

MAY 26, 2011
SPECIAL TOWN MEETING
INDEX

ARTICLE NO.

TITLE

1. Amendments to the Zoning By-Law -- establishment of a Cleveland Circle Hotel Overlay District. (Selectmen)

2011 SPECIAL TOWN MEETING WARRANT REPORT

The Board of Selectmen and Advisory Committee respectfully submit the following report on Articles in the Warrant to be acted upon at the 2011 Special Town Meeting to be held on Tuesday, May, 31, 2011 at 7:00 p.m.

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

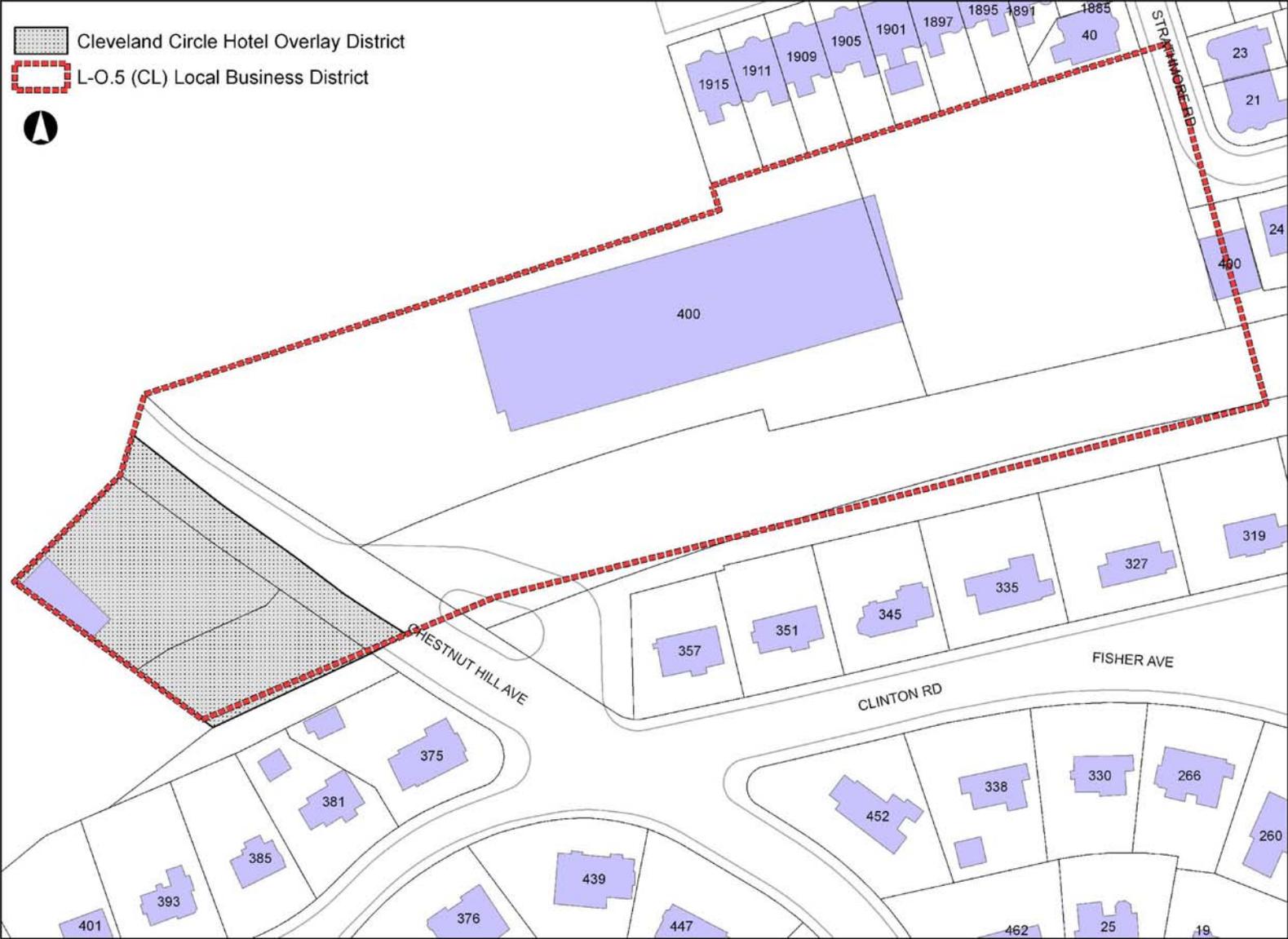
ARTICLE 1

FIRST ARTICLE

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

1. By adopting the following map change creating a Cleveland Circle Hotel Overlay District.

Cleveland Circle Hotel Overlay District



2. By amending Section 3.01.2.a.2 to add the following reference at the end
“Cleveland Circle (Refer to §5.06, Special District Regulations)”
3. By amending Section 3.01.4 by adding a new item at the end:
“c. Cleveland Circle Hotel Overlay District”
4. By amending Section 4.07 - Table of Use Regulations - to allow limited service hotels, certain retail, and a restaurant by Special Permit in the Cleveland Circle Hotel Overlay District, as follows:
 - a. Use 8A, Limited Service Hotel – Adding “*” after “No” in column “L” and amending the first footnote as follows: “*Permitted by Special permit in M-2.5 and in the Cleveland Circle Hotel Overlay District.” and
 - b. Use 34, Restaurant greater than 5,000 square feet - Adding “*” after “No” in column “L” and adding the following after the description of Use 34 in the Use Table “*Permitted by Special Permit in the Cleveland Circle Hotel Overlay District.”
5. By amending Section 5.01 - Table of Dimensional Requirements - by adding Footnote 19 after the words “L-0.5 & L-0.5 (CL) Districts”, which Footnote 19 shall read as follows:

“19. See **Section 5.06 - Special District Regulations, subsections f.** Cleveland Circle Local Business District L-0.5 (CL) and **h.** Cleveland Circle Hotel Overlay District.”
6. By amending Section 5.06.4.f - Cleveland Circle Local Business District L-0.5 (CL) - by adding a new item at the end:

“4) In any review of a project that is located across municipal boundaries, the project and improvements shall be reviewed as a single lot, without regard to municipal boundaries, in connection with parking requirements or setbacks. Additionally, any Design Review per Section 5.09 shall include review and approval of the entire length of the façade facing the MBTA property line as well as any lighting proposed along this length, irrespective of municipal boundaries. Such façade shall be designed and constructed with care and quality of finishes equivalent to the northern façade.”
7. By amending Section 5.06.4 - Special Districts - by adding a new item as follows:

“h. Cleveland Circle Hotel Overlay District

 - 1) It has been determined through study of the Local Business District in Cleveland Circle that potential exists for appropriate, planned redevelopment of the western side of this Local Business District. It has further been determined that, due to the circulation and multiple

transit systems in this area as well as the proximity of the municipal boundary with Boston that this is an appropriate district for development density consistent with transit oriented development schemes. For this reason, additional uses typical of transit oriented developments may be permitted under the criteria of this section, as long as such development is planned in a way consistent with other pedestrian-friendly commercial properties in Cleveland Circle.

- 2) Any applicant may seek relief under this Overlay District by Special Permit per Section 9.03 and Design Review by Section 5.09, provided it meets the following requirements within the Town of Brookline:
 - a) It contains a minimum of 40 Limited Service Hotel guest rooms.
 - b) The Floor Area Ratio of the proposed project shall be no less than 2.2 and no greater than 2.5.
- 3) For the purposes of this Overlay District, any proposed building shall be permitted to have more than one principal use. For example, a restaurant greater than 5,000 square feet under separate ownership and operation from a Limited Service Hotel may be located in the same building as the Limited Service Hotel without being considered as an accessory use, or as part of the Limited Service Hotel use.
- 4) Any application requesting relief under this Overlay District shall be subject to the following dimensional requirements, superseding any conflicting requirements in **Article 5** of the Zoning Bylaw. Any other dimensional relief sought shall be pursued as per any other relevant sections of this Zoning Bylaw.
 - a) Maximum Floor Area Ratio: There is a strong desire for pedestrian-friendly uses along Chestnut Hill Avenue in this Overlay District, which has a grade change of more than 8' along this edge of the District. Therefore, with regards to calculating Gross Floor Area in this Overlay District, up to 10,000 square feet of area on the ground floor fronting Chestnut Hill Avenue may have finished floor to ceiling heights greater than 12', but no greater than 18', without requiring the Gross Floor Area to be calculated by multiplying this area by a factor greater than 1 where the floor to ceiling height exceeds 12'.
 - b) Setbacks and Build-to Lines:
 1. Buildings shall not be greater than 15 feet nor less than 5 feet from the frontage of Chestnut Hill Avenue; and
 2. Any portion of building within 50' of the frontage of Chestnut Hill Avenue that is above three stories shall be set back not less

than 5 feet from lower floors, along all facades. For the purposes of this Overlay District, “Story” shall be defined as that portion of a building included between the upper surface of a floor and the upper surface of a floor or roof next above, whether or not such space is enclosed; and

3. Buildings shall be set back not less than 5 feet from the MBTA right-of-way.
 - c) The maximum height permitted is 56 feet;
 - d) Substantial rooftop structures such as observation towers, elevator penthouses and mechanical equipment shall not be located within 15’ of the MBTA property line.
 - e) A screen fence along the property line with the MBTA right-of-way which exceeds a height of seven feet may be allowed by Special Permit granted by the Board of Appeals.
- 5) Parking requirements for Special Permit applications utilizing this Overlay District shall be as follows, superseding any conflicting requirements under **Article 6**:
 - a) Minimum Parking ratios:
 1. Limited Service Hotel use: 0.5 parking spaces per hotel room
 2. Retail use: 0.75 parking spaces per 1,000 g.s.f. of floor area
 3. Restaurant use: 1 parking space per 1,000 g.s.f. of floor area
 4. Office/Medical office use: 1 parking space per 1,000 g.s.f. of floor area
 - b) Subject to the approval of the Brookline Director of Transportation and Engineering, the required off-street loading facilities under Section 6.06.6 may be limited to the provision of 2 loading bays.
 - c) Any other parking relief sought shall be pursued as per any other relevant sections of this Zoning Bylaw.
- 6) The following traffic mitigation measures shall be required, subject to the review and approval of the Brookline Director of Transportation and Engineering:
 - a) Vehicle ingress and egress:
 1. Vehicle ingress and egress to and from Chestnut Hill Avenue shall be via no more than one curb cut two lanes in width, controlled by a traffic signal. Such traffic signal shall include demand-actuated technology such that the light phase for

egress from the Overlay District will not be triggered when there is no demand.

2. A segregated parking facility containing not less than 60 vehicle parking spaces shall be provided for the exclusive use of the Limited Service Hotel guests, visitors and employees. Vehicle egress for all users of this segregated parking facility shall be via the one-way rear exit roadway easement to Beacon Street. Both signage and physical barriers shall prohibit any vehicles entering the Limited Service Hotel segregated parking facility from exiting that facility back onto Chestnut Hill Avenue. To the extent a parking area is established to be shared by multiple uses, hotel users (except for taxicab/shuttle service vehicles and deliveries) parked in the shared parking area shall be required to exit the one way rear exit roadway to Beacon Street and other users shall exit via Chestnut Hill Avenue.
 3. Vehicle egress for all uses other than that of the Limited Service Hotel and for taxicab/shuttle service vehicles and deliveries shall be via the single Chestnut Hill Avenue curb cut. All vehicles exiting the site onto Chestnut Hill Avenue must be able to make either a left or a right turn. No right turn on a red light shall be permitted from the site onto Chestnut Hill Avenue.
 4. Taxicab stand and taxi pickup and drop-off shall be provided in an adjacent area on both the Brookline and the Boston segments of the site.
- b) Final traffic design and mitigation shall be required and include the potential impact of the redevelopment of any directly abutting parcels, regardless of municipal boundaries. Specifically, the traffic design and mitigation shall allow for no more than a total of 110,000 square feet of Limited Service Hotel use; 48,000 square feet of office or medical office; and 18,000 square feet of restaurant or retail use.
- c) Pedestrian improvements shall include:
1. Improvements to two pedestrian crossings across Chestnut Hill Avenue, including at Cleveland Circle as well as the crossing aligned with vehicular turn-around at the MBTA station south of the MBTA right-of-way. A third pedestrian crossing shall be provided where the signal for the Chestnut Hill Avenue entrance will be located, near the Boston/Brookline boundary, if approved by the Brookline Director of Transportation and Engineering as well as Boston Transportation Department.

2. Sidewalk improvements on the western side of Chestnut Hill Avenue shall include a minimum 10' wide sidewalk from the Brookline Boundary to the MBTA bridge and a replacement of sidewalk from the MBTA bridge to Clinton Road.

- 7) Noise. A required condition for any Special Permit under this Overlay shall be an enforceable agreement and/or condition to the Special Permit that requires the property owner to comply with the requirements any Noise By-law or ordinance of both Brookline and Boston, without regard to municipal boundaries.

Or act on anything relative thereto.

PETITIONER'S ARTICLE DESCRIPTION

This article was originally submitted by Town Meeting Members from Precincts 13 and 14 and included in the Warrant for the Annual Town Meeting as Article 12. Because of an issue with the article and map as printed in the Warrant, the article is being re-filed. The purpose of the article is to allow a mixed-use redevelopment of the Circle Cinema site at Cleveland Circle, including limited service hotel, restaurant/retail and medical/general office uses. The allowed Floor Area Ratio (FAR) for the Brookline portion of the site would be increased from 0.5 to 2.5, and will encourage a pedestrian-friendly building edge relatively close to Chestnut Hill Avenue.

SELECTMEN'S RECOMMENDATION

A recommendation will be included in the Supplemental mailing that will be sent out the weekend before Town Meeting.

ADVISORY COMMITTEE'S RECOMMENDATION

A recommendation will be included in the Supplemental mailing that will be sent out the weekend before Town Meeting.

ARTICLE 1

BOARD OF SELECTMEN'S SUPPLEMENTAL RECOMMENDATION

Article 1 is being proposed to allow a mixed-use redevelopment of the Circle Cinema site at Cleveland Circle, including limited service hotel, restaurant/retail and medical/general office uses. The allowed Floor Area Ratio (FAR) for the Brookline portion of the site would be increased from 0.5 to 2.5, and will encourage a pedestrian-friendly building edge relatively close to Chestnut Hill Avenue.

Currently the property in Brookline holds a parking lot, while almost all of the commercial building (abandoned movie theatre) is to the rear, in Boston. This zoning article would allow a significant portion of a proposed development to be located in Brookline as well as Boston, including more control over the redevelopment of this site. For example, the zoning article requires façade review along the entire southern edge of the Circle Cinema site property and a required condition that the entire site meets the Brookline Noise Control By-Law standards. Additionally, Brookline would receive significant revenues from property taxes and occupancy excise (hotel room) taxes.

Outreach and discussion about the Cleveland Circle area started in 2009 with a study by the Urban Land Institute. Over the past six months, Town Meeting Members have met with Boston Development Group (who has an option to purchase the site), and Planning Staff has held three public neighborhood meetings. Control over traffic design and coordination with the MBTA operations are consistently the major concerns regarding any proposed redevelopment at this site. Additionally, Selectmen heard from two immediate abutters on Clinton Road who are concerned about potential negative impacts of the proposed upzoning on their properties. While sympathetic to their concerns, the Selectmen noted that all the residents along Clinton Road will be affected by any redevelopment, whether or not this zoning article is passed. By approving this warrant article, the Town is both able to assert more control over the nature of this development and capture a significant portion of tax revenue that it will generate.

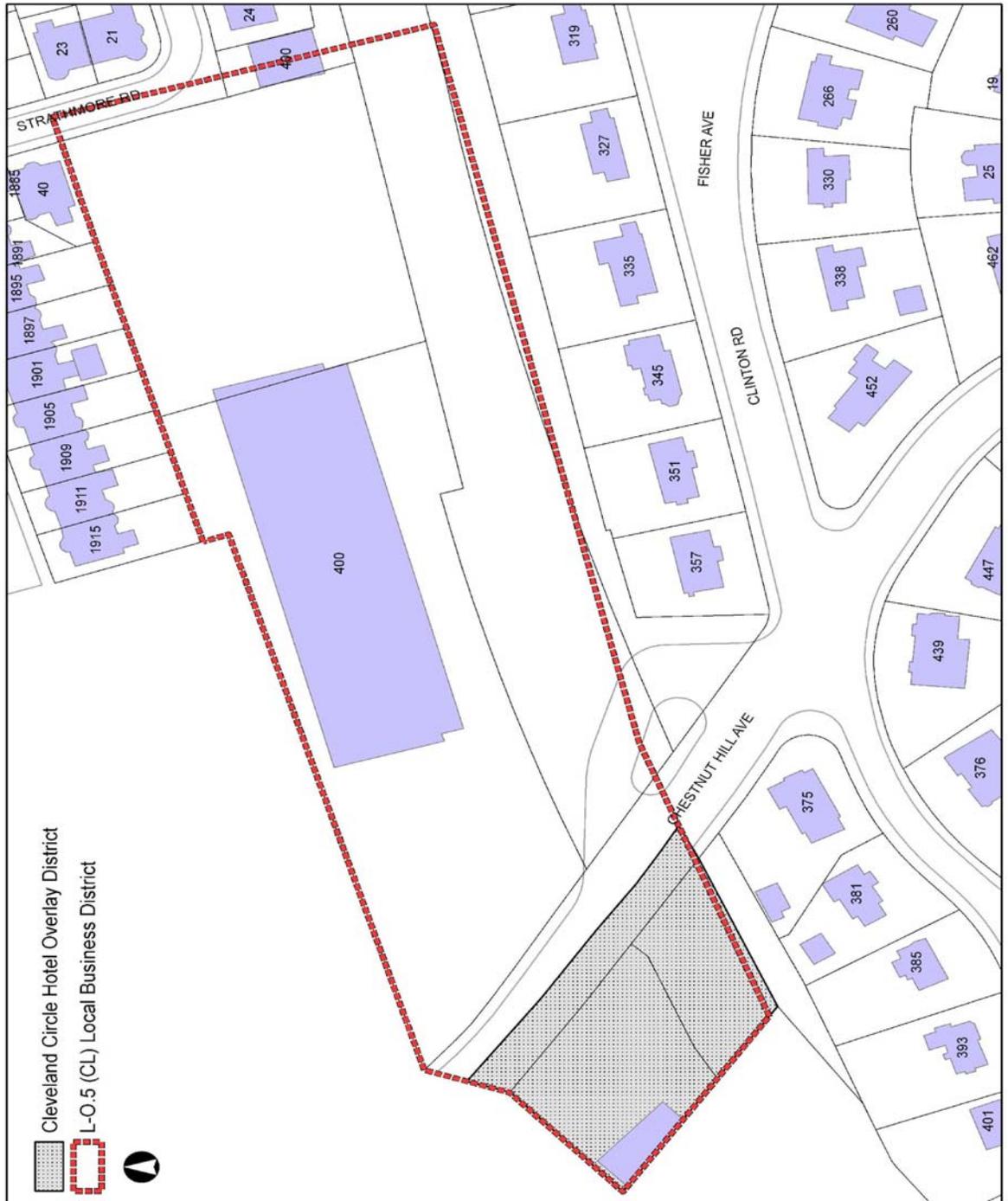
If Town Meeting were to pass this zoning article, multiple special permits would be required for the limited service hotel use, Major Impact Project review (including traffic design and Design Advisory Team review). The Circle Cinema site has been empty for a number of years now and will not remain like that forever. In fact, Boston Development Group filed for Boston's Article 80 review process on April 19th, and two Boston project review meetings have already been scheduled for May. Brookline Planning staff has been in close coordination with the Boston Redevelopment Authority (BRA) for the past year, and notes that the BRA expects to be finished with their permitting this fall.

The Board supports the proposed zoning amendment and believes that any redevelopment on this site should be a benefit for Brookline. Therefore, the Board of Selectmen recommends FAVORABLE ACTION, by a vote of 5-0 taken on May 17, 2011, on the following vote:

VOTED: that the Town amend the Zoning By-Law and Zoning Map as follows:

1. By adopting the following map change creating a Cleveland Circle Hotel Overlay District.

Cleveland Circle Hotel Overlay District



2. By amending Section 3.01.2.a.2 to add the following reference at the end
“Cleveland Circle (Refer to §5.06, Special District Regulations)”
3. By amending Section 3.01.4 by adding a new item at the end:
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redevelopment of the western side of this Local Business District. It has further been determined that, due to the circulation and multiple transit systems in this area as well as the proximity of the municipal boundary with Boston that this is an appropriate district for development density consistent with transit oriented development schemes. For this reason, additional uses typical of transit oriented developments may be permitted under the criteria of this section, as long as such development is planned in a way consistent with other pedestrian-friendly commercial properties in Cleveland Circle.

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2. Any portion of building within 50' of the frontage of Chestnut Hill Avenue that is above three stories shall be set back not less than 5 feet from lower floors, along all facades. For the purposes of this Overlay District, "Story" shall be defined as that portion of a building included between the upper surface of a floor and the upper surface of a floor or roof next above, whether or not such space is enclosed; and
3. Buildings shall be set back not less than 5 feet from the MBTA right-of-way.
 - c) The maximum height permitted is 56 feet;
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of the MBTA right-of-way. A third pedestrian crossing shall be provided where the signal for the Chestnut Hill Avenue entrance will be located, near the Boston/Brookline boundary, if approved by the Brookline Director of Transportation and Engineering as well as Boston Transportation Department.

2. Sidewalk improvements on the western side of Chestnut Hill Avenue shall include a minimum 10' wide sidewalk from the Brookline Boundary to the MBTA bridge and a replacement of sidewalk from the MBTA bridge to Clinton Road.

- 7) Noise. A required condition for any Special Permit under this Overlay shall be an enforceable agreement and/or condition to the Special Permit that requires the property owner to comply with the requirements any Noise By-law or ordinance of both Brookline and Boston, without regard to municipal boundaries.

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

The language of Article 1 of the Special Town Meeting is identical to that of the Annual Town Meeting Article 12. When the Town Meeting Warrant was published, the graphic of the zoning map change was accidentally omitted. This Article corrects the omission. The Advisory Committee explanation, discussion and recommended vote remains unchanged from that published under Article 12 in the Combined Reports.

The Advisory Committee by a 20-0 votes recommends NO ACTION on Article 12 of the Annual Town Meeting.

The Advisory Committee by a 20-0 vote recommends FAVORABLE ACTION on the language offered by the Selectmen.

XXX

ARTICLE 1



Town of Brookline

Massachusetts

PLANNING BOARD

Town Hall, 3rd Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2130 Fax (617) 730-2442

Mark J. Zarrillo, Chairman
Linda K. Hamlin, Clerk
Steven A. Heikin
Jerome Kampler
Steve R. Kanes
Jonathan Simpson

PLANNING BOARD REPORT AND RECOMMENDATION

This article was submitted by the Board of Selectmen for a Special Town Meeting and is substantially the same submission as Article 12 for the Annual Town Meeting. It was submitted to ensure that required notice was fully met, because some notices in the Town Meeting Warrant omitted the map with the boundaries of the new district. The Planning Board after holding a public hearing on Article I voted its support, as it had done for Article 12, for the reasons outlined below.

This article proposes to create a Cleveland Circle Hotel Overlay District over the portion of the property that is west of Chestnut Hill Avenue and in the L-0.5(CL) Cleveland Circle Local Business District. The remaining portion of the L-0.5(CL) district, east of Chestnut Hill Avenue and owned and used by the MBTA for its station yard, is not included in the proposed overlay district.

The overlay area is the site of the former Circle Cinema. Most of the former Circle Cinema building and parking is in Boston, with only part of the theater lobby and some parking facing the street in Brookline. Traffic going to the former theater had entered the site from Chestnut Hill Avenue and exited onto Beacon Street through a right-of-way in Boston. Contiguous on the north and west sides of the site are a large playing field and park in Boston, and to the south in Brookline are the MBTA train tracks and backyards of Clinton Road single family homes.

Because the majority of the former Circle Cinema site is in Boston, the Town is rightfully concerned that Brookline, in addition to Boston, should benefit from any development occurring there. From a planning perspective, Brookline wants to avoid a development

with only parking and no building within the Town boundary. Having a building edge facing Chestnut Hill Avenue will enhance and revitalize the streetscape on Chestnut Hill Avenue and in Cleveland Circle in general. Because of the very low density allowed under the current zoning (0.5 Floor Area Ratio) and the limited number of allowed uses, the proposed zoning in the overlay district would allow a Floor Area Ratio between 2.2-2.5 and uses, including a limited service hotel and a restaurant greater than 5,000 s.f., if certain well-defined criteria are met. These criteria mandate that 40 hotel rooms be located on the Brookline side of the property, the building height not exceed 56 feet, and the part of the building above three stories have additional setbacks from the street. The parking requirements under the overlay district have also been lowered for this site because of its proximity to two major rapid transit lines.

The Planning Board believes that the most important benefits of the proposed zoning are the requirements for design review and impact analysis of the entire project by the Town, including the portion of the development in Boston, and required traffic mitigation measures in both Brookline and Boston.

For the above reasons, the Planning Board supports the proposed Hotel Overlay District for Cleveland Circle and unanimously recommends FAVORABLE ACTION on Article 1.

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