected or the part thereof so altered, the proposed use thereof, the size of the lot and its yards and setbacks, and all other applicable requirements, conform to the provisions of this By-law.
3. **Compliance with Board of Appeals Decision and Conditions** - In addition to the provisions of paragraphs 1 and 2 of this Section, no building permit or certificate of occupancy shall be issued by the Building Commissioner on an application or petition to the Board of Appeals until all of the conditions and safeguards imposed by the Board of Appeals in accordance with §9.05, paragraph 2, regarding such application or petition have been complied with **pursuant to the following §9.00 4.** **[or compliance with conditions to be met at a future date has been arranged. Compliance with conditions and safeguards to be reviewed or approved by a Designated Authority shall be determined by the following procedure:]**
 - [a) **Notice of Method of Compliance** —The applicant shall complete and submit for signature a separate notice of compliance which shall include revised plans or other supporting material if applicable, to each board, commission, department head, or other administrative body or official (hereinafter the "Designated Authority") designated by the Board of Appeals to review or approve a specific aspect of the application or petition. The notice of

compliance shall document compliance with the condition and/or intent to comply provided that adequate assurances for compliance such as the delivery of a bond or deposit as permitted in paragraph (d) are given. The sufficiency of the notice of compliance shall be within the discretion of the Designated Authority. If the Designated Authority fails to take action on the notice of compliance within 20 days of its receipt, compliance shall be determined by the Building Commissioner.

- b. **Declaration of Compliance**—The applicant shall deliver to the Building Commissioner all of the required notices of compliance. For any notice of compliance that has not been acted upon by a Designated Authority within the 20 day period, the applicant shall affix to that notice a statement to that effect. Upon a determination by the Building Commissioner that the requirements of paragraph 3, subparagraph a of this Section have been met, a declaration of compliance shall be issued by the Building Commissioner, copies of which shall be promptly forwarded to each Designated Authority.
- c. **Building Permit**—The Building Commissioner may issue a building permit once a declaration of compliance has been issued.
- d. **Certificate of Occupancy**—Prior to the issuance of a certificate of occupancy, the Building Commissioner shall send a notice of pending certificate of occupancy to each Designated Authority which shall have 14 days from the date of that notice to request that the certificate of occupancy be withheld. If such action is requested in writing or was requested in a notice of compliance, the certificate of occupancy shall not be issued until the Building Commissioner has received a notice of completion, which may incorporate provisions for a bond or deposit as permitted in paragraph 4, from the Designated Authority that requested such action.

In the event of disagreement on the procedural requirements of this Section, or in the event of unreasonable administrative delay, the matter shall be referred to the Board of Appeals for resolution.

- 4. The Building Commissioner shall not issue a certificate of occupancy until all required site improvements have been completed in accordance with the final project plans, except that the Building Commissioner may issue a certificate of occupancy if the applicant posts a bond or deposit with the Town in the amount of 1 1/2 times the total installed cost of uncompleted required at-grade site improvements at the time of issuance of the certificate of occupancy. If said improvements (such as landscaping and fences) are not completed within one year from the time of issuance of the certificate of occupancy, said bond or deposit shall be forfeited to the Town, and the Town shall utilize the bond or deposit to complete the required at-grade site improvements.

5. Whenever application has been made to the Building Commissioner for a permit or certificate and the interpretation of this By-law with respect to the granting of such application is not clear, the Building Commissioner is authorized and directed to submit the matter to the Planning Board for the expression of its opinion before making his/her decision.]

4. Compliance Procedures- Compliance with a decision and associated conditions approved by the Board of Appeals shall be determined by the following procedures.

a) Zoning Administrator

An official of the Town of Brookline shall be designated as the Zoning Administrator. One of the primary responsibilities of the Zoning Administrator will be to assist the Board of Appeals with the compliance procedures defined by this Section of the Zoning By-Law.

b) Designated Authority

The Board of Appeals, pursuant to §9.05 2. shall define a Designated Authority to determine compliance with each condition associated with a decision regarding an application for a special permit, variance, time extension or other action. A Designated Authority may be a member of an appointed board, commission or other administrative body, a department head or Town Official. The Board of Appeals shall also state, as part of each condition, whether the Designated Authority is required to determine compliance prior to the issuance of a building permit or certificate of occupancy.

c) Declaration of Compliance

The Zoning Administrator shall, following a public hearing noticed pursuant to §9.08, prepare a Declaration of Compliance form, either in a typed or electronic format or both, that will list the conditions in the Board's decision and document an applicant's compliance with all the terms and conditions of the Board's decision. The form shall be signed by the appropriate Designated Authority and the Zoning Administrator to insure compliance with the terms and conditions of the Board's decision. The Zoning Administrator shall send the Declaration of Compliance Form to the Applicant.

d) Declaration of Compliance Form

The Declaration of Compliance Form, shall at a minimum include the following:

- 1) Board of Appeals case number;
- 2) Name and address of the applicant;
- 3) Street Address and Assessor's book, page and parcel identification of the project;

- 4) Project description from Board of Appeals decision;
- 5) Identification of all surveys, plans, elevations and other drawings approved by the Board of Appeals;
- 6) Each condition approved by the Board of Appeals;
- 7) Determination of compliance or non-compliance by the Designated Authority or Zoning Administrator;
- 8) Title, signature and date of compliance determination by the Designated Authority; and Zoning Administrator;
- 9) Statement of compliance assurance by applicant; and
- 10) Signature of applicant and date signed by applicant.

e) Compliance Procedures

Prior to the issuance of a building permit or a certificate of occupancy, the applicant shall file with the Zoning Administrator a request for a determination of compliance that the project is in all respects in compliance with the terms and conditions of the Board's decision and any modifications thereto. The Zoning Administrator will circulate the request and the Declaration of Compliance form to all appropriate Designated Authorities for review and approval within twenty (20) days of the date the applicant requests a determination of compliance. If a Designated Authority fails to act within the prescribed period, the Zoning Administrator may determine compliance and make a recommendation to the applicant and Building Commissioner. The Zoning Administrator shall submit the completed Declaration of Compliance form to the Building Commissioner, with copies to the Town Clerk, applicant and each Designated Authority.

f) Plan Certain

As part of the Declaration of Compliance procedures above, the Zoning Administrator and the Building Commissioner shall jointly conduct a Plan Certain review of the site plan, landscape plan, building elevations and other drawings, details and documents that are subject to conditions approved by the Board of Appeals. The Plan Certain review shall determine that the final plans submitted, either as part of an application for a building permit or certificate of occupancy, are consistent with the plans and conditions approved by the Board of Appeals and the recommendations of the Designated Authorities.

g) Plan Revisions

Once the Board of Appeals public hearing on the proposal is closed, any plan revision, other than a change governed by a condition of the Board of Appeals approval, which in any way alters or modifies the plan, shall be reviewed by the Building Commissioner and the Town's Zoning Administrator. If such revision is deemed by the Building Commissioner and Zoning Administrator to constitute a change other than as authorized by the Conditions of the Board of Appeals, the matter shall be referred to the Planning Board for its recommendation in accordance with the Community

and Environmental Impact and Design Review Standards of §5.09.4. and to the Board of Appeals as necessary.

h) Alternative Means of Compliance

The determination of compliance by a Designated Authority may include a recommendation for proceeding with an alternative means of compliance that may be secured by a bond, deposit or other appropriate financial commitment approved by the Zoning Administrator. The bond or deposit with the Town shall be in the amount of 1 1/2 times the total installed cost of uncompleted required at-grade site improvements at the time of issuance of either a building permit or certificate of occupancy. If said improvements (such as landscaping and fences) are not completed within one year, said bond or deposit shall be forfeited to the Town, and the Town shall utilize the bond or deposit to complete the required at-grade site improvements.

i) Compliance Disagreements

In the event of disagreement on the procedural requirements of this Section, or in the event of unreasonable administrative delay, the Zoning Administrator shall refer the matter to the Board of Appeals for resolution.

5. Interpretation of Board of Appeals Decisions

If, prior to the issuance of a building permit or certificate of occupancy, the Building Commissioner requires an interpretation of any of the terms or conditions of a Board of Appeals decision, he/she may consult with Town Counsel and/or the Zoning Administrator. The Zoning Administrator shall confer with Town Counsel prior to issuing any clarification or interpretation.

B. §5.09 3. e. Plan Revisions is proposed for deletion as follows:

[e. Plan Revisions

Any plans revised after a formal application has been made to the Building Commissioner shall be submitted in triplicate to the Building Commissioner prior to the Board of Appeals hearing. Once the Board of Appeals public hearing on the proposal is closed, any plan revision, other than a change governed by a condition of the Board of Appeals approval, which in any way affects or alters the visual appearance of the facade, roof, or cornice line, or modifies the site plan, shall be reviewed by the Building Commissioner and the Planning Director, or their designees. If such revision is deemed by either the Building Commissioner or Planning Director to constitute a change other than a minor modification, the matter shall be referred to the Planning Board for its recommendation in accordance with the community and environmental impact and design review standards of this section and to the Board of Appeals for any action it deems appropriate.]

C. §§ 2. of §9.05 Conditions for Approval of Special Permit is proposed for amendment as follows:

If the Board of Appeals exercises its authority to attach conditions and safeguard which require expert review or approval by an administrative body or official, it shall appoint in its decision a Designated Authority as described in **§9.00, paragraph [3] 4.b).**

or act on anything relative thereto.

ARTICLE 10

To see if the Town will amend Article 3.03. of the Zoning By-Law as follows:

By adding the following new section 3.03.6.1.:

3.03.6.1. *Coolidge Corner Interim Planning Overlay District*

- a. The Coolidge Corner Interim Planning Overlay District (CCIPOD) consists of the parcels outlined in the map titled “Coolidge Corner Interim Planning Overlay District- November 2005” prepared by the Town of Brookline, bearing the signatures of the members of the Planning Board and on file in the office of the Town Clerk.
- b. The area covered by the CCIPOD consists of M-2.5, M-2.0, M-1.5, M-1.0 and G-1.75 (CC) districts in the vicinity of the intersection of Beacon Street and Harvard Street. This area has a commercial core with dense residential neighborhoods surrounding it. Residential density in the area is very high-over 15 persons per acre. Most of the area is developed, although some open spaces remain on the periphery. Buildings in the area were generally constructed in the early to mid-1900’s, although some older buildings remain. This is an area of Brookline where significant development pressures particularly for denser residential developments are resulting in pressure to tear down existing structures and replace them with larger ones.
- c. The CCIPOD is being created to provide the Town with a window of opportunity to create a Coolidge Corner District Plan that will provide strategies for neighborhood conservation while maintaining and enhancing the commercial core of the area. The existing zoning districts permit a level of residential development in the area that threatens the character and quality of existing neighborhoods and the commercial core.
- d. The Brookline Comprehensive Plan calls for the creation of a Coolidge Corner District Plan, and that a CCIPOD should be created during the development of the District Plan. According to the Comprehensive Plan, “[t]he interim zoning regulations ... established during the study period will ensure that an area is not subjected to inappropriate development proposals. After the ... District Plan is complete, the interim zoning might be replaced with new, permanent zoning consistent with the findings of the planning study.” (*Brookline Comprehensive Plan*, p. 34)

- e. The Coolidge Corner District Plan will be a one year planning process directed by the Department of Planning and Community Development and guided by a District Planning Council of residents, businesspersons, and other interested parties. According to the Comprehensive Plan, “[d]istrict Plans would conduct buildout analyses and alternative development scenarios for each district, and then develop a vision for a preferred future of the district. The District Plans would then develop strategies for these areas in a variety of subject areas, including regulatory tools, development preferences, transportation issues, and open space priorities.” (*Brookline Comprehensive Plan*, p. 34) A full scope for the district planning process is available from the Department of Planning & Community Development.
- f. The CCIPOD will be effective for a period of twelve months following its adoption by Town Meeting. It is anticipated that the Coolidge Corner District Plan and any new Zoning By-Law and Map Amendments will be complete for the Fall 2006 Town Meeting.
- g. For parcels within the CCIPOD, the following sections of the Zoning By-Law will be replaced or amended:
 - Replacing Principal Use 6 (multiple or attached dwelling units over 2 units) of Section 4 with the table in h. below;
 - Adding additional criteria outlined in h. below to those in Section 9.05, regarding conditions for approval of special permits.
- h.
 1. More than Two Dwelling Units on One Lot: For parcels within the CCIPOD, Principal Use 6 in Section 4 shall be governed by the following use table:

<p>6. Multiple or attached dwelling other than the preceding item divided into dwelling units each occupied by not more than one family but not including lodging house, hotel, dormitory, fraternity or sorority.</p> <p>* Compliance with §4.08 required if containing 6 or more dwelling units.</p> <p>In L and G districts, the ground floor of a building must have no more than 40% of its frontage along a street devoted to residential use, including associated parking or lobby use.</p> <p>A development of three to five units may be permitted by special permit as provided in Section 9.05 and Section 3.6.1.h.2.</p>	<p>No*</p>
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2. Special Permits in the CCIPOD: For parcels within the CCIPOD, any applicant for a special permit shall be required to demonstrate that the application is not in conflict with any of the findings of the Coolidge Corner District Planning process to date. In addition, the applicant must demonstrate that the proposed development will not conflict with any zoning amendments that are likely to result from the district planning process. All special permit applications must meet these conditions in addition to any conditions outlined in Section 9.05 or elsewhere in the Zoning By-Law.
3. Underlying Zoning: In all other ways the underlying zoning districts shall continue to apply to parcels within the CCIPOD. In cases of conflicts between this Section 3.03.6.1. and the remainder of the Zoning By-Law, this Section 3.03.6.1. shall govern.

or act on anything relative thereto.

ARTICLE 11

To see if the Town will amend Articles IV Use Regulations, Section 4.08 Affordable Housing Requirements of the Zoning By-Law as follows:

Please note that all proposed amendments appear in **bold** type and are **underlined**. Proposed deletions appear in **bold** type and are **[bracketed]**.

It is recommended that the following current language of Subsection 4.08 3.a. below

3. *Applicability*

In all zoning districts, the provisions of this §4.08 shall apply to the following uses:

*a. any project that results in the creation of six or more dwelling units, whether by new construction or by the alternation, expansion, reconstruction or change of existing residential or non-residential space, except that **[any pre-existing units that are retained as part of the project shall not contribute to such count]**; and*

is revised to read as follows:

3. *Applicability*

In all zoning districts, the provisions of this §4.08 shall apply to the following uses:

*a. any project that results in the creation of six or more dwelling units, whether by new construction or by the alternation, expansion, reconstruction or change of existing residential or non-residential space, except that **the resulting number of pre-existing units remaining entirely within the envelope of the pre-existing space shall not contribute to such count;** and*

or act on anything relative thereto.

ARTICLE 12

To see if the Town will amend the Zoning By-Law to add a new Section 5.23 as follows:

§ 5.23 - SPECIAL PERMIT OVERLAY FOR SUBSTANTIAL INCREASES IN GROSS FLOOR AREA

1. PURPOSE.

The purpose of this section is to provide a more detailed review of buildings that will be substantially larger than pre-existing or neighboring structures and thereby have a substantial impact on the character of residential neighborhoods.

2. SCOPE

In addition to compliance with the **Table of Dimensional Requirements**, new structures and exterior alterations, changes or additions in S, SC, SP, T or M districts shall be subject to a Special Permit process in the following circumstances:

- a. Where the total gross floor area of a proposed new building or enlarged building is at least 30% greater than the gross floor area of a pre-existing building, where the partial or total demolition of such pre-existing building was necessary, or would be necessary, to permit the proposed new construction; or
- b. Where the total gross floor area of a proposed new building or enlarged building is at least 30% greater than the average gross floor area of buildings existing, at the time of application for a permit for such new construction, either on adjacent lots or on lots on the same street any portion of which lots are within 100 feet of the lot on which new construction is proposed; or
- c. Where, after proposed exterior additions, the total gross floor area of a building will be at least 30% greater than the gross floor area of the same building prior to such exterior additions. Where there have been previous exterior additions after the effective date of this Section, the total gross floor area of the building after the addition which is being proposed shall be compared to the gross floor area of the building prior to all such exterior additions.

3. SPECIAL PERMIT.

Prior to granting a Special Permit, the Board of Appeals must hold a public hearing to determine:

- a. That the proposed new building, enlarged building or exterior additions will relate harmoniously to existing buildings in the vicinity that abut or have a visual relationship to the proposed building with respect to bulk, scale, siting, height, width, setbacks, roof and cornice lines, location and size of space for the parking of motor vehicles, size of spaces designated as attics or penthouses, and architecture.
- b. That the proposed new construction will preserve open space and the existing landscape by minimizing tree and soil removal, and that any grade changes shall be in keeping with the general appearance of neighboring lots.
- c. In the case of a new building, enlarged building or exterior addition in a National Register District, necessitating the partial or total demolition of building on the National Register of Historic Places or eligible for the National Register of Historic Places, or having a visual impact on a building in a National Register District or eligible for the National Register of Historic Places, the Board of Appeals shall consult with the Brookline Preservation Commission and shall explain in writing any determination not to follow the recommendation of the Brookline Preservation Commission.
- d. In order to ensure compliance with this Section, the Board of Appeals may impose floor area, height, setback, or open space requirements in addition to those set forth in the **Table of Dimensional Requirements**.

or act on anything relative thereto.

ARTICLE 13

To see if the Town will amend Section 4.09 of the Zoning By-Law as follows:

1. By adding the following language to Section 2. Scope: “or public utility poles” as follows:

Section 2. Scope

This §4.09 shall apply to all wireless telecommunication antennas and towers and related equipment, fixtures and enclosures, including any modifications to any of the proceeding, but shall not apply to dish or television antennas which receive and do not transmit; amateur ham radio antennas; citizens band radio antennas; fire, police, ambulance and other safety communication antennas; antennas utilized by the Town for its communications systems; and to antennas to be

located on Town-owned property **or public utility poles**, except that paragraph 4., subparagraph c. of this section shall apply.

2. By adding the following language to Section 4 paragraph (c). Procedure: “or public utility poles” as follows:

Section 4, paragraph (c):

- c. All wireless telecommunications antennas, towers, and related equipment, fixtures, and enclosures to be located on Town-owned property **or public utility poles** shall be exempt from the procedures in subparagraph a. above, and shall require approval from the Board of Selectmen, after an advisory report from the Planning Board and a public hearing. Long term telecommunication leases are subject to G.L.c.30B and must be approved by Town Meeting. The submittal requirements and approval standards of this section shall serve to guide the Planning Board in its recommendation to the Selectmen.

or act on anything relative thereto.

ARTICLE 14

To see if the Town will authorize the Board of Selectmen to lease, for a term not to exceed ten years, the following property, including land, buildings and town owned light poles upon such terms and conditions the Selectmen determine to be in the best interest of the Town:

1. 870 Hammond Street (The Municipal Service Center); and
2. Town owned light poles on the following streets and ways:

Aston Road
Baker Circle
Bellingham Road
Clearwater Road
Grassmere Road
Grove Street
Hammond Street
Horace James Circle
Independence Drive
Lagrange Street
Ogden Road
West Roxbury Parkway
Woodcliff Road
Woodland Road
Zanthus Road

or act on anything relative thereto.

ARTICLE 15

To see if the Town will amend Articles I, V and IX of the Zoning By-Law as follows:

Please note that all proposed amendments appear in **bold** type and are **underlined**. Proposed deletions appear in **bold** type and are **[bracketed]**.

1. Potential Amendments to Article I. Purpose and Scope

§1.00 – Purpose and Interpretation

1. The purpose of this By-law is declared to be the promotion of the public health, safety, convenience, and welfare, by:
 - a. encouraging the most appropriate use of land,
 - b. preventing overcrowding of land,
 - c. conserving the value of land and buildings,
 - d. lessening congestion of traffic,
 - e. preventing undue concentration of population,
 - f. providing for adequate **open space**, light and air,
 - g. reducing the hazards from fire and other danger,
 - h. assisting in the economical provision of transportation, water, sewerage, schools, parks, **public shade trees** and other public facilities,
 - i. preserving and increasing the amenities of the Town, **including trees and other landscape and natural features**,
 - j. encouraging the preservation of historically and architecturally significant structures, and
 - k. encouraging housing opportunities for people of all income levels.

2. Potential Amendments to Article V. Dimensional Requirements

§5.09 - DESIGN REVIEW

1. Purpose

The purpose of this section is to provide individual detailed review of certain uses and structures which have a substantial impact upon the character of the Town and upon traffic, utilities, other elements of the public infrastructure including public shade trees, and property values therein, thereby affecting the public health, safety and general welfare thereof. The design review process is intended to promote the specific purposes listed in §1.0, paragraph 1. of this By-law.

2. Scope

In the following categories all new structures and outdoor uses, exterior alterations, exterior additions, and exterior changes which require a building permit under the Building Code, shall require a special permit subject to the community and environmental impact and design review procedures and standards hereinafter specified. Exterior alterations, exterior additions and exterior changes, including fences, walls, and driveways, to residential uses permitted by right in S, SC, and T districts; signs as regulated in §§ 7.02, and 7.03; and regulated facade alterations as defined and regulated in §7.6 shall be exempt from the requirements of this section.

- a. Any structure or outdoor use on a lot any part of which is located in the G-1.75(CC) District or which fronts on or is within 100 feet of: Beacon Street Commonwealth Avenue, Boylston Street, Harvard Street, Brookline Avenue, or Washington Street.
 - b. attached dwellings in groups of three or more
 - c. designed groups of single-family dwellings as per §5.11, paragraph 2.
 - d. multiple dwellings with 10 or more units on the premises, whether contained in one or more structures
 - e. lodging houses and hotels
 - f. gasoline service stations
 - g. outdoor automobile sales and storage for sales
 - h. non-residential uses in a non-residential district with more than 10,000 square feet of gross floor area or with 20 or more parking spaces, except municipal facilities in I-1.0 districts when authorized by a two-thirds vote of Town Meeting
 - i. non-residential uses in a residential district with more than 5,000 square feet of gross floor area or with 10 or more parking spaces
 - j. any exterior addition for which a special permit is requested pursuant to §5.22
 - k. any structure for which a variance is requested pursuant to §9.09, paragraph 1., subparagraph d.
 - l. all subdivisions of 10 lots or more.
3. Procedure
- a. General

1. Site Disturbance and Clearing – Pursuant to §3.c.2) and §4.a. of this Article, the applicant seeking a special permit or variance shall maintain all existing trees and other site features until a special permit or variance is approved.

In the event that site excavation, grading or clearing of trees and vegetation does occur on a property that is the subject of a pending application for a Special Permit or Variance, the Planning Board or Board of Appeals may take the following actions:

- a) Request in writing that the Building Commissioner order the applicant to stop work and cease all activities associated with excavating grading, or tree and vegetation clearance.
 - b) Request that the Applicant engage the services of a Massachusetts Certified Arborist to inspect the subject property and file a written report with the Town's Tree Warden detailing the following:
 - 1. The nature and extent of excavating, grading or clearing trees and vegetation that has occurred, including the species and caliper size of trees and plant material removed, where possible.
 - 2. Preliminary recommendations, to the extent practicable, that will either restore the site or introduce replacement trees and landscape features as part of a landscape plan.
 - c) Based on the report and preliminary recommendations from the Director of Planning and Community Development, the Board of Appeals may, as part of its decision on an application for a Special Permit or Variance, include conditions that will require, to the extent practicable, the restoration or replacement of trees, landscape and other site features.
 - d) Either prior to or following the filing of an application for a Special Permit or Variance with the Town Clerk, the applicant may submit to the Building Commissioner, a request to proceed with limited site disturbance or clearing necessary to conduct site surveys and other routine predevelopment investigations not associated with routine property maintenance. The request shall be in a form prescribed by the Building Commissioner. Upon receipt, the Building Commissioner shall convey the request to the Director of Planning and Community Development, Tree Warden and Planning Board. The Planning Board, in consultation with the Director of Planning and Community Development and Tree Warden, shall have 14 days to either recommend approval, approval with conditions or denial of the request. The applicant may appeal the determination of the Planning Board to the Board of Appeals.
2. [1] Preapplication-Prior to a formal submission to the Building Commissioner, the applicant is strongly encouraged to:

- a) consult with the Building Commissioner and Planning Director or their designees for technical advice relative to the community and environmental impact and design review standards of this section; and
- b) meet with abutters, tenants of abutters, Town Meeting Members, neighborhood associations, and other interested citizen groups to review the project plans, and the applicant should actively promote citizen involvement throughout the review process; and
- c) meet with the Planning Director or his/her designee to determine if the Planning Board has adopted design guidelines which pertain to the proposed project; and
- d) meet with the Transportation Director and the Planning Director or their designees for advice on the preparation of any required transportation studies.
- e) **meet with the Town's Tree Warden and/or Tree Planting Committee if either the removal or relocation of existing public shade trees or the planting of new public shade trees is proposed. Removal of Public Shade Trees is governed by Massachusetts General Law Chapter 87.**

3. [2] Application—Applications for uses subject to community and environmental design review shall be submitted to the Building Commissioner and to the Board of Appeals in accordance with the procedure for special permits specified in §§ 9.03 and 9.04, including the requirements for public notice and hearing and referral to the Planning Board. The report of the Planning Board to the Board of Appeals shall contain a specific evaluation or statement in relation to each of the following:

- a) fulfillment of the preapplication phase of this section;
- b) designation of the proposal as a major impact project (or exemption as such) as defined in paragraph 3., of this section;
- c) conformance with each of the standards listed in paragraph 4. of this section; and
- d) conformance with the goals and objectives of the Comprehensive Plan.
- e) conformance with the Affordable Housing requirements in §4.08, where applicable.

The Board of Appeals shall not deny a special permit for any use or condition which requires a special permit solely because it falls into one of the categories listed in §4.01, paragraph 3., unless it finds that the use or condition departs from the standards listed in paragraph 4. of this section to such an extent as to produce a serious adverse impact upon the character of the area or upon traffic, utilities and property values therein, thereby adversely affecting the public health, safety, and general welfare. In reviewing applications under this section, the Board of Appeals may require modifications, conditions and safeguards reasonably related to the community and environmental impact and design standards of this section.

- b. Major Impact Projects Only—Prior to formal submission of an application to the Building Commissioner pursuant to this section, the applicant shall consult with the Planning Director and the Building Commissioner or their designees to determine whether such application involves a major impact project which shall be defined as any residential development of 16 units or more, any nonresidential development containing more than 25,000 square feet, or any other project with the potential for substantial environmental impact on the community. If the proposal is deemed by either official to be a major impact project, then the following procedural requirements shall be completed prior to the filing of an application with the Building Commissioner.
- 1) The applicant shall meet informally with the Planning Director and the Building Commissioner to discuss the development program and the relevant Zoning By-law requirements.
 - 2) The applicant shall submit to the Planning Director or his/her designee a program statement and zoning analysis of the proposed project, schematic site plan, massing model with a photo of the model, and perspective massing studies prior to a preliminary review by the Planning Board. If a floor area bonus is proposed, the applicant shall first present material for a proposal without any bonus and then an alternative with the bonus, indicating the public benefit features possible, if the bonus is granted.
 - 3) The Planning Director or his/her designee shall, in the normal course of notification of the Planning Board's preliminary meeting on the project, send the program statement, zoning analysis, and schematic site plan to the following departments and boards: Building, Engineering/Transportation, Fire, Police, Public Works, Conservation Commission, Economic Development Advisory Board, Preservation Commission, **Tree Planting Committee**, and, if a residential development, the Housing Advisory Board. The enumerated departments and commissions and any other entities with an interest in the project may at their discretion submit in writing a statement of their concerns and recommendations to the Planning Board and Board of Appeals.
 - 4) The Planning Board shall review these materials at a regular Planning Board meeting and shall issue an initial report to the applicant within three weeks of the preliminary meeting. Once the basic environmental aspects of the proposal, and in the case of a residential development project of sixteen units or more, the affordable housing aspects of the proposal, are reviewed by the Planning Board, the applicant may proceed with a formal submission to the Building Commissioner.
- c. All §5.09 Projects—To aid the Board of Appeals in making the findings required in §9.05 and the Planning Board in preparing the advisory report provided in §9.04, the applicant shall submit the following materials in addition to the usual drawings at the time of application to the Building Commissioner:

- 1) Model—An inexpensive study model or final presentation model at a minimum scale of 1 inch equals 20 feet showing the tract, abutting streets, proposed contours, proposed buildings, and the massing of abutting buildings. (Not required for additions, alterations, or changes which increase gross floor area by less than 100%.)
- 2) Drawing of Existing Conditions—A drawing showing the location, type, size, or dimension of existing trees, rock masses, and other natural features with designations as to which features will be retained. In order to meet the conditions for approval of a special permit as specified in §9.05 all existing trees, rock masses, and other natural features shall be retained until a special permit is approved. **The location of existing public shade trees situated within the public right-of-way adjoining the subject property shall also be located on the drawing if any modification to the public sidewalk or a new or modified curb cut is proposed or required.**
- 3) Drawing of Proposal
 - a) Structure—A drawing including color and type of surface materials showing front and rear elevations, and side elevations where there are no adjoining buildings, and floor plans.
 - b) Landscaping—A drawing showing the location, dimensions, and arrangements of all open spaces and yards, including type and size of planting materials, color and type of surface materials, methods to be employed for screening, and proposed grades.
- 4) Photographs—Photographs showing the proposed building site and surrounding properties, and of the model (if required). Applications for alterations and additions shall include photographs showing existing structure or sign to be altered and its relationship to adjacent properties.
- 5) Impact Statement—A statement by applicant with explanation of how each of the community and environmental impact and design standards is incorporated into the design of the proposed development. **In cases, where construction is located within 50' of a public shade tree, the method that will be used to protect the tree during construction shall be submitted for review and approval of the tree warden.** Where a particular standard is not applicable, a statement to that effect will suffice. An environmental impact statement prepared in accordance with state or Federal regulations may be accepted as a substitute in lieu of this statement.

- 6) Transportation Studies—Certain projects which, due to their size, use characteristics or location, may have a significant impact on traffic require the preparation of transportation studies. The following development threshold levels indicate the nature of studies required. However, additional studies may be required for projects of any size which the Transportation Director or the Planning Director consider may have substantial environmental effects on the community. Any required transportation studies must be prepared in accordance with the Transportation Access Plan Guidelines issued by the Transportation Department. An access Plan should include a transportation impact analysis and, as warranted, a proposed package of mitigation measures. Impact mitigation measures may include-but should not be limited to: construction management; traffic mitigation and encouragement of transit use; parking management; transit improvements; number and location of bicycle parking and storage facilities; parking and access for delivery and service vehicles, pedestrian amenities, and capital improvements.

4. Community and Environmental Impact and Design Standards

The following standards shall be utilized by the Board of Appeals and Planning Board in reviewing all site and building plans. These standards are intended to provide a frame of reference for the applicant in the development of site and building plans as well as a method of review for the reviewing authority. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation. The specification of one or more particular architectural styles is not included in these standards. The standards of review outlined in paragraphs a through o. below shall also apply to all accessory buildings, structures, freestanding signs and other site features, however related to the major buildings or structures.

- a. Preservation of **Trees and Landscape**—~~[The] **Trees and other**~~ landscape **features** shall be preserved in [its] a natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. **Public shade trees within the public right-of-way are governed by Massachusetts General Law Chapter 87 and, where feasible, shall be preserved and the appropriate addition of such trees encouraged.**
- b. Relation of Buildings to Environment—Proposed development shall be related harmoniously to the terrain, **trees, landscape, natural features,** and to the use, scale, and architecture of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. The Board of Appeals may require a modification in massing so as to reduce the effect of shadows on abutting property or on public open space and public streets. The street level of a commercial building should be designed for occupancy and not for parking. Unenclosed street level

parking along the frontage of any major street as listed in paragraph, 2., subparagraph a. of this section is strongly discouraged. Otherwise, street level parking should be enclosed or screened from view.

- c. Open Space—All open space (landscaped and usable) shall be so designed as to add to the visual amenities of the vicinity by maximizing its visibility for persons passing the site or overlooking it from nearby properties. The location and configuration of usable open space shall be so designed as to encourage social interaction, maximize its utility, and facilitate maintenance. All landscaped open space shall be continuously maintained.
- d. Circulation—With respect to vehicular, bicycle and pedestrian circulation, including entrances, ramps, walkways, drives, and parking, special attention shall be given to location and number of access points to the public streets (especially in relation to existing traffic controls and mass transit facilities), width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, access to community facilities, demand for and availability of bicycle parking and storage facilities, and arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the use and enjoyment of proposed buildings and structures and the neighboring properties.

3. Proposed Amendment to Article IX. Administration and Procedure

Section 9.05 – Conditions for Approval of Special Permit

1. The Board of Appeals shall not approve any such application for a special permit unless it finds that in its judgment all of the following conditions are met:
 - a. The specific site is an appropriate location for such a use, structure, or condition.
 - b. The use as developed will not adversely affect the neighborhood.
 - c. There will be no nuisance or serious hazard to vehicles or pedestrians.
 - d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
 - e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.
2. In approving a special permit, the Board of Appeals may attach such conditions and safeguards as are deemed necessary to protect the neighborhood, such as but not limited to the following:
 - a. Requirement of front, side or rear yards greater than the minimum required by this By-law.

- b. Requirement of screening of parking areas or other parts of the premises from adjoining premises or from the street, by walls, fences, planting, or other devices, as specified by the Board of Appeals.
- c. Modification of the exterior features or appearances of the structure.
- d. Retention, replacement or planting of trees, including public shade trees as defined by Massachusetts General Law Chapter 87, and other landscape and natural features.**
- e.** [d] Limitation of size, number of occupants, method or time of operation, or extent of facilities.
- f.** [e] Regulation of number, design, and location of access drives or other traffic features.
- g.** [f] Requirement of off-street parking or other special features beyond the minimum required by this or other applicable By-laws.

If the Board of Appeals exercises its authority to attach conditions and safeguards which require expert review or approval by an administrative body or official, it shall appoint in its decision a Designated Authority as described in §9.00, paragraph 3.

or act on anything relative thereto.

ARTICLE 16

To see if the Town will take appropriate action, including a by-law amendment or, if necessary, a petition for home rule legislation, to amend section 3.13.3 of the Town By-laws to provide that any expenditure of funds from the Housing Trust by the Housing Advisory Board for any of the purposes set forth in section 3.13.1 shall require the approval of both the Board of Selectmen and the Advisory Committee, or act on anything relative thereto.

ARTICLE 17

To see if Town Meeting will add to the General By-Laws of the Town of Brookline Article 7.12 *Street Signs*.

Article 7.12 Street Signs

The Town will maintain in place the cast aluminum signs designating the names of streets. Where these signs have been replaced by other signs designating street names, the Town will restore the original cast aluminum sign, if it still exists, or seek to replicate it with a new cast metal sign.

If state or federal law requires a different kind of street sign, the Town will seek a waiver of the requirements so that the cast metal sign can remain.

or act on anything relative thereto.

ARTICLE 18

To see if the Town of Brookline will amend Article 8.15, Noise Control, in the town's Bylaws as follows:

1. By deleting the last paragraph in Article 8.15.4 (Prohibitions and measurements of Noise Emissions) subsection (e) Electronic Devices and Musical Instruments as follows:

By deleting the wording:

"Any and all decibel levels of sound caused by playing non-electrical musical instruments between 9 A.M. and 9 P.M. shall be exempt."

2. By appropriately renumbering any other subsequent subsection of said section or act on anything relative thereto.

ARTICLE 19

To see if Town Meeting will amend Town by-law Section 2.1.9 CONDUCT OF THE MEETING by adding, Section 2.1.9 (a) Debate Procedure

SECTION 2.1.9 (a) DEBATE PROCEDURE

In the absence of a two-thirds vote to override, debate shall be heard on both sides of a question. After the main motion has been initially moved and seconded, the Moderator shall announce the numbers of scheduled speakers for each side of the main motion and any scheduled amendments that are to be offered. During the course of the debate the Moderator shall recognize speakers on both sides of the question, alternating between proponents and opponents, until there are no further speakers on either side or a motion to close debate is voted.

or act on anything relative thereto.

ARTICLE 20

To see if Town Meeting will:

A. Appropriate sufficient funds to create an efficient and reliable electronic tabulation system to securely record all roll call votes at Town Meeting; and

B. Amend by-law 2.1.9 by adding 2.1.9 (b) VOTING PROCEDURE APPROPRIATION and 2.1.9(c) VOTING PROCEDURE.

2.1.9(b) VOTING PROCEDURE APPROPRIATION

The town will appropriate funds sufficient during the current year to fund and will create an electronic system to efficiently tabulate roll call votes conducted at town meeting

or act on anything relevant thereto.

2.1.9 (c) VOTING PROCEDURE

All votes taken at Town Meeting and Special Town Meeting shall be taken by a roll call vote and a show of hands. The total of the roll call vote will be the official tabulation. The Town Clerk shall record and post a permanent public record of each roll call vote on the Town Web Site. The show of hands shall be recorded by Videotape suitable for showing on Cable Access Television. New policy shall take place after the system mentioned in 2.1.9(b) is created or one year from the passage of this warrant or at the Fall 2006 Town meeting whichever occurs first. The town may act on anything relevant to the provisions of this warrant.

or act on anything relative thereto.

ARTICLE 21

To see if Town Meeting will amend Town by-law Article 3.1 of the by-laws by adding a new section 3.1.6 PUBLIC BROADCAST IN BOARD OF SELECTMEN.

3.1.6 PUBLIC BROADCAST IN BOARD OF SELECTMEN

The Board of Selectmen shall request Brookline Access Television to broadcast their meetings. The Board of Selectmen shall conduct all meetings in the sixth floor public hearing room to provide public access and the ability to televise the meetings.

or act on anything relative thereto.

ARTICLE 22

To see if Town Meeting will set up a non-paid commission to run forums and to recommend methods to the Town Advisory Committee methods to oppose the Iraq War by adding to the By-Laws the following Article 3.19:

Article 3.19 – Iraqi War Effort

I) The board of selectmen will appoint five members of a Commission without pay for an annual term ending January 2007 which will be responsible for the following tasks.

A) Planning Quarterly Public Meetings focused on the human, economic, and budgetary impact of the war and occupation for the citizens of Brookline Massachusetts, and the State of Massachusetts including Massachusetts's veterans and National Guard.

B) Draft a Plan to study how the town might act to speed our withdrawal from Iraq by making the war effort more difficult including but not limited to:

- 1) Impeding the ability of the Federal Government to recruit students for the war in Iraq in Brookline High Schools
- 2) Block members of the National Guard of Brookline Massachusetts from being sent to Iraq
- 3) Prevent information about Brookline High School Students, and Readers of the Public Library from being sent to the Federal Government as a result of the Patriot Act

II) This plan shall be presented to Brookline Town Meeting during its next session for ratification.

III) The term of this Commission and of this Article will end January 1, 2008 unless otherwise renewed by Town Meeting.

or act on anything relative thereto.

ARTICLE 23

Biosafety Level 2 labs shall conform to public health standards for biosafety Level 4 as recorded in State Representative, Gloria L. Fox's Legislation House Bill 1397 "A Legislative Act to Protect the Public Health And Environment from toxic Biological Agents."

or act on anything relative thereto.

ARTICLE 24

To see if the Town will vote to establish a CPA Study Committee for the general purposes of studying the potential financial and other consequences of adopting the Massachusetts Community Preservation Act in Brookline and making a recommendation to the Brookline Town Meeting Members with respect thereto; to determine whether the CPA Study Committee will be composed of the following individuals and co-chaired by the member of the Board of Selectmen and the member of the School Committee:

1. one member of the Board of Selectmen, to be appointed by the Chair of said Board;
2. five members selected from among the members of the Conservation Commission, Housing Advisory Board, Parks and Recreation Commission, Planning Board, Preservation Commission, and Economic Development Advisory Board, to be appointed by the Board of Selectmen;
3. one member of the School Committee, to be appointed by the Chair of said Committee;
4. one member of the Housing Authority, to be appointed by the Chair of said Authority;

5. one member of the Advisory Committee, to be appointed by the Chair of said Committee;
6. four residents of Brookline who shall have expertise in finance, to be appointed by the Town Moderator;

to determine whether the appointments of the members to the CPA Study Committee will be made so that the Committee shall hold its first meeting not later than January 10, 2006; to determine whether the Town Administrator's office will provide technical support to the CPA Study Committee; to determine whether the CPA Study Committee will be charged with studying the following specific questions or issues with respect to the Massachusetts Community Preservation Act:

- (a) the administration and use of the CPA in neighboring or comparable municipalities that have adopted it;
- (b) alternatives to CPA for financing the affordable housing, open space, recreation and historic preservation objectives of the Town;
- (c) the ways in which the CPA could be used to further Town objectives identified in the Comprehensive Plan or other plans of the Town;
- (d) opportunities to use CPA revenues to fund projects that would otherwise be funded with general revenues of the Town and thereby "free up" those general revenues for other purposes including potentially reducing the tax rate;
- (e) projects eligible for funding with CPA revenues, including an inventory of school/town buildings that constitute "historic resources" under the CPA;
- (f) alternatives for the administration of the CPA, including the composition of the Community Preservation Committee that would be required under the CPA;
- (g) projected surcharge tax revenues if the Town adopted the CPA at different surcharge rates and with or without different exemptions from the surcharge, and the projected impacts on taxpayers;
- (h) projected state matching fund revenues that would be available to the Town if the Town adopted the CPA at different surcharge rates and with or without different exemptions from the surcharge; and
- (i) the implications of adopting the CPA for the Town's established financial policies;

to determine whether the CPA Study Committee will be charged with reporting its findings regarding the Massachusetts Community Preservation Act and with making a recommendation as to whether the Town should adopt the Act to the Brookline Town Meeting Members by not later than the 2006 Annual Town Meeting; or to take any other action relative thereto.

ARTICLE 25

To see if the Town will accept the provisions of General Laws, Chapter 59, Section 5, Clause 5B in order to increase the property tax exemption for the real and personal estate belonging to or held in trust for the benefit of incorporated organizations of veterans of war which provides in relevant part as follows:

The real and personal estate belonging to or held in trust for the benefit of incorporated organizations of veterans of any war in which the United States has been engaged, to the extent of seven hundred thousand dollars, if used and occupied by such association, and if the net income from said property is used for charitable purposes; provided, however, that such estate shall not be exempt for any year in which such association or the trustees holding for the benefit of such association willfully omit to file with the assessors the list and statement required by section twenty-nine.

or act on anything relative thereto.

ARTICLE 26

To see if the Town will authorize and approve the filing of a Petition, in substantially the following form, with the General Court:

An Act Amending Ch. 317 of the Acts of 1974 Relative To The Powers Of The Transportation Board Of The Town Of Brookline.

Be It Enacted, By The Senate And House Of Representatives In General Court Assembled And By The Authority Of The Same As Follows:

Section 4 of Ch. 317 of the Acts of 1974 is hereby amended by amending its third paragraph to read as follows (new-amended language shown EITHER underlined or in UPPER CASE):

“No such adoption, alteration or repeal of a rule or regulation shall take effect, except with respect to such special rules or regulations as declared by the board to be urgently required for public safety or welfare or such as are of a temporary nature and are to be effective for a period of not more than 60 days, until 30 days have expired following BOTH publication in a newspaper published or distributed in the town and action on any appeal petition as herein provided.

and by amending its fourth paragraph to read as follows:

“Upon the filing of a petition with the Board by not less than 20 registered voters of the town seeking the adoption, alteration or repeal of any rule or regulation under this section, the Board shall hold an evening public hearing thereon within 30 days after the filing thereof. Petition forms for this purpose shall be available in the office of the Board.

“Upon the filing of an Appeal petition with the Board of Selectmen by not less than 20 registered voters of the town within 21 days of either the adoption, alteration or repeal of any rule or regulation under this section or the action (which herein includes “inaction”) of the Board pursuant to such a citizen petition, the Board of Selectmen shall hold an evening public hearing thereon within THIRTY¹ days after the filing thereof. Petition forms for this purpose shall be available in the office of the Board of Selectmen. A majority vote of the Board of Selectmen shall be required to overturn an action of the Transportation Board.

“If said Board action is not overturned by the Selectmen, within 21 days of the conclusion of the Selectmen’s hearing, not less than 30² registered voters of the town may file with the Town Clerk an appeal of said action of the Board. Said appeal shall contain a warrant article which shall be included in the warrant for the next town meeting, which by a two-thirds vote may determine that there is either a general policy issue or a serious safety issue, and may overturn the Board action. For a general policy issue, town meeting may also, and also by a two-thirds vote, pass a by-law³ modifying the Board action.”

Section 3. This Act shall take effect upon its passage.

¹ Current statute gives the Selectmen 21 days, which seemed tight this past year.

² ‘00 was 21 signatures for a TM appeal; but I’ve raised the bar a little.

³ Town Counsel agrees that TM should, in passing an actual rule, do a BY-LAW, not a REGULATION.

or act on anything relative thereto.

ARTICLE 27

To see if the Town will adopt the following resolution:

Townwide Simplification Of Our Unique 2-Hour Parking Ban For Residents,

WHEREAS: The Transportation Department, until 2004, said -- and Town Meeting agrees -- “the primary purpose of *both* the 2-hour parking rule and residential permit program is ‘to prohibit non-residents and commuters from parking for extended lengths of time on designated residential streets’”¹; but recently the Department emphasizes a different goal, to “encourage frequent turnover of curbside parking spaces”; *and*

WHEREAS: The Town Meeting also agrees with (a) Selectman Sher’s remarks for the Board of Selectmen at the Nov. 2004 Town Meeting, “... Joe Geller, our former Chair, said ‘Listen, we hear you loud & clear.’ ... Nobody wants to get a ticket for parking in front of their own home. ... We hope in 6 months we’ll have a resident permit program that will make us all happy”; and (b) Sean Lynn-Jones for the Advisory Committee, “tickets for residents [is] not really the purpose of the rule ... and don’t serve any useful purpose”; *and*

WHEREAS: Some especially congested blocks may need to ban *all* parking in excess of 2-hours, including residents. But in much or most of the Town the ban (a) is needed only for only non-residents, and (b) is now very rarely enforced; and (c) conversely, in some specific locations residents have sought, without success, more ticketing of non-residents, which would be better achieved if the rule were clearly prioritized; *and*

WHEREAS: Brookline takes great pride in the superb professionalism of our Police Department; but a flawed law cannot be salvaged by “selective” or “discretionary” or (ad hoc) “complaint-driven” enforcement; and when residents consider enforcement of a flawed law to be purposeless and/or very sporadic, e.g. tickets after leaving to do errands and returning 2 hours later to park (anywhere) on the same street (even for a moment, even if the street is empty). As a result, they have voiced great frustration and anger; and further, instead of devoting precious police resources to the time-consuming job of

tracking and ticketing resident cars, police resources are better used for ticketing non-residents and to protecting the public safety; *and*

WHEREAS: Especially when viewed townwide, the current indiscriminate regulation diminishes the integrity of, and respect for, law. (“If we make criminal that which people regard as acceptable, people's attitude toward the meaning of criminality changes.” Prof. Herbert Packer, Stanford Law School, 1968); *and*

WHEREAS: In 2002, ostensibly to reevaluate the longstanding “Resident Permit Parking” program, the Transportation Board put a “moratorium” on it; and despite discussing the 2-hour resident ban innumerable times in four years at the urging of many citizens and officials, the Transportation Board and Selectmen recently reaffirmed the overall policy -- unique in the Commonwealth -- and enacted only a limited “pilot” program in part of one precinct, retaining the requirement of “petitions” to obtain permits, and ignoring the overall, townwide issue; DPW has estimated a minimum of 2,866 staff hours for the pilot program, plus additional tasks (including for the Police) impossible to estimate *and*

WHEREAS: Neither the 2-hour ban nor this Resolution affects the OVERNIGHT ban, which we reaffirm,

NOW, THEREFORE, BE IT RESOLVED, that Brookline’s elected Town Meeting urges:

- (1) that the Board of Selectmen and Transportation Board each promptly declare and implement a policy to overhaul the 2-hour parking ban -- townwide -- so that, except in locations where particular problems are found, it should generally be legal for Brookline residents (and generally some guests) to park in the daytime for over 2 hours near their own homes, by means of a simple and easily obtainable permit program -- without requiring petitions; *and*
- (2) retention of the current temporary exemptions to the 2-hour rule, e.g. for movers, construction activities, guests or visitors, healthcare providers, childcare providers; *and*
- (3) that whatever regulations ensue, signage should be specific and clear in all areas.

¹ Transp. Bd. summary of 12-17-03 meeting; see also 09-12-02 memorandum to Transp. Bd. from Asst. Transp. Dir.

or act on anything relative thereto.

ARTICLE 28

To see if the Town will adopt the following resolution:

A RESOLUTION REQUESTING THAT BROOKLINE’S FOUR STATE REPRESENTATIVES AND STATE SENATOR SUPPORT LEGISLATION THAT WILL RESTRICT THE TAKING OF PRIVATE PROPERTY BY EMINENT

DOMAIN FOR THE PURPOSE OF ECONOMIC DEVELOPMENT

WHEREAS, the Supreme Court of the United States in the case of Kelo et al. v. City of New London CT et al. issued an opinion on June 23, 2005 holding that the taking of private property by right of eminent domain for the purpose of economic development satisfies the “public use” requirement of the fifth amendment to the Constitution of the United States; and

WHEREAS, “economic development” and “public use”, as discussed in said case and as construed herein, refer primarily to increased tax revenues and job creation; and

WHEREAS, the majority opinion in said case effectively expands the established definition of “public use” for the authorized exercise of the takings power to include increased tax revenues and job creation, without a finding of blight or other conditions injurious to the public health, safety and welfare, or of the necessity to remedy some other public harm; and

WHEREAS, the majority opinion in said case effectively sanctions the use of eminent domain powers to give one private party benefits over another; and

WHEREAS, in the words of Justice O’Connor, dissenting, “Under the banner of economic development, all private property is now vulnerable to being taken and transferred to another private owner, so long as it might be upgraded—i.e., given to an owner who will use it in a way that the legislature deems more beneficial to the public . . . [This decision will] wash out any distinction between private and public use of property”; and

WHEREAS, in the words of Justice O’Connor, “[T]he fallout from this decision will not be random. The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms. As for the victims, the government now has license to transfer property from those with fewer resources to those with more”; and

WHEREAS, at the conclusion of said opinion, the Supreme Court reaffirmed the ability of the several states to place further restrictions on the exercise of the takings power, stricter than those established under federal law; and

WHEREAS, the Massachusetts Supreme Judicial Court has not yet considered the question of whether, under Massachusetts law, takings by right of eminent domain for the purpose of economic development satisfy the public use requirement of Article X of Part the First of the Massachusetts Constitution; therefore be it

RESOLVED, that this Town Meeting endorses and supports a public policy, and corresponding legislation, that will prohibit eminent domain takings for the primary purpose of economic development; and be it further

RESOLVED, that this Town Meeting request that Brookline's State Senator, Cynthia Creem, and State Representatives, Frank Smizik, Michael Moran, Michael Rush and Jeffrey Sanchez co-sponsor and support An Act Relative to Prohibiting Eminent Domain Takings for the Purpose of Economic Development (House Docket No. 4662) or other legislation consistent with this resolution; and be it further

RESOLVED, that a copy of these resolutions be forwarded by the Town Clerk of Brookline to Senator Creem and Representatives Smizik, Moran, Rush and Sanchez and to the Governor of the Commonwealth.

or act on anything relative thereto.

ARTICLE 29

To see if the Town will adopt the following resolution:

A Resolution of the Brookline Town Meeting on the Iraq War

WHEREAS, in public opinion polls a majority of Americans view the invasion and occupation of Iraq as unwarranted, a mistake, or "not worth it";

WHEREAS, in recent polls ~70 percent of Iraq's Shiites and ~80 percent of Iraq's Sunnis favor "near-term U.S. Withdrawal;

WHEREAS, members of the Massachusetts Congressional Delegation favor U.S withdrawal from Iraq;

WHEREAS, the war in Iraq was launched amidst false claims that Iraq had weapons of mass destruction, which posed an imminent threat to U.S. security, was falsely tied to the 9/11 attacks, is costing well over one billion dollars per week, has undermined America's moral and diplomatic standing in the world, and has led to widespread suffering;

WHEREAS, in going to war, the President did not meet the conditions imposed by Congress, failing to show why diplomatic and/or peaceful means could not protect the national security of the United States;

WHEREAS, the invasion of Iraq has resulted in serious and potentially long-lasting adverse consequences for the United States, such as increasing the climate for terrorism, has removed critical funds from needed domestic programs, and has contributed adversely to long term US debt;

WHEREAS, the invasion and occupation of Iraq has undermined the chances for a just and durable peace in Iraq and the Middle East;

WHEREAS, the United States Constitution provides that Congress shall have the power to "provide for calling forth the Militia to execute the Laws of the Union, to

suppress insurrections and repel Invasions," which are criteria that have not been met by the war in Iraq, and the Massachusetts Constitution provides that no armies shall be maintained without the consent of the State Legislature; and

WHEREAS, the costs of the war in Iraq, which would be suffered willingly had there been an imminent threat to our nation, are not tolerable given the true situation;

THEREFORE AS MEMBERS OF TOWN MEETING OF THE TOWN OF BROOKLINE WE RESOLVE THAT

The town of Brookline endorses HR 35 by Lynn Woolsey of the Sixth Congressional District California calling for the immediate construction and implementation of a plan to withdraw from Iraq.

Secondly, the town also endorses the related resolution H.J. 55, submitted by Dennis Kucinich, Ron Paul and Walter Jones calling for the construction of a plan for withdrawal to be submitted to Congress no later than December 31, 2005.

Third, the town endorses the binding referendum question to be placed on the ballot by www.HomeFromIraqNow.org to withdraw the Massachusetts National Guard from Iraq. Finally the town endorses House Resolution H. R 375 to cause the Executive to release documents revealing Iraqi war planning in the Summer of 2002.

or act on anything relative thereto.

ARTICLE 30

To see if the Town will adopt the following resolution:

A Resolution Opposing the Construction of an Unregulated BSL4 Lab in the City of Boston

WHEREAS, the neither the City of Boston, nor the State of Massachusetts nor the United States government have fulfilled their responsibility to protect the Public Safety by failing to pass regulations governing the operations of a BSL4 lab in City of Boston, the State of Massachusetts and the United States;

WHEREAS, the most lethal incurable agents will be authorized for investigation in BSL4 biocontainment laboratories;

WHEREAS, with reluctance and difficulty the town of Brookline waived zoning restrictions, in part because of safety concerns for a BSL2 lab authorized to study much less dangerous infectious agents;

WHEREAS, locating a laboratory studying these agents in a area with the highest population density along a central Boston Artery appears to be the worst environmental siting of such a lab possible;

WHEREAS, the NIH lab was not allowed to operated a BSL4 facility at the NIH in Bethesda Maryland due to concerns about the Public Safety and the City Council of Davis California unanimously asked that National Institutes of Health to move their lab elsewhere;

WHEREAS, the NIH itself in its internal memoranda sites “the risk of a public health disaster” as a reason not to put such laboratories in a densely populated urban area, with a high proportion of low income residents with the highest death rate in the State of Massachusetts;

WHEREAS, liability for causing a major public health disaster in such a lab is not clearly delimited and the City, State, will likely have to bear considerable cost in the event of a BSL4 lab breach;

WHEREAS, the recent Tularemia infections of three Boston University lab workers and the exposure of many others without proper notification of the public suggests that BU is unwilling or unable to observe proper laboratory standards;

WHEREAS, the 70 plus Public Health Violations recorded by the Massachusetts Water Resource Administration and the \$20,000 fine recently imposed for lack of compliance with state law suggests that BU lacks the capability to obey stringent environmental standards.

WHEREAS, the public of the Boston Metropolitan Area will be subject to unknown but possibly substantial risk due to

1. The release of infected insects from the BSL4 facility
2. Damage to the building from either natural causes, negligence or deliberate actions leading to the release of infectious agents in the City
3. Accidental or deliberate exposure to lethal infectious agents by experimenters or the proposed human subjects at this facility
4. Malfunction of the waste disposal system of this facility leading to pollution of Boston Harbor or damage to the fishing industry upon which the regional economy depends.
5. Release of Dangerous Biological Agents During Transportation from Harvard Medical School

THEREFORE AS MEMBERS OF BROOKLINE TOWN MEETING WE RESOLVE

1. THE TOWN OF BROOKLINE ENDORSES STATE REPRESENTATIVE GLORIA L. FOXE’S LEGISLATION HOUSE BILL 1397 “A LEGISLATIVE ACT TO PROTECT THE PUBLIC HEALTH AND ENVIRONMENT FROM TOXIC BIOLOGICAL AGENTS”. This bill will if passed will provide an adequate regulatory environment and requirements including siting for the BSL4 Laboratory located on the Southeast Expressway.

2. THE TOWN OF BROOKLINE IN ADDITION ENDORSES THE CITY OF BOSTON ORDINANCE "AN ORDINANCE REGARDING THE PROHIBITION OF RESEARCH DESIGNATED AS BIOSAFETY LEVEL 4 (BSL 4), Offered by Chuck Turner, Maura Hennigan, and Felix Arroyo, which will Ban the use of Bio Safety Level Four Agents in the City of Boston.

or act on anything relative thereto.

ARTICLE 31

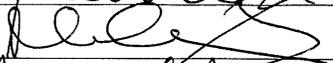
Reports of Town Officers and Committees

AND YOU ARE DIRECTED TO SERVE THIS WARRANT IN ACCORDANCE WITH THE BY-LAWS OF THE TOWN OF BROOKLINE.

HEREOF FAIL NOT, and make due return of this WARRANT, with your doings thereon, to the Selectmen FOURTEEN DAYS at least before the day of said meeting.

Given under our hands and the seal of the TOWN of Brookline, Massachusetts, this 13th day of September, 2005.








BOARD OF SELECTMEN

[Town Seal]