

Neighborhood Conservation District Study

for the

Town of Brookline

Department of Planning & Community Development
Robert J. Duffy, AICP, Director
Jeff Levine, AICP, Assistant Director
Greer Hardwicke, Preservation Planner
Roger Reed, Preservation Planner



September 2005

Larson Fisher Associates

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Woodstock, NY 12498
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I. Background

The purpose of this project, funded in part with a grant from the Massachusetts Historical Commission (MHC), was to explore the possibilities of developing a new preservation planning tool: Neighborhood Conservation Districts (NCD) for the Town of Brookline. NCDs have begun to be adopted around the country to provide communities greater range and flexibility in their approaches to preservation than what is typically afforded by locally designated historic districts. Here in Massachusetts, Cambridge has implemented this preservation regulation. Amesbury, Massachusetts also has a regulation it calls an NCD, but which embodies a different, zoning-oriented approach. Brookline was just completing its Comprehensive Plan update when the project began. That document called for the development of new land use mechanisms that would encourage residents' participation in development decisions and highlighted the Town's continued commitment to preservation of its diverse neighborhoods. Similarly, MHC was interested in developing a model Neighborhood Conservation District ordinance that communities around the state could use as a basis for improving their preservation regulations. As this study was being completed, MHC unveiled a sample NCD bylaw that was distributed statewide for review and comment.

A Project Team was established to work on this study. The firm of Larson Fisher Associates was hired by the Town of Brookline to undertake background research of NCDs and relevant public documents, and to draft an NCD bylaw for Brookline that might serve as a statewide model. Preservation and planning staff for the Town of Brookline, Greer Hardwicke, Roger Reed, and Jeff Levine provided ongoing direction and feedback that enabled the bylaw to respond to local conditions. The team met in late October of 2004 to initiate the study and after eight months of intensive effort this phase of the NCD bylaw project is completed. The draft bylaw is now at a point where it is appropriate for the community of Brookline at large to discuss it to consider its merits, determine if it should be modified and how, and finally decide whether Brookline should indeed enact such a regulation.

II. Study Methodology

There were four distinct components of the Neighborhood Conservation District Study:

- Component 1: Research into how NCDs have been drafted and used by other communities around the nation, which included their overall goals; how strictly they were regulated; whether they were incentive based regulations or followed a more typical mandatory form; how they were administered and by what kind of review board. Also, research included related readings, one evaluating the effectiveness of design review and, others comparing NCDs.
- Component 2: Research focusing on the Town of Brookline, its different neighborhoods and development patterns; development pressures; level of preservation protections for different neighborhoods; current regulatory tools; and goals of the Town as expressed through its Comprehensive Plan.

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- Component 3: Drafting an initial concept for an NCD bylaw for the Town of Brookline, which included establishing overall goals and purposes for such a regulation as well as considering how it would fit the administrative structure of the Town government and availability of staffing.
- Component 4: Drafting sample Design Guidelines for two Brookline neighborhoods to explore how flexible and/or tailored an NCD should be in achieving the Town's preservation goals and provide insight into needed provisions in the bylaw.

The first component of work involved identifying a variety of communities around the country that would provide a range of approaches to NCDs. Articles and studies on design review and historic preservation regulations available through the National Park Service and the American Planning Association were also read. An annotated bibliography of this background research can be found in Appendix A. The collection of NCD ordinances and articles already assembled by MHC were reviewed early in this phase of the study. Since the most recent of these materials dated to the mid-1990s, it was important to supplement this background with an Internet search of more recent NCD ordinances. Approximately 40 ordinances were reviewed online and 20 of them were downloaded for a more detailed review and analysis. At least two of these ordinances were in the process of being adopted during the research phase. Follow-up phone calls were made to preservation and planning staff members having primary responsibility for implementing the NCD regulations. These discussions were helpful in clarifying the rationale for certain features and approaches. A table summarizing the research results can be found in Appendix B. Copies of selected NCD models are included in Appendix C. A discussion of these various NCDs follows in Chapter III of this report.

Component two tasks involved both fieldwork and review of official Town documents. Fieldwork included photographic documentation, building-by-building review of Brookline's dense neighborhoods, and windshield surveys of the several more suburban areas of town. Records in the Town Assessor, Engineering, Public Works, and Building departments were also accessed to clarify attributes of individual properties. Historical information from specific neighborhoods gathered by the Preservation office was also most helpful. A reading of the in-progress *Brookline Comprehensive Plan 2005 - 2015* provided an understanding of the community's vision and goals for neighborhood development and historic preservation. The Zoning By-law was also an important reference for establishing what type of development could be allowed "as of right" for different properties and neighborhoods in the city.

The third component comprised the core task of this study, which was to draft a NCD bylaw appropriate to Brookline. At this juncture it should be noted that, had the drafting of a general bylaw for use throughout the state of Massachusetts been the foremost task, the outcome would likely have been much different. Based on the wide variety of approaches used across the country, it may be unproductive to limit how a community addresses neighborhood conservation to a single model. The Home Rule provisions available to Massachusetts communities suggests that more individualized regulations that deal with specific local issues may be more appropriate. As a first step in developing the bylaw, a list of issues, purposes, and means was compiled for review with Brookline's preservation and planning staff. It was this list that established how broad the purposes would be and how the bylaw would be administered; and it was these

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choices, as to what would be a good fit for Brookline, that guided the development of the bylaw. The list of issues, purposes, and means is attached as Appendix D.

The fourth and final component of the study was the development of sample design guidelines that might be developed and adopted should NCDs be established. Out of the several neighborhoods that were considered and examined in the second component of this study, two were selected by preservation and planning staff members. Ideally, the residents of these neighborhoods would have participated in the development of the design guidelines (which is specified in the draft bylaw). However, due to other community studies that were in progress and the potential for confusing the issues, this step in the study process was eliminated. Instead it was determined that the development of models for later use by neighborhoods was preferable, with preservation staff taking responsibility for obtaining public input at a later date. A process for involving residents in the development of design guidelines is one of the aspects that distinguishes NCDs from local historic districts (LHDs), where design guidelines are presumably in line with the National Park Service's Secretary of Interior's Standards for Rehabilitation Projects and the responsibility for applying them falls to the Preservation Commission and its staff. Such a process for resident involvement is discussed in both Chapters IV and VI of this report. The two neighborhoods selected by staff were chosen to illustrate a contrast in the types of areas that could be considered for NCD designation. One was a neighborhood developed in the mid-1930s on the site of the former Chestnut Hill Golf Course—"The All-Gas Home Colony." The second was the North Lawrence neighborhood in the northeastern section of the town, which developed incrementally with buildings dating back to the late 1800s.

III. Research Findings

A. NCDs

Neighborhood Conservation Districts provide an additional regulatory tool for preserving the character of established neighborhoods and unique areas of communities from inappropriate development. Of the many NCD-type regulations around the country (NCDs are sometimes called by other names), the central shared rationale for their adoption has been to provide a more flexible and tailored approach to protecting areas not typically considered "historic." While many of these areas would meet the criteria established by the National Park Service and State Historic Preservation Office for designation, many preservation commissions, let alone the general public, would view not them in this light. Post World War II housing developments are the most obvious example of this bias—perhaps because many in the Baby Boom generation grew up in them! Yet such neighborhoods have the potential for becoming valued historic districts if their key attributes can be maintained and intrusions that would destroy their integrity can be avoided.

This relatively recent regulatory tool has been adapted to the unique circumstances of various municipalities. NCD's are often administered by planning and zoning personnel as by historic preservation officials—a clue to its broader application than simple design review for individual properties. NCDs frequently grow out of public planning processes that emphasize the participation of property owners in finding solutions to planning issues affecting their

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neighborhoods—and indeed this was an impetus for Brookline to consider the mechanism. Such concerns often extend beyond the historic and aesthetic character of neighborhoods into issues such as maintaining housing choices and affordable housing stock, making infrastructure improvements and providing needed social services. Where the major concern is protection of out-of-scale development in an area NCDs can be effective in maintaining the development “balance” of a community that is under extreme development pressures stemming from proximity to major metropolitan areas and market forces that demand ever larger, more energy intensive dwellings. “The Difference Between Districts” put out by the Indianapolis Historic Preservation Commission (Appendix E) provides a succinct explanation of how NCDs differ from LHDs.

The differentiation nationally between NCDs and locally designated historic districts (e.g. a Massachusetts General Law Chapter 40C district) is important to keep in mind. Key differences include:

- Most NCDs allow residents and property owners to determine what aspects of a neighborhood should be preserved, rather than strictly following the Secretary of Interior Standards for rehabilitation work on properties within the district.* As a result, an NCD *may* afford substantially less protection from changes than a locally designated historic district.
- The focus for protection in an NCD is on *neighborhood* characteristics, rather than details pertaining to individual buildings. For example the NCD in Jefferson Parish, Louisiana identifies mature trees and tree-lined streets as a feature of the neighborhood that should be protected. A neighborhood of adobe houses in Phoenix has established that the sole criterion for design review is matching the traditional building material.
- Design Review to protect the historic integrity of buildings is frequently not the main thrust of NCDs. Rather massing, scale of buildings, siting and orientation tend to be the neighborhood qualities that are managed under an NCD designation. In some states, special NCD zoning is the mechanism of choice. Those NCD regulations that do get into very specific architectural details, such as materials, ornamentation, styles, etc., are virtually indistinguishable from historic districts and thus not truly alternative tools. (Many cities call their historic districts “Architectural Conservation Districts,” “Conservation Districts,” and even NCDs. Only a couple of these regulations were reviewed in detail for this report.)
- In many NCD programs, there is no commission with discretionary review authority, but rather an administrative approach that relies on compliance with quantifiable design standards with reviews being conducted by staff.
- Related to the above point, often it is not the preservation commission or its staff that administer an NCD program, but rather a planning or zoning board or building inspection

* While MGL Chapter 40C does not directly cite the Secretary of Interior Standards, the law has been determined to be consistent with them—a requirement for any community wishing to participate as a “Certified Local Government” in the national preservation program overseen by the National Park Service and to receive CLG pass-through grants.

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department. How this is handled depends to a great degree on the governmental structure of a community, the relationships between the various boards, commissions and departments, local politics, and availability of staff.

NCDs used in the United States can be categorized in several ways. Some are incentive-based and require reviews only if property owners wish to avail themselves of a particular benefit (similar to commercial properties listed on the National Register of Historic Places that take advantage of income tax credits). A few require review by their recommendations are only advisory and therefore lack “teeth.” Most NCDs, however, are mandatory systems that require certain alterations to be reviewed and approved. Some communities have both incentives and mandatory review.

Another way of categorizing NCDs is by who conducts the reviews. As noted above, either volunteer boards or administrative staff can conduct NCD reviews. Of the twenty NCD regulations studied in depth, the former was the most usual. Review by an administrative panel was viewed as being more acceptable in the communities choosing that alternative, since historic preservation commissions are an aspect of local historic districts that the general public in those locales seemed most leery of. At least one study suggests that administrative reviews are more effective in achieving the aesthetic goals of communities. (See Appendix F.) Table 1 correlates these choices and lists those cities by how they have combined these four characteristics in their NCD regulations.

Table 1. Incentive-Based/Mandatory Review Correlated to Administrative/Board Review Structure

	Incentive Based	Mandatory Review
Administrative Review	Portland, OR Santa Clara, CA	Atlanta, GA Boise, ID Chapel Hill, NC Dayton, OH San Antonio, TX
Commission Review	Amesbury, MA Lexington, MA	Cambridge, MA Bethlehem, PA Jefferson Parish, LA Nashville, TN Philadelphia, PA Roanoke, VA Washington, TN

The number of NCD commissions that could potentially be established in any given municipality is also a factor that determines which review method is chosen as well as how large or small an NCD is allowed to be. For large cities that have sufficient full-time professional staff to manage the public meeting requirements of multiple NCD commissions and that have a large populace of knowledgeable and interested people who are willing to serve on these commissions, this system appears to work well. However, the choice to appoint individual NCD commissions demands

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that the area covered by an NCD be sufficiently large so as not to run into issues such as lack of volunteers, conflicts of interest, and personal biases. Cambridge, Massachusetts allows individual commissions for NCDs encompassing at least 75 properties, yet even with a substantial level of staffing, the demands of several commissions (the city has four) present challenges. Several of the NCD regulations reviewed (Chapel Hill, NC; Dallas, TX; San Antonio, TX) allow a single block face to be designated as an NCD. Consequently each of these communities has a single review board—either an established volunteer board such as a preservation commission, planning commission, or a special citywide panel (either administrative or volunteer board depending on the type of standards and guidelines).

Research also revealed that the establishment of an NCD mechanism sometimes competed with the designation of traditional historic districts. Several municipalities found it difficult to gain support for historic districts once the option of an NCD was available, with its generally greater flexibility. Residents preferred the “Preservation Light” approach to the stricter controls of LHDs. Exceptions to this reportedly occurred in more exclusive neighborhoods comprised of high-style architecture where preservation requirements were not seen as an undue financial burden or inconsistent with the improvements planned by the homeowners. Districts with more modest dwellings, worker housing, and a lower socio-economic population, whose residents tended to make do-it-yourself improvements with off-the-shelf items from a Home Depot-type store, often fought any type of historic designation and design review. Thus, when developing an NCD bylaw, it is important to include measures that will ensure the tried and true tool of LHD designation is not undermined in the quest to provide greater flexibility. Of course, where communities have established historic districts for all qualifying areas, an NCD does not raise this issue. To ensure a clear differentiation between these two options several cities disallowed the creation of NCDs in neighborhoods that were eligible for LHD or National Register designation.

The City of Indianapolis has a system whereby local historic districts are virtually synonymous with National Register Historic Districts and which have a high degree of architectural integrity. It defines *Conservation Districts* as “areas that may have experienced significant change over time or might be ineligible for the National Register, but still represent a key component of local history.” Further, Indianapolis establishes conservation districts “to provide stability and ensure neighborhood coherence” but allows that “fewer things are subject to design review, and the design guidelines are less restrictive than in historic districts.” Similarly, Green Bay, Wisconsin approaches NCDs as a middle ground between full-fledged historic districts and conventional residential zoning. A policy in the Green Bay Historic Preservation Plan calls for the evaluation of “the use of neighborhood conservation districts as a tool for protection of older neighborhoods that are not designated historic districts but could benefit from some level of review.”

CAMBRIDGE, MASSACHUSETTS’ NCD ORDINANCE

In Massachusetts, Cambridge’s NCD ordinance has stood the test of time, having been adopted in 1983. To avoid any possible legal issues, it closely mimicked the mechanism of MGL Chapter 40C historic districts and explicitly placed NCDs, together with individual historic landmark designation, firmly in the realm of preservation regulations. It directly cites Chapter 40C to define the powers and duties of its NCD commissions, notification and public hearing

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requirements, and a portion of its appeals procedures. The Cambridge ordinance also replicates Chapter 40C in its definition section, the appointment of a study committee, and in many of the exemptions from review. And in general it uses the language of historic preservation to highlight the need to protect neighborhoods with “historic and architectural value and significance.”

As discussed previously, Cambridge’s ordinance provides for separate district commissions to be established for each designated NCD—although the City’s Historical Commission actually conducts reviews for districts with fewer than 75 properties. Similarly, even though the ordinance allows the Historical Commission to begin the study process leading to the establishment of an NCD, it has yet to do so, leaving it to residents to initiate such designation. The ordinance also allows for both mandatory and advisory review. It also subjects the design guidelines for each NCD subject to adoption by the City Council. Two key components of Cambridge’s NCD regulation offer particularly beneficial models for other communities: a provision for a moratorium to protect neighborhoods that are under study for NCD designation and enhanced protection from demolition beyond its demolition delay regulation.

MHC’s SAMPLE NCD BYLAW

The Massachusetts Historical Commission worked concurrently on a sample NCD bylaw as this study was underway. Its approach is consistent with its historic preservation mission and therefore, like the Cambridge NCD ordinance, follows much of the form and content of MGL Chapter 40C for historic districts. It requires review by an NCD commission of exterior alterations within an NCD, either advisory, for minor changes, or mandatory, for more substantial alterations and a “Certificate to Alter” must be obtained before changes are allowed.

B. Other Regulatory Mechanisms

The Design Review District, without reference to historic designation, is now a well-established regulatory tool in the United States. Design guidelines for both old and new neighborhoods have been developed by myriad municipalities over the past decade. New Urbanism and Traditional Neighborhood Development are two names for an ongoing movement to design pedestrian-friendly, livable cities by shaping new development. They share most of the same aesthetic canons, which suggests that what constitutes “good design” is not as subjective as some outspoken opponents claim. However, discretionary review by volunteer commissions can be problematic if the guidelines are ill defined or if members make demands above and beyond what is specified in them. If the primary focus of maintaining neighborhood character in NCDs is on design review, the design standards need to be carefully crafted to accurately reflect the design character of the area in question. And of course the regulations need to be uniformly applied in order to withstand legal challenges. Chapter V of this report discusses design guidelines in greater detail and Appendices I and J provide examples for two Brookline neighborhoods.

Where the scale and massing of new construction in older neighborhoods is a community concern, more traditional regulations can be used. Height limits, setback standards, and floor area ratios are typically determined by the underlying zoning but often the established limits are well in excess of what has actually been built in older developments. Documenting and

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evaluating the dimensions of the buildings within a neighborhood can provide the standards that will ensure oversized dwellings and additions do not negatively impact a cohesive neighborhood. In 2003 the City of Lake Forest, Illinois, in response to extreme development pressures, adopted a community-wide “Building Scale and Environment” regulation that strictly limits the total square footage of buildings constructed on a residential lot and provides an illustrated guide to calculating the allowable area. In addition, Lake Forest’s building code established a Building Review Board and regulations requiring review of architectural designs in *all* areas of the city that are not included in designated local historic districts. The City’s Historic Preservation Commission reviews changes in three historic districts according to separate review standards. While the municipality has considered adopting a Neighborhood Conservation District, it has not done so to date. (See Appendix C-11.)

C. Incentive-based Regulations

Incentives for neighborhood conservation fall into two main categories—financial benefits and relief from zoning restrictions. Financial incentives include outright grants, tax credits for rehabilitation work that meets local requirements, and in some cases freezing property tax assessments for a period of time. Zoning incentives may allow for a reduction of required setbacks. Omaha, Nebraska has successfully used this means to allow garages to be sited in a manner that matches the historic patterns in its Neighborhood Conservation Overlay District without going through a variance process.

Very few NCDs around the country rely on incentive-based regulations. One of the problems with incentives often cited is unequal treatment for residents within a city. In addition, if some property owners choose not to avail themselves of the incentives, the overall impact can be spotty at best. Since stabilization and increase in property values is the expected benefit from an NCD (or local historic district) with mandatory review, the incentive-based approach that costs a municipality money tends to be eschewed.

One community that had considered incentives in its proposed NCD regulation is Santa Clara, California. In this case, incentives were combined with mandatory design review. The incentives included flexible zoning standards—both dimensional requirements and uses, application of the State Historic Building Code instead of the Uniform Building Code, property tax reductions, and housing rehabilitation assistance for qualified homeowners. However, since the initial research into NCDs was done in late 2004, a newly elected City Council scrapped the proposed NCD ordinance. (See Appendix C-19.)

Portland, Oregon has seen state-level changes affect its preservation efforts and requirements for designation. A state law requires that municipalities proposing a local historic district obtain the approval of 100% of the property owners within the district. To counteract this, the City has developed a range of incentives: zoning code incentives (e.g. expanded density and FAR transfer options, waiver of minimum housing density requirements, and increased flexibility for commercial uses in multi-dwelling zones and simplified historic review processes), building code incentives (alternative construction methods and materials for rehabilitation projects), and financial assistance (loans, gap financing and special funding). To balance this flexibility, demolition restrictions in NCDs and historic districts have been tightened.

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Amesbury, Massachusetts established a Neighborhood Conservation District that provides incentives to property owners within a designated NCD and uses an overlay zone. This method is more typically used in other states than Massachusetts, due to its outdated land use and zoning laws. Amesbury's NCD applies to commercial and industrial districts as well as residential. Incentives include a reduction of up to 50% in front, side or rear yard setbacks if they complement the existing neighborhood setbacks, a reduction in the required minimum open space if certain criteria are met, and waivers from dimensional requirements in Water Resource Protection Districts. In exchange, a Design Review Committee may review architectural details for all new construction and alterations, siting of buildings and landscaping.

D. The Brookline Comprehensive Plan: Vision, Goals, Policies & Strategies

Reviewing the Town's established planning goals and public policies regarding historic preservation, neighborhoods and housing was essential to developing a draft NCD bylaw. During the course of this study, the *Brookline Comprehensive Plan 2005–2015* was completed. In it are many goals, strategies, policies, and discussions relevant to the development of an NCD bylaw. At the outset the plan states its *Vision for Brookline in 2015*:

Brookline in the twenty-first century shapes and guides change to promote the community's environmental, human, and financial sustainability...as a group of residential neighborhoods, maintaining local character and a high quality of life while accommodating change.¹

The emphasis on residential neighborhoods and on maintaining character clearly suggests the development of NCDs. The Comprehensive Plan further cites "initiatives to enhance community connections and preserve neighborhood character" as one way of achieving the community's vision.² Four components of the plan—Neighborhood and Districts; Affordable Housing; Historic Resources; and Land Use and Housing—include specific recommendations that can be addressed by an NCD:

- Develop Neighborhood Plans in other parts of town where needed
- Promote affordable housing town-wide
- Be sensitive to neighborhood character
- Continue to respect and utilize structures and landscapes with historic significance that are part of its legacy for the future
- Make sure that existing zoning matches the desired land uses and densities throughout the town
- Include neighborhood residents in the development process³

To achieve this vision, a number of key recommendations were made. The Vision for Neighborhoods and Districts states in the first sentence that "the unique and attractive qualities of Brookline's neighborhoods and districts will be maintained."⁴ The Overall

¹ *Brookline Comprehensive Plan 2005 – 2015*, Town of Brookline, 2005, p 2.

² *Ibid*, p 3.

³ *Ibid*, pp 4 – 5.

⁴ *Ibid*, p 27.

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Key Recommendation for this plan component is to “preserve neighborhood and district character and manage change in neighborhoods and districts through planning, participation, and communication.” More specifically key recommendations include:

- *Create Neighborhood and District Plans with development and design standards and coordinate those plans with town-wide open space, housing and historic preservation goals and policies.*
- *Enhance neighborhood consultation in land use density and design decisions through the planning and project review processes and timely notification.*
- *Provide project proponents with development and design standards so that they know what is desired and acceptable, and enhance inter-board coordination and consultation.*⁵

Specifically, the plan states that “there are many neighborhoods that are smaller than districts but still have unique characteristics...for these neighborhoods, particularly ones that are experiencing a high level of development activity, the Comprehensive Plan recommends development of a Neighborhood Plan. Such a plan would provide an examination of what makes that neighborhood unique and set up clear development guidelines for any future changes.”⁶ This component also recognizes the importance of protecting Brookline’s heritage.⁷

The chapter, *Brookline Tomorrow* in the Comprehensive Plan re-emphasizes the importance of sustaining the character of residential neighborhoods but also highlights the town’s diversity: “Brookline’s longstanding diversity—in income, age, ethnicity, race, and able-bodiedness—depends on a continuing and meaningful commitment to diversity in its school system and in housing.”⁸ This last reference to diversity in housing relates directly to maintaining housing choices and retaining modest homes and middle-class suburban neighborhoods as well as older, historic, and denser urban forms of housing, such as apartments and townhouses. The Key Element, *Affordable Housing*, includes two key recommendations that provide further direction:

- Design in ways that are compatible with and sensitive to neighborhood character
- Preserve existing affordable units⁹

These recommendations also directly relate to observations and recommendations in both the *Historic Resources* and the *Land Use and Housing* elements of the Plan. The *Historic Preservation* element states that, “smaller homes of historic significance are being demolished and replaced by larger single-family homes in southern Brookline. In northern Brookline, older single-, two-, and multi-family homes in districts zoned for

⁵ Ibid, p 28.

⁶ Ibid, p 32.

⁷ Ibid, p 28.

⁸ Ibid, p 23.

⁹ Ibid, p 46.

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higher density are being demolished and replaced by larger multifamily buildings.”¹⁰ Similarly, the *Land Use and Housing* element cites “tear-downs and ‘mansionization’ as a growing concern. With land becoming increasingly valuable, a trend to purchase a property for the buildable lot and demolishing an existing house to build a much bigger one negatively impacts the character of streets and neighborhoods, particularly in areas of smaller, single-family homes built in the 1950s and 1960s.”¹¹ The plan’s recommended strategy to deal with this problem is to “review existing zoning in parts of Town where the zoning does not match existing land use patterns or densities. These areas should be studied as part of other projects, such as District Plans, or through separate zoning studies.” Another strategy suggested is to “consider implementing a lot-coverage maximum for single family districts based on a study of prevailing neighborhood character as a way of moderating tendencies toward mansionization.”¹² The bylaw drafted as a part of this study seeks to address these concerns.

It should be noted that the concern on the part of the public about tear downs was also expressed in Article 13 prepared for the Spring 2005 Town Meeting. A petition by residents, spurred by recent demolition and expansion activities in their neighborhoods, defined mansionization as “the construction or enlargement of houses ‘on a scale which is dramatically out of proportion with the surrounding houses in a community’.” The petition asked that the Zoning By-law Commission be requested to investigate whether a special provision should be included in the new Zoning By-laws concerning the issue and report its findings to a future Town Meeting. (See Appendix G.) Because of this growing phenomenon throughout the Boston area (and metropolitan areas around the country), one of the main goals set for the draft NCD bylaw was to formulate a method to maintain the scale of residential structures within established neighborhoods, with regard to infill development and additions, as well as tear downs.

The Comprehensive Plan contains a list of Zoning Tools that provide the means of accomplishing the goals of the Plan. They include Greenway Open Space and Residential Cluster Subdivisions; Open Space Zones, Planned Development Districts, Parking Districts, Transit Oriented Development Overlay Districts (TODs) and Transfer of Development Rights (TDRs).¹³ The first three are geared to new development and are not particularly relevant to the NCD discussion. Parking Districts are overlay districts affecting commercial districts and generally do not relate to NCDs in residential neighborhoods. However, the last two tools could work well in tandem with an NCD. Although they would not fulfill all the purposes of an NCD bylaw, they could complement some facets of its accompanying design guidelines. For example, in denser neighborhoods having ready access to mass transit, design guidelines for a NCD might include a goal of encouraging development in proximity to transit stations and could emphasize the public realm with sidewalk improvements. The incentives provided by a Transit Oriented District overlay could thus leverage an NCD designation. Similarly, providing Transfer Development Rights for undersized buildings the Town deems worthy of conservation and which happen to be within an NCD of mixed housing types, could mitigate potential opposition by the owners of such properties.

¹⁰ Ibid, p 76.

¹¹ Ibid, p 111.

¹² Ibid, p 112.

¹³ Ibid, pp 116 – 117.

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E. Current Zoning

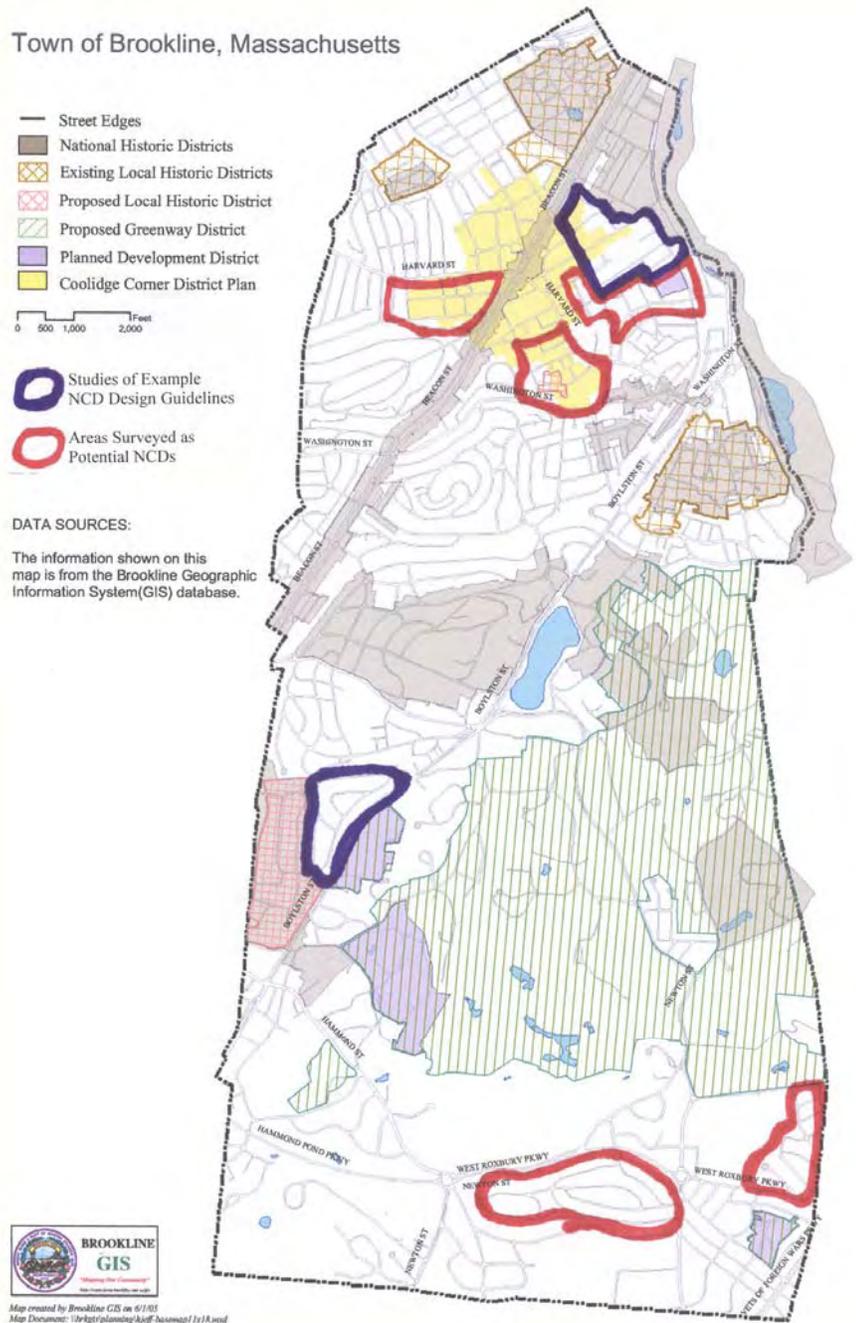
Brookline's Zoning By-law contains a provision for the issuance of Special Permits, which would allow uses of property not otherwise authorized in a zoning district, so long as that use does not involve negative impacts to surrounding properties. Since the Planning Board must comment on the request for a Special Permit, special consideration would need to be given to applications for properties within NCDs. If the Special Permit request had the effect of strengthening the character of the neighborhood per the NCD design guidelines, perhaps with some physical improvements, the recommendation from the Planning Board may be especially favorable. On the other hand, if a Special Permit request comes in that is borderline as to whether it meets minimum conditions, the NCD designation could serve as a stronger rationale for denial of the application.

Floor Area Ratios (FARs) for established neighborhoods are generous in the Town's current Zoning By-law. Analysis of properties within an NCD should be undertaken to determine whether the allowed FARs exceed those prevailing in the neighborhood; if so the FAR standard should be modified by the design guidelines to maintain continuity of dwelling sizes over time. Commensurate with this analysis would be a review of the lot coverages to ensure that private open-space is not lost to the detriment of the overall character of an NCD. This would carry out one of the strategies in the Comprehensive Plan. Unfortunately, calculating lot coverages for existing neighborhoods requires a commitment of staff time since this information is not presently easily gleaned from GIS data. However, if a GIS application is devised to capture and report this information, using current planimetric data, it would be a powerful tool, not only for the formulating of NCD Design guidelines, but for tracking changes to neighborhoods over time.

F. Preliminary Survey of Brookline Neighborhoods

Beyond gathering information from communities around the country that have NCD regulations and reviewing Brookline's plans and regulations, it was also important to understand what pressures established neighborhoods in Brookline are facing. The following map illustrates the areas surveyed and neighborhoods for which more intensive study was undertaken and example design review guidelines developed (discussed in Chapter V.) along with historic district designations and other special planning districts.

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Map 1. Areas surveyed and studied displayed against the Town’s GIS map illustrating various special planning and historic preservation districts.

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It was evident from the preliminary inspection of several neighborhoods that all of the following situations exist:

- small groups of architecturally significant and historic residences have been isolated and surrounded by larger multi-family buildings;
- there are extensive neighborhoods that could be considered for LHD designation but for some integrity issues, intrusions, and being common in the community;
- many newer neighborhoods have strong cohesiveness due to the zoning regulations in effect when they were developed, but they may also have a range of architectural expressions that runs counter to what most people consider as constituting a historic district;
- housing pressures are increasing due to the ever-growing population of the Boston metropolitan area leading to ever-rising housing costs;
- mid-20th century houses in highly desirable locations are sitting ducks for redevelopment, which could dramatically impact the existing character of the surrounding neighborhood.



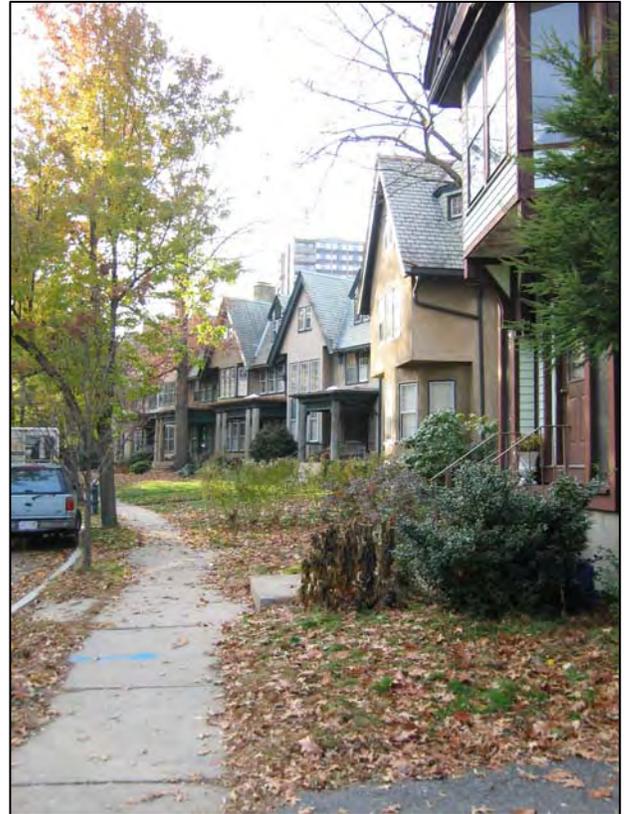
The ranch house, above, was for sale when this photo was taken on February 2, 2005. Situated as it is at the end of a cul-de-sac and backing up to the green space provided by the Walnut Hills Cemetery, it is vulnerable to being torn down for a much larger replacement house. The current zoning here is S-7, Single Family, which allows a height of 35 feet and an FAR of .35. Such construction would have a severe impact on this street, which is characterized by modest, but comfortable one-story dwellings.

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Shaw Road runs through the center of the Walnut Hill area. Its tree-lined streets are a positive attribute of this cohesive mid-20th century neighborhood that could be afforded protections under an NCD bylaw. The current zoning in this area is S-10, “Single Family and Converted for Two-Family.”

Small pockets of single family homes, such as these along Griggs Terrace, right, which share many design characteristics would be a likely candidate for NCD designation, if not a local historic district.



Neighborhoods full of handsome three-story walk-up apartment houses, which have not seen insensitive intrusions to date, hold the potential for undesirable redevelopment over the next ten to twenty years as these buildings approach the end of their design life. While zoning may be viewed as protecting these buildings, the form that redevelopment takes could be far less desirable than what presently exists.



This approximately 40-foot high apartment building on St. Paul Street is zoned M-2.0, Apartment House, and could be rebuilt at a height of 50 feet.

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IV. A Draft NCD Bylaw for Brookline—Key Components and their Rationale for Inclusion

A. Purposes and Means Established for the NCD Bylaw

Based on a discussion of the research findings, the project team reviewed a list of issues to determine what purposes, approaches, and means would direct the drafting of an NCD bylaw for Brookline. (See Appendix D.) Discussion and decisions about these issues resulted in a bylaw that is crafted to address both preservation and planning concerns. It was intended to have a broader scope than a typical preservation regulation. In particular, the bylaw would be clearly differentiated from that governing LHDs by its overriding focus on protection of shared neighborhood characteristics rather than those of individual buildings.

The first section, Findings and Purpose, is the place where special situations in the community are cited as the basis for the regulation and where public purposes are articulated. In the case of Brookline, two major purposes for the bylaw were identified:

- provide more flexibility in allowable changes than a traditional local historic district designation in recognition that these neighborhoods have already undergone some level of alteration; and
- provide protection for areas that might not be viewed as ripe for designation as a local historic district—such as subdivisions dating to the post-WWII through 1975 period

In addition, the appropriate visions, goals, recommended policies, and strategies embodied in the Comprehensive Plan were to be referenced (discussed in Chapter III).

B. Definitions

Land use and preservation bylaws have a standard section that defines terms and phrases having particular meanings within the context of that regulation. Many of the definitions are the same as those used in other Town bylaws (such as Zoning) and offices (Preservation Commission, Planning, Assessor) or within MGL Chapter 40C.

C. Creation of a Neighborhood Conservation District

This section addresses a variety of issues that combined establish the criteria for which areas of the town will be eligible for an NCD and which will be excluded.

NCD SIZE

The first of the criteria was how large or small an NCD could be. In order to be as inclusive as possible, a very small area consisting of one block face or eight lots was determined to be the minimum size for an NCD. No upper limit was set. The selection of one block face as the lower limit reflects the fact that Brookline has a number of block-long single-family residential streets surrounded by larger apartment complexes, which appear to create special mini-neighborhoods. Also, several other municipalities around the country have established this standard and found it workable.

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LAND USE

The NCD bylaw, based on the content of the Comprehensive Plan, which recognizes Brookline as primarily a residential community, suggested that most of the area within a designated NCD should be zoned residential. Indeed, the name of the regulation—*Neighborhood Conservation District* implies residential use. Because Brookline has areas of mixed commercial and residential uses worthy of protection, mixed use was also determined to be allowable. Seventy percent was established as the lowest limit for these two uses, which indicates, for example, that 30% could be a neighborhood commercial area, a church, school, or open space.

COHESIVENESS

One measure of whether an area should be considered for NCD designation is its cohesiveness. Does the area look like, feel like and function like a neighborhood? This basic question, should serve to weed out NCD proposals that do not meet the purposes of this bylaw. Also, the criterion should help keep the boundaries of an NCD from being gerrymandered.

NEIGHBORHOOD CHARACTER

Criteria must address how to define and distinguish NCDs from other areas of the town and how designation of these areas meets the overall purpose of the bylaw. Four criteria are established to accomplish this, dealing with building features, site design, land use patterns, and natural or streetscape characteristics. The Preservation Commission is charged with undertaking the evaluation of whether the nominated neighborhoods meet these standards before undertaking a full-fledged study of the area.

DISTINCTION BETWEEN NCDS AND LOCAL HISTORIC DISTRICTS

An early discussion by the project team determined that a clear distinction needed to be made between local historic districts and NCDs so as to avoid conflicting regulations and confusion on the part of the public. (The Comprehensive Plan also calls for streamlining of regulations for greater clarity.) Thus it was decided that those neighborhoods already designated LHD, or which are in the process of being designated such, be disqualified. In addition, it was felt that the purposes of these two types of designations were essentially different. Historic districts take into account historical significance as well as the architectural features of individual buildings within an area and consequently have greater discretionary review over development details. By contrast, the emphasis of NCDs is on neighborhood character and the shared features of buildings located there. NCDs need not be particularly historically significant. This distinction also helps avoid undermining public support for local historic districts and the generally stronger design review standards for architecturally significant properties.

D. Initiation and Processing of NCD Designation Requests

In direct response to the goals of Brookline's Comprehensive Plan, it was determined that the residents of any proposed NCD should be the initiators of the request. The percentages that would need to sign a petition to undertake a study of such designation—determination of whether the area would qualify and an analysis of its characteristics—was kept fairly low at 50% of residents and at least 30% of property owners. These figures could be adjusted upwards if it results in too many areas of the town being nominated and a consequent dramatic increase in

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workload. With only one full time and one part time employee assigned to the Preservation Commission, staff could quickly become overwhelmed and end up giving short shrift to their already established duties.

The purposes of the NCD Bylaw go beyond the traditional areas of concern for preservation commissions, hence the choice to charge both Brookline's Planning Board and Preservation Commission with responsibilities for processing these requests. Coordination and cooperation between town boards and agencies is an important recommendation coming out of the Comprehensive Planning process, and this seems a particularly appropriate situation to work out a partnership arrangement. The availability of planning staff to undertake notification responsibilities for public hearings also plays into the decision to spread the work out between the two groups.

The final step in the process is for an article establishing an individual NCD to be prepared and taken to Town Meeting by the Preservation Commission. If it is determined that sponsorship by the Planning Board would make more sense given Brookline's governmental structure, this should be changed to allow that board to take the lead. Notification responsibilities for those NCDs established at Town Meeting is assigned to the Planning and Community Development Department. Figure 1 on page 19 outlines the process of initiating and designating an NCD.

One other important provision in this bylaw is an automatic moratorium on the issuance of building permits for exterior alterations to buildings and landscape and on demolition permits. This is to protect the neighborhood from insensitive development from the time a group of neighbors submit a petition for NCD designation until it has been determined that either the area does not qualify or is in fact is designated, in which case the process for reviewing such permits is established. A fail-safe mechanism to this potentially controversial provision assigns an interim review process to the Preservation Commission whereby minor changes that are found to be in keeping with the neighborhood character could be excepted and allowed.

E. Review and Approval of Changes in the NCD

The draft NCD bylaw establishes a single separate review panel for NCDs, differentiating it from district commissions required under Chapter 40C and Brookline's Historic Preservation By-law. Consideration was given to having this panel made up of Town staff and to make it an administrative body, rather than one with discretionary review. However, as the concept evolved and the political bent of the community was taken into account it was determined that community representation was more appropriate. Because the bylaw addresses broader planning goals, such as the preservation of affordable housing, in addition to historic preservation issues, the panel includes representatives from the Preservation Commission, the Planning Board and NCD neighborhoods together with other members of the community who have appropriate backgrounds in architecture, urban design, landscape architecture and even housing. The minimum number of members is five, but the panel will expand as new NCDs are designated.

Figure 1. The Process of Establishing a Neighborhood Conservation District

STEP 1. Initiation of NCD

- Neighborhood Petition to Planning Board (50% of property owners & at least 30% owner occupants within the proposed district)

STEP 2. Determination of Eligibility

- Planning Board/planning staff determines if it meets criteria: size, configuration & zoning. If not process ends here.
- Preservation Commission determines whether the neighborhood is eligible for Local Historic District designation. If so, process ends here. If an NR district is involved, PC must state that NCD designation is preferable to LHD designation for process to continue.

STEP 3. Study & Report

- Preservation Commission Staff works with neighborhood residents to document physical characteristics of neighborhood, holds public meetings, develops preliminary design guidelines, reports back to both Preservation Commission & Planning Board, incorporates their comments and prepares bylaw establishing the NCD for next Town Meeting.

STEP 4. Public Hearing

- Planning Board holds public hearing on proposed NCD.

STEP 5. Official Designation

- NCD is established at Town Meeting.

STEP 6. Follow Up Procedures

- Official design guidelines are adopted by BPC; Board of Selectmen appoints NCD Review Panel.

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The name given to the official approval for changes within an NCD is termed a “Certificate of Compliance” or COC. This name describes accurately what it is— a statement that the proposed alterations are in compliance with the adopted guidelines for the district. This term will also serve to distinguish it from the Certificates of Appropriateness issued by LHC commissions.

The decisions of the NCD Review Panel, or of its delegate, are to be binding for all exterior alterations requiring building permits. Non-binding or advisory review is not provided for. Instead, flexibility in what is reviewed is to be addressed by the adopted design guidelines. One of the features of the draft bylaw is that it requires visible improvements undertaken by either private or public parties to be reviewed. Although likely to be controversial, public improvements in a neighborhood often have a substantial, sometimes even devastating, impact on neighborhood character. The ability for the neighborhood to shape such changes provides one incentive for residents to pursue NCD designation. Likewise, the combination and division of lots can set the stage for incompatible development and therefore these actions require the issuance of a COC under the bylaw as drafted.

F. NCD Design Standards and Guidelines

The draft bylaw states that the residents, both those who petitioned for NCD designation and those who did not, will have the opportunity to determine exactly which features of buildings contribute to the character of the neighborhood during the course of the neighborhood study. By this mandate, goals in the Comprehensive Plan for greater participation of town residents in development proposals will be met.

The neighborhood study also serves as the basis for a preliminary draft of design guidelines for the NCD. It requires considering neighborhood characteristics beyond the typical purview of preservation commission operations under Chapter 40C, to include aspects of the streetscape (the “Public Realm”), and the presence of affordable housing. Although these design guidelines are thus available for Town Meeting consideration, the final authority for adopting them is given to the Preservation Commission after the NCD has been designated.

As initially drafted, the standards included rather strict limitations on the size of additions, expressed primarily in floor area ratios and maximum building heights. This was in direct response to the issue of tear downs and mansionization, discussed in Chapter III. The final draft, which reflects the experience of writing sample guidelines for a Brookline neighborhood (see Chapter V.) shifts these types of limitations to the individual guidelines and standards that are developed for each individual NCD. It should be noted that there is no requirement for researching the historical significance of the area—although such background information if available often contributes to residents’ sense of pride and identity with their neighborhood.

G. Standard Sections

Each community has its own format for regulations and this draft bylaw generally follows Brookline’s. Administration of the bylaw is a standard section and generally follows the precedents established by the Town’s historic preservation bylaw, especially concerning issuance of building and demolition permits. Application requirements, time frames for review, the

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appeals process, and notification requirements are all stipulated in this section. A general provision states that the NCD Review Panel shall adopt rules governing its operations. Since Brookline is currently in the process of establishing operational rules and bylaws for all of its boards and commissions, it is expected that they would follow the Town's general format. The process for appeals of the NCD Review Panel's decisions follows that set forth in MGL Chapter 40C.

A section on enforcement and penalties includes a provision for withholding a building permit for two years should someone demolish a building illegally, which gives this bylaw the teeth it needs to be effective in dealing with tear downs. A final boilerplate section on severability is also included.

H. Companion Legislation

A companion amendment is provided that would reinforce the official assignment of administering this bylaw, and in particular assisting the NCD Review Panel, to the Planning & Community Development Department.

V. Example Design Guidelines for NCDs

One aspect of this study was to analyze two neighborhoods in depth to assess whether NCD designation would be appropriate for them and what the resulting design guidelines for each might look like. The process of constructing *example* design guidelines suggested ways the draft bylaw should be modified and therefore informed the latest draft of that document. If either of the selected study neighborhoods chooses to pursue an NCD designation, this process should begin anew with strong participation by residents.

A. The All-Gas Home Colony

The first neighborhood that was studied was the All-Gas Home Colony also known as the Chestnut Hill Golf Course Development. It is located in the west-central part of the city and bordered by Boylston Road. This is a distinctive development of 80 homes, of which 52 were built between 1935 and the beginning of World War II. For purposes of this study, a row of 15 houses along the northeast side of Reservoir Road, only a few of which predated the All-Gas Home Colony development, were also determined to be a part of this neighborhood, bringing the total number of homes to 95. Originally, the house designs were reviewed by the Chestnut Hill Community Development Corporation, which provided a high level of visual cohesiveness. There is a minimal amount of infill housing, and the neighborhood retains a high level of integrity with regard to its original plan and architecture. However, recent expansions to existing homes have signaled the vulnerability of this neighborhood to insensitive alterations that would affect its overall character.

The area borders the Chestnut Hill neighborhood, which is both a National Historic District and a Local Historic District, so the All-Gas Home Colony being designated an NCD could allow it to serve as a buffer for that district. The original subdivision is zoned S-15 Single Family, while

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the homes along the northeast side of Reservoir Rd. are in a S-7 Single Family zone. A comparison of present physical characteristics, such as front yard setbacks, with current zoning requirements highlighted areas where zoning regulations fall short of protecting neighborhood character. In addition, it reveals that either non-compliance with zoning standards or variances granted by the Board of Appeals have resulted in an incremental deviation from the typical home size for the neighborhood. For example, several additions to existing homes over the past 10 years have exceeded the floor area ration (FAR) limit of .25 for single family houses in the S-15 zone. Field examination and photo documentation allowed for visual analysis of neighborhood character for description in the Design Guidelines. Appendix I contains the example Design Guidelines for the All Gas Home Colony as well as the background analysis of the finished square footages of houses and lot sizes, with resulting floor area ratios.

B. The North Lawrence Neighborhood

The second neighborhood studied was the North Lawrence area, which contains Longwood and Sewall avenues between St. Paul Street on the west and Kent Street on the east. On the north the area is bounded by the rear lots of Beacon Street and it extends to Francis Street on the south. (See map on page 13.) This neighborhood began to be developed earlier than the All-Gas Home Colony—with numerous buildings dating to the late 1800s—and continued to evolve through the 1940s. This more incremental development resulted in variety of housing types, ranging from single family homes and attached rowhouses, to courtyard condominiums and three-and-a-half story walk-up apartments. The range of architectural styles, scale, and materials provides interest and a pleasing liveliness to the area, which appears to function as a cohesive neighborhood. However, such physical variety also raises the legitimate question as to whether this neighborhood comports with the intent of the NCD bylaw, or whether it might be better protected with a local historic district designation based on its architectural qualities. The latter could certainly take the historic development of the area into consideration and treat changes to the wide-ranging types of buildings on a case-by-case basis. Nonetheless, an example of possible design guidelines for the area has been developed with an attempt to illustrate how a more diverse neighborhood could be protected with the NCD mechanism. In particular, a height standard for an infill building that is flanked by buildings of disparate heights has been included to demonstrate the range of standards that should be considered in a study process. The example Design Guidelines for this the North Lawrence Neighborhood can be found in Appendix J.

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VI. Summary & Next Steps

The draft NCD bylaw is clearly in its preliminary stages of consideration by the Brookline community. Further discussion of this regulation should be enhanced by this study, with its research into NCDs in other communities, references to Brookline's Comprehensive Plan, and the discussion of the rationale for bylaw components. One remaining question is whether this bylaw would be a general or zoning bylaw.

As with all planning initiatives, involving residents, as well as members of the Preservation Commission and Planning Board, in the process of shaping and enacting a general NCD bylaw is highly recommended. Feedback from neighborhood activists may suggest positive refinements and additions. Presentations of the draft bylaw by the town's planning and preservation staff to neighborhood associations is one way of gauging public support for and interest in this new regulatory mechanism. Another effective citizen participation technique is a well-publicized "Open House." This would involve scheduling a day or two (or an afternoon and evening) when staff can be on hand to discuss the nuances of the bylaw with the interested public. Invitations should be sent out to all registered neighborhood associations as well. Different sections of the bylaw could be enlarged and displayed, and writing pads provided for comments by attendees.

Assuming the NCD bylaw is adopted, presentations to active neighborhood associations would be appropriate to increase awareness of the new tool for neighborhood conservation.

Appendix A

Annotated Bibliography

Annotated Bibliography

Duerkesen, Christopher J. and Matthew R. Goebel. Aesthetics, Community Character and the Law. Planning Advisory Service Report No. 489/490. American Planning Association and Scenic America, 1999. This planning report reviews the legal basis for design review of all types for a wide variety of resources. Chapter 2 (pp 9 – 36) includes design review within historic districts and outside of historic districts, including neighborhood conservation districts, which are viewed as “one alternative to more stringent historic district regulations.” This technique is determined to be an effective way to protect neighborhood character by allowing greater flexibility in application of design control, particularly for those districts that include buildings from more than one era.

General Laws of Massachusetts Chapter 40A Zoning. <http://www.mass.gov/legis/laws/mgl/gl-40a-toc.htm>. The general laws of Massachusetts provide the enabling legislation for municipal zoning powers in the state, which provide the basis for general land use regulation.

Kelly, Deborah Marquis and Jennifer Goodman. “Conservation Districts As An Alternative To Historic Districts” Historic Preservation Forum, National Trust for Historic Preservation, September/October 1993. A review of the Preservation Coalition of Greater Philadelphia’s research into Conservation Districts across the country and its resultant model developed for the city of Philadelphia. The article documents efforts starting in 1990 to identify the most productive method for protecting the traditional neighborhood fabric of the city in tandem with preserving affordable housing stock. The method proposed was an ordinance that placed administrative functions within two city departments, established a Neighborhood Conservation District Review Board, and excluded those districts that were eligible to become local historic districts. The Philadelphia Historical Commission was not to have jurisdiction over the program since it was to be a distinct program that would not compete or replace the established historic preservation program in the city. (The ordinance was not adopted until the summer of 2004; see matrix that provides a summary of the actual ordinance.)

“Preservation through Bylaws and Ordinances, Tools and Techniques for Preservation Used by Communities in Massachusetts.” Massachusetts Historical Commission, January 31, 2001.

Morris, Marya. Innovative Tools for Historic Preservation Planning Advisory Service Report No. 438/ Critical Issues. American Planning Association & National Trust for Historic Preservation, 1992. Chapter Two, “Conservation Districts” (pp 13-24), provides an overview of conservation districts used around the country, their various goals, methods of administration, and models. The discussion includes an analysis of where CDs are appropriately used and how they can be tailored to different cities’ situations.

Nasar, Jack L. and Peg Grannis. “Design Review Reviewed, Administrative versus Discretionary Methods” APA Journal, Vol. 65, No. 4. (American Planning Association, Autumn 1999). This was a two-part study to determine whether design review conducted by different processes—discretionary review versus administrative review—resulted in measurably different outcomes. One hundred and sixty-four projects were analyzed, 96 of which were reviewed and approved by

design review boards, the other 68 of which were approved by administrative building permit processes. The projects were paired between the two groups to closely match their type and scale for comparative purposes. The findings were that projects receiving discretionary review by a board or commission were no more compatible with their surroundings in the public mind than those receiving only administrative reviews. This article deserves thorough discussion with regard to how any proposed neighborhood conservation district is administered, since the models that have been reviewed as a part of this study differ greatly in their administration.

Nelessen, Anton Clarence, Visions for a New American Dream. Planners Press, American Planning Association, Chicago, IL, 1994. Nelessen discusses the process, principles, and provides an ordinance to plan and design small communities based on traditional communities in keeping with the goals of New Urbanism. In particular, the dimensional aspects of the public realm (i.e., streets sidewalks, street trees, and medians) are examined as ways to increase comfort for pedestrian and encourage healthy lifestyles. In addition Nelessen discusses the need for a mix of housing types, which is relevant to Brookline's situation.

Preservation Development, Inc. "Conservation District- Conservation Plan Workbook" (Excerpts, pp 11, 51, 85-87) Indianapolis Historic Preservation Commission and Metropolitan Development Commission. This brochure provides a step-by-step approach to the development of conservation districts, including how to establish a CD and prepare design review guidelines. Demolition guidelines for historic and conservation districts is included as an appendix.

Stipe, Robert E. "Conservation Areas: A New Approach to An Old Problem" Issues Paper: Conservation Districts. Local Preservation, National Park Service, 1993). Mr. Stipe advocates for conservation districts being kept free from regulatory mechanisms and be regarded as neighborhoods in need of special attention and treatment by the municipality in which they are found. He argues that historic districts provide sufficient and proper regulations for historic neighborhoods and that conservation areas (as distinct from zoning districts) can be a valuable planning tool that allows for more flexibility and general human values.

Zellie, Carole, "Conservation Areas: A New Approach to An Old Problem" Issues Paper: Conservation Districts. Local Preservation, National Park Service, 1993). Ms. Zellie reviewed neighborhood conservation districts as a regulatory mechanism for possible application in St. Paul, Minnesota. She considered St. Paul's established neighborhood district political framework that had been established for planning purposes and for sharing of fiscal resources. She found that those which have clear design guidelines to be more effective and proposed Nashville, Tennessee's as an appropriate model for St. Paul.

Web Sites - consulted for various neighborhood conservation ordinances & regulations (Please see Table "Neighborhood Conservation Districts and Related Regulations from Across the Country" which summarizes these regulations.)

Amesbury, MA

Zoning Ordinance: http://www.ci.amesbury.ma.us/NF1_113.pdf

Neighborhood Conservation Bylaw:

http://www.ci.amesbury.ma.us/home.nfs?a=amesbury&l=;PROCEDURES;PROCEDURE_ID='146'

Design Guidelines:

http://www.ci.amesbury.ma.us/home.nfs?a=amesbury&l=;PROCEDURES;PROCEDURE_ID='493'

Atlanta, GA

<http://www.atlantaga.gov/Government/Planning.aspx>

Bethlehem, PA

http://www.bethlehem-pa.gov/dept/planning_zoning_permits/historicdistricts.htm

<http://www.bethlehem-pa.gov/about/ordinance/articles/article1714.htm#05>

historic and conservation districts

Boise, ID

Excerpt from Boise Idaho Municipal Code:

http://www.cityofboise.org/city_clerk/citycode/1119.pdf

Cambridge, MA

Historic and Neighborhood Conservation Districts:

<http://www.cambridgema.gov/Historic/districts.html>

Brochure on NCDs:

http://www.cambridgema.gov/~Historic/ncd_brochure.pdf

Chapel Hill, NC

http://library8.municode.com/gateway.dll/NC/north%20carolina/9690?f=templates&fn=default.htm&nusername=19952&npassword=MCC&nac_credentialspresent=true&vid=default

Dallas, TX

http://www.dallascityhall.com/dallas/eng/html/long_range_planning.html

Dayton, OH

<http://www.cityofdayton.org/planning/>

<http://www.cityofdayton.org/planning/Documents/ZCR%20Text/150.355%20Urban%20Conservation.pdf>

Green Bay, WI

http://www.ci.green-bay.wi.us/geninfo/law_department/Code_Book/chp13.pdf

Historic Preservation Objectives and Policies – Green Bay Smart Growth 2022 (page 27-6):

http://www.ci.green-bay.wi.us/forms/27_chap_gbcomp.pdf

Greenville

<http://www.greengreenville.com/development/zoning/Neighborhood%20Conservation%20Overlay%20Districts.pdf>

Iowa City, IA

Code: <http://66.113.195.234/IA/Iowa%20City/index.htm>
<http://www.icgov.org/pcd/urbanplanning/historicpreservation/handbook/bgprocess.pdf>
<http://www.icgov.org/pcd/urbanplanning/historicpreservation/handbook/guidelines.pdf>
<http://www.icgov.org/pcd/urbanplanning/historicpreservation/handbook/architecturalp1.pdf>
<http://www.icgov.org/pcd/urbanplanning/historicpreservation/handbook/architecturalp2.pdf>
<http://www.icgov.org/pcd/urbanplanning/historicpreservation/handbook/appendices.pdf>

Jefferson Parish, LA

<http://www.jeffparish.net/index.cfm?DocID=12> with link to:
http://library7.municode.com/gateway.dll/LA/louisiana/2825?f=templates&fn=default.htm&npuersname=11048&nppassword=MCC&npac_credentialspresent=true&vid=default

Lake Forest, IL

<http://www.cityoflakeforest.com/cs/cdev/cs%5Fcd2i.htm>
<http://www.cityoflakeforest.com/pdf/cd/bsord.pdf>

Lexington, MA

excerpt from Zoning Code – Article IV § 135-18. Historic preservation incentives:
http://gcp.esub.net/cgi-bin/om_isapi.dll?clientID=87378&infobase=le1818.nfo&softpage=Browse_Frame_Pg42

Nashville, TN

<http://www.nashville.gov/mhc/mhzc1.htm>
<http://www.nashville.gov/mhc/mhzc3.htm>

Philadelphia, PA

<http://municipalcodes.lexisnexis.com/codes/philadelphia/>
provides link to: Title 14, CHAPTER 14-900. NEIGHBORHOOD CONSERVATION DISTRICTS[253.1]

Phoenix, AZ

<http://www.ci.phoenix.az.us/NBHDPGMS/histpres.html>

Portland, OR

<http://www.portlandonline.com/planning/index.cfm?c=29210>
<http://www.portlandonline.com/shared/cfm/image.cfm?id=53352>
<http://www.portlandonline.com/planning/index.cfm?c=36218>

Roanoke, VA

[http://www.roanokeva.gov/WebMgmt/ywbase61b.nsf/CurrentBaseLink/791B3BD89586CF4485256F71006B3A01/\\$File/3%20SpecRegs%20SCDZO.pdf](http://www.roanokeva.gov/WebMgmt/ywbase61b.nsf/CurrentBaseLink/791B3BD89586CF4485256F71006B3A01/$File/3%20SpecRegs%20SCDZO.pdf)

San Antonio, TX

<http://www.sanantonio.gov/planning/neighborhoods/north%20central/Appendix%20H.PDF>
http://www.sanantonio.gov/planning/neighborhoods/planning_services.asp

Santa Clara, CA

http://www.ci.santa-clara.ca.us/community/plans_ord_index.html

http://www.ci.santa-clara.ca.us/pdf/neighbor_consrv/NCD-DraftOrdinance.pdf

http://www.ci.santa-clara.ca.us/pdf/neighbor_consrv/NCD-DesignGuidelines.pdf

Wilmington, DE

<http://www.ci.wilmington.de.us/departments/planning.htm>

Appendix H

Draft NCD By-law for Brookline

DRAFT Neighborhood Conservation District By-law

ARTICLE 5.9 NEIGHBORHOOD CONSERVATION DISTRICTS

§ 5.9.1. Findings and Purpose.

- A. Brookline consists of distinctive neighborhoods with their own housing patterns reflective of the different historical periods during which they were developed.
- B. Many of these residential neighborhoods are easily recognizable by their cohesiveness, consistency of characteristics such as height, scale, setbacks, distinctive facades including cladding materials, porches and steps, masonry, stoops, cornices, door and window trim, , and/or streetscapes that, over the years, contributed to a neighborhood environment that brought neighbors together.
- C. Many of these residential neighborhoods, while generally worthy of conservation, do not have a preponderance of architecturally or historically significant buildings, or are not viewed as meeting the minimum standards required for designation as local historic districts, and therefore cannot obtain the protections such designation would provide.
- D. Over the years these distinct neighborhood environments have been subjected to economic and social forces that threaten the very fabric of each one.
- E. The public welfare of the town will be promoted by encouraging conservation, preservation, and revitalization of these distinctive residential neighborhoods and their unique environments.
- F. It is necessary to provide a reasonable degree of control over alterations and improvements to existing buildings and the design of new construction located in a designated Neighborhood Conservation District (NCD) to preserve the aesthetic fabric of these distinctive Brookline neighborhoods.
- G. There are circumstances where neighborhoods that are listed on the National Register of Historic Places, or which are eligible for designation as Local Historic Districts, may be better served by the broader planning considerations afforded by designation as an NCD.
- H. Under the M.G.L. Chapter 43B.13, relating to Home Rule procedures and the exercise of powers and functions by municipalities, the Town of Brookline has the right to protect its neighborhoods and to preserve their unique character for the benefit of the town and all its residents.
- I. The purpose of this Article is the strengthening of Brookline neighborhoods to enhance the town's attractiveness as a place to live, work and enjoy its cultural, social and historical opportunities and to foster pride and participation in one's neighborhood.
- J. The further purpose of this Article is to complement and supplement the vision, goals, and policies of the Brookline Comprehensive Plan, which supports the preservation of neighborhood character and a high quality of life while accommodating change.

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- K. This Article also seeks to establish the proper level of improvements to buildings within established neighborhoods in order to maintain a balance and diversity of housing types town wide that will serve the needs of all its residents.

§ 5.9.2 Definitions.

The following definitions shall apply to this Article:

- A. *Aggrieved Party*. An aggrieved party may be the applicant, an abutter, an abutter of an abutter, the Preservation Commission, or the Planning Board.
- B. *Alter or Alteration*. A change in the appearance or material of a building, structure or site, or any other change for which a permit is required under The Building Code, including demolition.
- C. *Building*. Any combination of materials having a roof and permanent foundation and forming a shelter for persons, animals, or property [objects].
- D. *BPC*. Brookline Preservation Commission.
- E. *Certificate of Hardship*. An official form stating that, due to special conditions affecting a building, structure or property within the NCD but not the NCD generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant; and stating that the NCD Review Board finds the alteration may be made without substantial detriment to the character of the NCD and without substantial derogation from the intent and purposes of this article.
- F. *Certificate of Non-Applicability*. An official form that states the application for proposed changes to a building, structure, or property within an NCD is not subject to review under this article.
- G. *COC*. A Certificate of Compliance as established under this article; a form which states that a proposed plan for improvements and/or changes to a building, structure or property within an NCD meets the design standards and guidelines adopted for that NCD and signed by the Chair of the NCD Review Board or other officially delegated person responsible for its issuance.
- H. *Construct or Construction*. The erection of a new building or structure.
- I. *Demolition*. The act of pulling down, destroying, removing or razing a building or structure or commencing the work of total or substantial destruction.
- J. *Design*. The deliberate arrangement of exterior features including mass, height, appearance and the texture, color, nature and composition of materials.
- K. *Design Guidelines*. The official set of standards and guidelines adopted by the Preservation Commission to guide the review of developments within a particular NCD, as amended from time to time.
- L. *Floor Area Ratio*. A ratio derived by dividing the total of the finished floor area of a building, including all floors above grade, by the area of the lot on which it is located.
- M. *Lot Coverage*. A percent figure that represents the total amount of area covered by all permanent buildings and structures on that lot, in relation to the total area of the lot.
- N. *Lot*. A buildable lot that is recorded with the County of Norfolk Registry of Deeds (see also §2.12-5).
- O. *NCD*. A Neighborhood Conservation District created under this Article.
- P. *Board*. The NCD Review Board
- Q. *Planning Board*. The Brookline Planning Board.
- R. *Preservation Commission*. The Brookline Preservation Commission (BPC).

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- S. *Public Works.* Any publicly funded and authorized permanent improvements by the Town of Brookline, including but not limited to street repair, construction of parking lots, park creation and/or improvements.
- T. *Structure.* A functional construction or object other than a building, including but not limited to street furniture, walls, fences, paving, bridges, curbing, and statues.

§ 5.9.3 Creation or Amendment of an NCD.

- A. Criteria for an NCD. All NCDs shall meet the following criteria:
 - (1) An NCD shall contain an area of at least one block face or eight (8) lots, whichever is less. The area of the NCD shall be one in which the lots and buildings are located within a contiguous area;
 - (2) An area in which at least seventy percent (70%) of the land is zoned for residential use or mixed use;
 - (3) The proposed NCD shall meet at least one of the following criteria, as determined by the Preservation Commission:
 - a. The area has distinctive building features, such as scale, size, type of construction, or distinctive building materials, that should be preserved;
 - b. The area has distinctive site planning features, such as lot platting, setbacks, street layout, alleys, or sidewalks;
 - c. The area has distinctive and/or complementary land use patterns, including mixed land uses, unique uses, or activities;
 - d. The area has special natural or streetscape characteristics, such as mature street trees, that should be preserved.
 - (4) No NCD may encompass or overlap a National Register District or an area which, in the opinion of the Preservation Commission, is eligible for such listing, unless the commission further determines that due to exceptional architectural or other physical circumstances of the district or due to protection offered by specifically drafted NCD guidelines for that district, which protection could not be offered by an LHD, an NCD with said guidelines would be preferable for that district. ”
- B. Initiation of NCD designation shall be by a petition containing the signatures of at least fifty percent (50%) of all property owners and at least thirty percent (30%) of all owners of owner-occupied housing units located within the proposed NCD, submitted to the Planning Board.
- C. The Planning Board, upon determining that the required criteria under §5.9.3A (1) and §5.9.3A (2) have been met, shall refer the matter to the Preservation Commission which shall:
 - (1) determine whether the proposed NCD meets one of the criteria specified in §5.9.3A(3);
 - (2) certify that the proposed NCD area is not disallowed under §5.9.3A(4);
 - (3) report its findings to the Planning Board for its review and comment; and
 - (4) if the proposed NCD meets the additional criteria of §5.9.3C (1) and (2), then the Preservation Commission shall authorize its staff to undertake a study of the area. In such study, staff shall work with the residents and the neighborhood association to document and illustrate in detail the character of the neighborhood; develop draft design standards and guidelines; and prepare an article to establish the NCD under §5.9.9 of this Article, including a map that clearly delineates the boundaries

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- of the NCD, all of which shall be subject to review and approval by the Preservation Commission.
- D. The neighborhood study required by §5.9.3 C (5), which provides the basis for the adopted design standards and guidelines, shall consider all of the following aspects of buildings within a neighborhood and discuss which are the most critical for conservation of its character:
- (1) massing, including heights to roof ridge, building widths, floor area ratios
 - (2) siting, including setbacks, lot coverage, paving
 - (3) building materials
 - (4) architectural features, including without limitation roof types, style, trim, fenestration patterns, and porches
 - (5) structures and landscaping within public rights-of-way, including street widths, sidewalks, curbing, street lighting and signs, utilities and equipment, street trees.
 - (6) presence of affordable housing.
- E. From the date an NCD petition is submitted to the Planning Board, there shall be established a moratorium on issuance of all building permits for new buildings, and for all exterior alterations and demolitions viewable from a public way. The Preservation Commission may make exemptions for projects affected by the moratorium if, upon reviewing the proposed work, the Commission finds that said work is consistent with the initial guidelines that the Commission has approved for the proposed NCD. In the event that no such initial Guidelines have been approved by the Commission for the proposed NCD, the Commission may use the guidelines then currently applicable to the town's MGL 40c LHDs. The moratorium shall expire when one of the following occurs:
- (1) the Planning Board or Community Development and Planning Department staff on its behalf finds that the petition does not meet the requirements of 5.9.3 A (1) and/or (2);
 - (2) the Preservation Commission determines the proposed area does not qualify for NCD designation under the provisions of 5.9.3 C; or
 - (3) one year has elapsed from the date a neighborhood study was authorized by the Preservation Commission under 5.9.3 C (5).
- F. The study and proposed by-law shall be submitted to the Planning Board for its review and comment and the Planning Board shall convene at least one public hearing in order to seek public comment on the proposed NCD by-law. Notification for such public hearing shall be posted fourteen days in advance in a prominent location in Town Hall and on the Town's official web page with mailed notification to all property owners and residents within the proposed NCD boundaries.
- G. Any NCD proposed in accordance with this by-law, together with its initial guidelines, the comments by the Planning Board, if any, and a map of the it's boundaries, shall be introduced at the next Town Meeting by the Preservation Commission.
- H. The Planning and Community Development Department shall file the NCD map along with the adopted design guidelines with the Town Clerk, provide the same to all town libraries, record a map depicting the boundaries of the NCD with the Norfolk County Register of Deeds, and send written notice to the owner of each property

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within the NCD and to any neighborhood association(s) serving the area. Such notice shall include the NCD map, shall describe the type of activities that are regulated under this the adopted design guidelines and the process to obtain approvals for such activities, and shall set forth a location at which interested parties may review or obtain copies of the design guidelines adopted for the NCD.

- I. The boundaries of an NCD may be amended under the same procedures governing the creation of an NCD.
- J. Any subsequent amendments of the adopted design guidelines for an established NCD shall be reviewed and approved only by the Preservation Commission, after holding a public hearing to receive comments from the Design Review Board, the neighborhood, and the Planning Board, if any, notice of which shall be posted on the Town's official web site and sent to all property owners and residents within the NCD fourteen (14) days prior to the scheduled hearing.

§ 5.9.4 NCD Review Board Established.

- A. In order to provide for the review of proposed changes within a designated NCD an NCD Review Board is hereby established.
- B. Responsibilities. The NCD Review Board shall have the responsibility of
 - (1) reviewing COC applications by private parties for consistency with design guidelines specific to the NCDs in which they are located, and established pursuant to §5.9.6;
 - (2) issuing COCs if it is found that the intent of the NCD's governing design guidelines have been met; the Board may attach conditions to the COC that are reasonably required to ensure that the purposes of this Article have been met;
 - (3) reviewing COC applications by the Department of Public Works and/or other official Town agency or board, concerning any public improvements, such as road widening, public signage, changes in street lighting, removal or addition of street trees, for consistency with design guidelines specific to the NCDs in which they are located, and established pursuant to §5.9.6; and
 - (4) advising the Planning Board concerning any planning projects, redevelopment proposals, special use permits, or other activity affecting an NCD.
- C. Membership. There shall be a minimum of five members of the Board, but shall expand in accordance with the number of designated NCDs. Members of the Board shall include:
 - (1) the Chair of the Planning Board or the Chair's designee from among the members of the Board;
 - (2) the Chair of the Preservation Commission or the Chair's designee from among the members of the Commission;
 - (3) two at-large members from the Town who have a demonstrated background, interest or education in the area of historic preservation, architecture, planning, housing, and/or landscape architecture appointed by the Board of Selectmen; and
 - (4) one resident for each designated NCD, appointed by the Board of Selectmen.
 - (5) a resident of each designated NCD also may be appointed by the Board of Selectmen as alternate members to the regular members who represent each NCD.

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- D. Terms of service. Initial appointments to the NCD Review Board shall be made in the following manner: One at-large member shall be appointed for a one (1) year term, a second at-large member shall be appointed for a two (2) year term and NCD representative(s) shall be appointed for three (3) year terms. Thereafter all appointments shall be for a term of three (3) years. Designees of the Planning Board and Preservation Commission chairs shall be for three (3) years. If a member fails to complete his term, the appointment of a replacement member shall be for the remainder of the original appointment. If the Chair of the Planning Board and the Chair of the Preservation Commission serve themselves, their terms shall not exceed their chairmanships.
- E. Organization. The NCD Review Board shall elect annually from among its members a chair and vice-chair. The Board shall make such rules and regulations, as it may deem advisable and necessary for the conduct of its affairs that are not inconsistent with the by-laws of the Town of Brookline.
- F. Delegation. The NCD Review Board may, by rule, delegate review of specific minor alterations and changes to a subcommittee and/or designated staff within the Community Development and Planning Department.
- G. Reports and records. The NCD Review Board shall make an annual report, containing a statement of its activities and decisions to the Town of Brookline Board of Selectmen, the Planning Board, and the Preservation Commission.

§ 5.9.5 Certificates of Compliance Required Within an NCD.

- A. No building permit for alterations, demolitions, moving of a building, or new construction on private property within an NCD that affects exterior features viewable from a public way shall be issued unless the NCD Review Board shall have first issued a Certificate of Compliance, a Certificate of Hardship or a Certificate of Non-Applicability with respect to such construction, alteration, demolition or movement.
- B. No redesign of streets or other public spaces shall be undertaken within an NCD without a COC. Repair and replacement with in-kind materials is not considered redesign.
- C. No subdivision or combination of lots for building purposes shall be reviewed or approved within an NCD without a COC.

§ 5.9.6 NCD Design Standards and Guidelines.

- A. To ensure the preservation of those characteristics of a neighborhood cited as the basis for designating an NCD, specific standards and guidelines particular to each NCD shall be adopted per 5.9.3G of this article. Such design guidelines may establish the acceptable size, massing, scale, lot coverage, floor area ratios, siting, architectural design features, height, roof, materials, finishes and fenestration for any new building, moved building, additions or use of a vacant property upon demolition of an existing building.

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- B. In order to maintain the continuity of streetscapes and built form within all NCDs, demolitions shall only be allowed when a replacement structure or other use of the property meets the intent of the adopted design guidelines and does not have a negative impact on the cohesiveness of the neighborhood.
- C. Exemptions to design guidelines and review. Paint colors shall not be subject to design review.

§ 5.9.7 Administration

- A. The Planning and Community Development Department shall be responsible for providing staffing adequate to administer this article.
- B. Application for a Certificate. Applications for COCs, Certificate of Non-Applicability or Certificate of Hardship shall be made to the Building Department and shall include the following information:
 - (1) a narrative describing the proposed work;
 - (2) photographs of existing conditions, including photos of all facades of a building and/or accessory structure that would be affected by the proposed changes and which can be viewed from a public way;
 - (3) plans and illustrations of the proposed work, drawn to scale;
 - (4) if for demolition, complete plans for post-demolition construction and use; and
 - (5) such other information as the NCD Review Board may reasonably require to determine compliance with the design guidelines adopted for the NCD.

A public hearing on an application may be waived by the Board if it determines that the change involved is so insubstantial in its effect on the NCD that it may be reviewed by the Board's staff without public hearing, provided, however, that prior to any such staff review, notice of the application and proposed review shall have been given to all Board members, abutters, and abutters of abutters, that ten days shall elapse after the mailing of such notice, and that there shall have been no objections from the noticed parties.

- C. Time Limits. If the NCD Review Board does not issue a COC or a written denial of an application for a COC within forty-five (45) days after it receives a complete application with all required information, the NCD Review Board shall be deemed to have granted the COC unless the applicant grants a time extension in writing.
- D. Any certificates issued under the provisions of this article shall be filed with the Town Clerk and the Building Department.
- E. Appeals. Any party aggrieved by a determination of the NCD Review Board, may, within twenty (20) days of the filing of the notice of such determination with the Town Clerk, appeal the decision in superior court.
- F. Fee Schedule. A filing fee shall be included with all applications for certificates. Said fees shall be set and may be amended from time to time, by the Board of Selectmen.

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§ 5.9.8 Enforcement and Penalties.

- A. Whenever any building is erected, altered, demolished, used or maintained in violation of this Article and the guidelines for its NCD the Building Department may serve a written notice of such violation upon the violator directing compliance within such reasonable period as the Department shall determine.
- B. After the expiration of the time for compliance as stated in the notice of violation, if the violation is not corrected and no appeal is pending, the Department, in addition to invoking any other sanction or remedial procedure may:
 - (1) itself or by contract correct the violation and/or order the termination of such maintenance or use, charge the cost thereof to the person responsible therefore, and with approval of the Law Department collect such cost by lien and/or otherwise as may be authorized by law;
 - (2) apply with the approval of Town Counsel to the Superior Court for relief by injunction or restraining order.
- C. In addition to any other sanction or remedial procedure provided, the penalty for violation of any provision of this Article is a fine not exceeding three hundred dollars (\$300) for each offense. Each day a violation continues shall be deemed a separate offense for which a separate penalty may be imposed.

§ 5.9.9 Neighborhood Conservation Districts Established

- A. [Name of District] is hereby established an NCD, the boundaries of which are as shown on the “[Name of District] Neighborhood Conservation Districts” map which accompanies and is hereby declared to be a part of this By-law and the initial guidelines for which, as may be subsequently amended from time to time, are incorporated herewith by reference.
- B. Other NCDs within the Town may be established from time to time in accordance with the procedures set forth herein, as amended from time to time.

§ 5.9.10 Severability

In case any section, paragraph or part of the By-law be for any reason declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.

COMPANION LEGISLATION

Amend Article 3, Community Development, and Planning to include a new section:
SECTION 3.12.12 Neighborhood Conservation Review Board

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The Department of Planning and Community Development shall provide the Neighborhood Conservation District Review Board, established under Article 5.9 in the By-Laws, with administrative and professional assistance with regard to the performance and discharge of its assigned duties.

Appendix I

Example Design Guidelines &
House and Lot Size Analysis of the
All-Gas Home Colony Neighborhood

Example NCD Design Guidelines for the All Gas Home Colony Brookline, Massachusetts

FEATURE / DESIGN STANDARDS	ILLUSTRATIONS	
<p>PUBLIC REALM</p> <p><u>Streets:</u> Maintain the streets as platted in a curvilinear fashion in this 1935 subdivision., with a paving width of 24.’ Bituminous material is the currently paving; any changes to this material should be consistent throughout the neighborhood. Curb and gutters are presently inconsistent—some are rolled black-top (and there are some small lengths of granite curbing. When streets are repaved, the Town shall install consistent curbing throughout.</p> <p><u>Sidewalks/Paths:</u> Gravel pathways in lieu of paved sidewalks is a unique characteristic of this neighborhood. Because they are benign in their impact on street trees, they should be maintained to their existing 3’ wide dimension along all lot lines with street frontages; restore overgrown pathways consistent with this standard.</p> <p><u>Street Trees:</u> Maintain mature street trees, which include significant Red oaks, and cherry trees, in accordance with Massachusetts General Laws, Chapter 87.</p> <p><u>Utilities:</u> Electrical services were buried at the outset of this development. No above ground utility lines are permitted.</p>		
	<p>Gravel walkways lend a unique character to this neighborhood.</p>	<p>Blacktopped streets lined with significant Red oaks, as here along Reservoir Road, as well as cherry</p>

Example NCD Design Guidelines for the All Gas Home Colony Brookline, Massachusetts

QUASI- PUBLIC SPACES

Front Yards: Front yard setbacks vary fairly substantially between different areas of the neighborhood. On the north side of Reservoir Rd., which was actually not a part of this subdivision but an older tract that now serves as the northern edge, the front yard setbacks are minimal—ranging from 20 to X'. The other lots however, generally adhere to a 35' setback.

This neighborhood has a variety of front yard treatments and edge definitions. Natural materials such as stone has been used for terraced front yards and retaining walls. Some properties feature open lawns, others have erected wood fences—rail, picket and privacy—which to date have generally been in keeping with the architectural character of the house to which they belong. There is at least one brick garden wall with a wooden gate.

The one characteristic these varied front yard treatments have is that they have used natural materials. To maintain this character, fence materials in front yards shall be limited to wood, either painted or unpainted and iron. Similarly, retaining walls should be constructed of wood, stone, brick or be faced with stone or brick. Concrete block retaining walls, vinyl and chain link fences within any portion of a front yard are prohibited.



Example NCD Design Guidelines for the All Gas Home Colony Brookline, Massachusetts

LOT SIZES, LOT COVERAGE AND BUILDING SITING

This planned neighborhood is zoned for single family residential use and has lots ranging in size from 3204 to 32629 square feet. Many of the lots over 20,000 sq. ft. are double fronted by Fairway Road and Boyston Street. Corner lots are also generally larger. The smallest lots lie on the north side of Reservoir Rd., as development here preceded the rest of the neighborhood.

To maintain the original scale and rhythm of the streetscape, lots shall not be combined to exceed 20,000 sq. ft. (1.33 times the median lot size found in the neighborhood).

Lot coverage has increased over time, resulting in a loss of the park-like setting in some sections of the neighborhood. Lot coverage for all structures shall be limited to 25%.

The siting of homes in this neighborhood has generally followed the pattern of the main, front facade of a house being roughly parallel to the road edge, except on corner lots where many of these homes have been sited so that their front facades are at 45-degree angles to the 2 streets that front the property. These face the center of the intersection. This pattern should be maintained.



Example NCD Design Guidelines for the All Gas Home Colony Brookline, Massachusetts

BUILDING SCALE & MASSING

The houses originally built in this subdivision were either one or two stories, with a 28' maximum height to the roof ridge. Lot coverage was minimal, providing ample open space to create a park-like setting.

The median size of houses in this neighborhood today is 2,620 square feet (including the largest due to expansions) and the median Floor Area Ratio (FAR) is .186 (See Appendix X)

To maintain the existing scale of the neighborhood and avoid visual discontinuity, new homes shall not exceed 3275 square feet (1.25% the median house size) nor exceed a Floor Area Ratio of .20.



This 1938 house is located in the center of the neighborhood. It encompasses 2,647 square feet of finished space (not including the basement) which is slightly higher than the median house area, has an FAR of .178, and epitomizes the scale, massing and siting typical of houses in this neighborhood.

ARCHITECTURAL STYLES

The neighborhood contains a mix of architectural styles popular at the time most of the houses were constructed— 1935 to 1950. Traditional revival styles are predominant, including Colonial Revival, French Chateau, Tudor Revival, Cape Cod, Federal. However, there are a few in a Modern and/or ranch styles. One pre-existing Greek Revival and one c. 1900 “Three-decker” are both located on the north side of Reservoir Rd. Several homes have had contemporary remodelings.

Because of this mix of architectural styles, no particular style shall be required.



Example NCD Design Guidelines for the All Gas Home Colony Brookline, Massachusetts

<p>CLADDING MATERIALS</p> <p>Brick, painted brick, stone, wood clapboard, and vertical wood siding are all materials used for exterior cladding in this neighborhood. A few houses have been resided with vinyl or metal siding. In the future, siding materials should be restricted to natural materials and cementitious clapboard or shingles which mimic the appearance of natural wood. Vinyl siding (except as an inkind replacement) metal cladding are prohibited.</p>	 <p>Red brick is typical.</p> <p>Wood clapboard is commonly used on Colonial Revival styles.</p> <p>Several homes have painted brick.</p>
<p>ROOFS</p> <p>Many of the original homes in the neighborhood retain their slate shingle roofs; the rest appear to have asphalt shingles. Slate roof should be maintained and repaired. Materials other than these two, such as tile or metal roofs, should be evaluated for their appropriateness in relation to neighboring house and to the architectural style of the house itself.</p> <p>When adding onto a dwelling, roofs should match or complement existing roof pitches.</p>	 <p>Asphalt shingles are original to later houses.</p> <p>Many of the older houses retain their slate roofs.</p>
<p>FRONT DOORS</p> <p>Front doors are a significant feature of most houses in this neighborhood. (Full front porches are not typical, though some homes have small entrance canopies.) Existing door surrounds and doors shall be maintained. Changes to front doors should reflect the original architectural style of the house.</p>	

Example NCD Design Guidelines for the All Gas Home Colony Brookline, Massachusetts

WINDOWS

Windows on most buildings are a focal point of the architectural expression of the buildings. Broken eave dormers are featured on a number of houses throughout the neighborhood. Many windows have been replaced, and generally carry out the architectural style—thus there are many multi-paned windows, often 6-over-1 sash, on the Colonial Revival style houses.

Replacement window shall match the appearance of original windows, and original window opening should not be enlarged or reduced. Owners are encouraged to retain, maintain and repaired original windows rather than replace them.



Broken eave dormers add architectural interest to otherwise simple houses.



Casement windows with panels below.



Bay window with 9-over-9 sashes.

ADDITIONS/EXPANSIONS

Many of the homes have been expanded over the years. Some with more sensitivity to the original architecture than others.

Along with the restrictions on additions under the general NCD standards, additions should aesthetically blend with the original architectural style of the building and should be stepped back from the front facade and distinguished from the mass of the original house.



A brick house on a corner lot has an addition that respects the massing of the original house and is angled to reflect the street alignment



A modest sized Cape received an appropriately scaled screen porch addition, set well back from the front facade. A rear shed roof dormer expands the 2nd floor space in an historically accurate manner.

Example NCD Design Guidelines for the All Gas Home Colony Brookline, Massachusetts

<p>REPLACEMENT HOMES</p> <p>To date the houses in this neighborhood have been expanded rather than replaced, some quite substantially. There have been several houses built on previously vacant or under utilized lots within the last decade or so. These also have been built at a much larger scale than the original homes in the neighborhood.</p>	
<p>MISCELLANEOUS DETAILS</p> <p>Architectural embellishments, whether aesthetic or practical, such as window blinds/shutters, window boxes, and awnings, are allowed. They should complement the architectural style of the house and not obscure significant details or ornamentation on the front facade.</p>	 <p>Window blinds that are sized and mounted correctly, as these are, enhance the architecture of the dwelling</p>

ALL GAS HOME COLONY			Lot Size	& FAR	Analysis		
Street #	Street Name	Lot Area (Sq. Ft.)	Total Finished Area	Floor Area Ratio (FAR)	Number of Stories	Year Blt.*	NOTES
Data from Town of Brookline Assessor's Records: "Property Characteristics Reports" 2004, 1997, 1993							
		Min. = 15000 SF		Max = 0.25			
171	Craft Rd	14958	2807	0.188	2	1930	
9	Denny Rd	23467	3919	0.167	2	1993	was empty lot owned by 19 Denny Rd.
19	Denny Rd	19965	3337	0.167	2	1920	
28	Denny Rd	17700	3578	0.202	2	1938	
29	Denny Rd	18686	4242	0.227	2.2	1938	
36	Denny Rd	19100	3258	0.171	2.55	1947	
39	Denny Rd	14873	2139	0.144	1.55	1947	
48	Denny Rd	15175	3459	0.228	2	1935	
59	Denny Rd	24096	3695	0.153	1.75	1948	
60	Denny Rd	18986	4724	0.249	2	1935	
76	Denny Rd	18459	2924	0.158	2	1942	
7	Fairway Rd	12163	2620	0.215	2	1930	
8	Fairway Rd	20234	3748	0.185	2	2003	Orig. House 1934 SF, 2-story, built 1930
14	Fairway Rd	15795	1700	0.108	2	1930	
21	Fairway Rd	12460	2353	0.189	1.75	1938	
24	Fairway Rd	13904	2937	0.211	2.4	1931	
32	Fairway Rd	14983	1958	0.131	2	1945	
33	Fairway Rd	15000	3037	0.202	2	1935	
42	Fairway Rd	17281	2202	0.127	2	1930	
52	Fairway Rd	20564	3968	0.193	2.85	1997	previously a tennis court
62	Fairway Rd	16766	3620	0.216	2	1932	
69	Fairway Rd	11171	2323	0.208	2	1935	
72	Fairway Rd	18667	1653	0.089	1.75	1950	
77	Fairway Rd	13994	2202	0.157	1.75	1938	
82	Fairway Rd	25675	1876	0.073	1.75	1939	
85	Fairway Rd	12466	3454	0.277	2	1939	1993 report listed 3646 Sq. Ft.

ALL GAS HOME COLONY			Lot Size	& FAR	Analysis		
Street #	Street Name	Lot Area (Sq. Ft.)	Total Finished Area	Floor Area Ratio (FAR)	Number of Stories	Year Blt.*	NOTES
92	Fairway Rd	16618	1472	0.089	1.75	1950	
100	Fairway Rd	21915	2544	0.116	1.75	1987	no house shown on 1986 map
110	Fairway Rd	21336	1998	0.094	1	1956	
120	Fairway Rd	20120	2550	0.127	1.75	1960	
130	Fairway Rd	18432	1961	0.106	1	1948	
135	Fairway Rd	16240	2009	0.124	1.55	1940	
140	Fairway Rd	18178	2349	0.129	2	1938	
143	Fairway Rd	14642	1939	0.132	1.55	1938	
150	Fairway Rd	17293	1892	0.109	1.55	1940	
151	Fairway Rd	16872	4988	0.296	2	1940	1994 Renovation; 2002 Addition/ Renovation (3rd fl. kitchen & bath)
160	Fairway Rd	16420	1587	0.097	1	1948	
170	Fairway Rd	17881	3084	0.172	2	1951	Remodeled in 1960?; 1981 Bldg Permits for upgrades
176	Fairway Rd	20480	2882	0.141	2	1952	
180	Fairway Rd	14857	2239	0.151	1	1960	
191	Fairway Rd	22350	2033	0.091	1	1950	
3	Hilltop Rd	14185	3285	0.232	2	1940	
11	Hilltop Rd	14806	2760	0.186	2	1937	
19	Hilltop Rd	13843	3456	0.250	2	1940	
20	Hilltop Rd	14929	2718	0.182	2	1925	
29	Hilltop Rd	13488	2942	0.218	2.2	1935	
30	Hilltop Rd	11695	2674	0.229	2	1938	
37	Hilltop Rd	13085	4042	0.309	2	1940	Remodeled 1998
42	Hilltop Rd	14872	2647	0.178	2.4	1938	
47	Hilltop Rd	15443	4042	0.262	2	1940	
53	Hilltop Rd	17904	3335	0.186	1.75	1940	
54	Hilltop Rd	16400	4559	0.278	2	1984	
59	Hilltop Rd	32629	3980	0.122	2	1936	
65	Hilltop Rd	16050	3367	0.210	2	1930	Bd of Appeals- 2nd story addition over garage
74	Hilltop Rd	13016	2944	0.226	2	1938	
75	Hilltop Rd	21559	2058	0.095	2	1940	
85	Hilltop Rd	19000	4740	0.249	2	1955	2nd floor added 2000
144	Reservoir Rd	10264	2306	0.225	2	1937	Bd of Appeals - convert 3-season porch to family room
154	Reservoir Rd	10479	2288	0.218	2	1935	
155	Reservoir Rd	21645	2882	0.133	2.4	1825	
160	Reservoir Rd	10500	2898	0.276	2	1936	
161	Reservoir Rd	7921	2227	0.281	2	1935	

ALL GAS HOME COLONY			Lot Size	& FAR	Analysis		
Street #	Street Name	Lot Area (Sq. Ft.)	Total Finished Area	Floor Area Ratio (FAR)	Number of Stories	Year Blt.*	NOTES
167	Reservoir Rd	8501	2039	0.240	2	1933	
170	Reservoir Rd	10500	2785	0.265	2	1935	Bd of Appeals - rear addition
171	Reservoir Rd	8185	2429	0.297	2	1927	
176	Reservoir Rd	10500	2540	0.242	2	1920	Bd of Appeals - additon
177	Reservoir Rd	11744	1908	0.162	2	1934	
183	Reservoir Rd	7985	2183	0.273	2	1930	
186	Reservoir Rd	10500	2483	0.236	2	1936	
187	Reservoir Rd	7491	1594	0.213	2	1924	
191	Reservoir Rd	7132	1973	0.277	2	1920	
192	Reservoir Rd	10500	1996	0.190	2	1950	Bd of Appeals - addition
197	Reservoir Rd	6773	1768	0.261	2	1930	
200	Reservoir Rd	10500	3086	0.294	2	1936	
201	Reservoir Rd	8114	1488	0.183	2	1930	
209	Reservoir Rd	7145	1944	0.272	2.2	1925	
210	Reservoir Rd	9932	2250	0.227	2	1935	
215	Reservoir Rd	3204	3444	1.075	3	1910	Three-Decker
218	Reservoir Rd	12568	1726	0.137	2	1950	
221	Reservoir Rd	7633	3316	0.434	2.4	1990	small house shown on 1986 map
225	Reservoir Rd	8100	1398	0.173	1	1950	
226	Reservoir Rd	16501	1902	0.115	1	1958	
234	Reservoir Rd	15514	2746	0.177	1.55	1957	
14	Valley Rd	21341	3240	0.152	2	1930	
22	Valley Rd	15086	2835	0.188	2	1935	
25	Valley Rd	15560	2449	0.157	2	1935	
34	Valley Rd	13998	2595	0.185	2	1935	
43	Valley Rd	20860	3789	0.182	2	1945	
44	Valley Rd	14489	2870	0.198	1.5	1938	
53	Valley Rd	16780	2600	0.155	2	1950	
59	Valley Rd	19120	2254	0.118	1	1953	
60	Valley Rd	16920	3697	0.218	2.55	1920	
						2620	sq. ft. = median house size (finished area per Assessor)
						15086	sq. ft. = median lot size
						0.174	= calculated FAR based on the above medians
						0.186	= actual median FAR

Appendix J

Example Design Guidelines for the North Lawrence Neighborhood

Brookline Neighborhood Conservation District Study

Example Design Guidelines for the North Lawrence Neighborhood

FEATURES / DESIGN STANDARDS	ILLUSTRATIONS
<p>THE PUBLIC REALM</p> <p>The scale of the public right-of-way and sidewalks throughout this area are urban in character. Parking is allowed on only one side of the roadway. Street lights are highway standards geared to vehicular traffic.</p> <p>The neighborhood could be appropriate for a Transit Oriented Development overlay due to its proximity to the T line running along Beacon Street. This would suggest the implementation of pedestrian improvements over time, including special sidewalk paving and the addition of smaller, pedestrian-scaled, light standards.</p> <p>Street trees in the densest sections of the neighborhood add needed foliage and shall be retained. Additional street trees should be planted where feasible.</p>	 <p>This photo of Sewall Avenue illustrates the urban character of much of this neighborhood. The ratio of building height to road width in most sections is approximately 1:1.6, a ratio found to be most comfortable to pedestrians. (See Appendix J.)</p>
<p>Neighborhood Character / Housing Types</p> <p>This neighborhood has evolved over time and contains a variety of housing types that create a pleasantly diverse setting. Lawrence School, with its institutional scale, serves as a center for the area. Zoning allows for single and multi-family dwellings. (T-5 one and two family and M-1.5, M-2.0, apartment house.)</p> <p>The diversity of this neighborhood is a feature that should be maintained. Larger apartment complexes provide a suitable transition between the mixed land uses of commercial and residential along Beacon Street and the area of detached single two-family homes further south. If additional density is desired and allowed, current buildings should be retained and added onto. Second structures for additional units may be considered in order to retain single family dwellings. Only when a single family dwelling is found to be out of character, in style, scale and period of construction, with its immediate neighbors shall demolition and redevelopment be allowed.</p>	 <p>The diversity of housing types is illustrated above. Clockwise from upper left: single family detached house on Longwood Ave., townhouses on Longwood, and an apartment building on Marshall Ave.</p>

Brookline Neighborhood Conservation District Study

Building Siting / Heights / Massing

Building setbacks throughout the area vary substantially by building type. Apartment buildings have smaller front and side yards than detached dwellings. This generally does not pose a problem since most streets have one type of building or another. Where there are different building types on one block, such as Sewall Ave., front yards to single family homes provide welcome spaciousness and foliage and some amount of percolation for storm water. Apartment courtyards similarly create needed breaks in the solid wall of buildings that define many of the streets and opportunity for green space. Additions and redeveloped properties shall incorporate landscaping and open space to the extent practicable.

Front facades parallel the street and front entrances primarily face the street. This pattern should be maintained.

Like setbacks, building heights vary by building type, but the single family homes are mostly large in scale and mass and are not unduly overshadowed by the three-story apartment buildings. Only one much more recent house on Francis St. appears to be out of scale with its surroundings.

Building heights for infill development or additions should not increase from the approximate 35' maximum height currently in place. For new construction located between buildings, the height should not exceed them, or where flanking buildings are of differing heights, the new building should not exceed their average heights. Conversely, a "build up line" (a minimum facade height) of two stories or 25 feet at the set-back or built-to line for redeveloped properties is required to maintain the scale of the street. (See Appendix K.)

Additions to buildings or secondary structures located in rear yards should be allowed rather than demolition and redevelopment; this will maintain the valuable green and open spaces along the street as well as the diversity of housing types.



The above plat map illustrates the variety of footprints and setbacks of buildings in this neighborhood. Below, courtyards provide needed green space.



Below is a row of single family homes on Sewall Ave. that are surrounded by apartment buildings, demonstrating the minimum height allowed for buildings.



Brookline Neighborhood Conservation District Study

<p>Architectural Styles</p> <p>Architectural styles reflect many stages of residential development in the neighborhood over an approximately 125-year period. This creates a diverse and interesting streetscape and gives individual buildings their identity. Most of the architecture is traditional in design, although some modern buildings are interspersed.</p> <p>No particular architectural style is required in this neighborhood.</p>	 <p>Both traditional and modern style apartments comfortably coexist in the neighborhood, due to their similar scale, materials, and massing.</p>
<p>Wall Materials</p> <p>Wall materials are virtually all natural. Wood shingles and clapboard, as well as brick and stone, are used for single family dwellings. Brick and stone, in a wide variety of colors and textures are used for apartment buildings. Only a few buildings in the neighborhood have been re-sided with vinyl.</p> <p>Additions and any infill or redevelopment shall be of natural materials that complement the building to which they are adjacent or applied.</p>	 <p>Fancy brickwork adds interest to flat walls. Stone Wood shingles are used extensively.</p>
<p>Architectural Features / Windows</p> <p>The number, size, type, and placement of windows on the principal facades of buildings in this neighborhood are as diverse as the architectural styles, building types, and wall materials. However, the characteristic they have in common is a high ratio of openings to solids on facades that face streets (often greater than 1:1). This provides a sense of engagement with the street that benefits both occupants and pedestrians.</p> <p>Changes in the sizes of original window openings are not permitted. Replacement windows shall match those original to the building or if the original style is unknown, shall be complementary to the architectural style of the building.</p> <p>New additions shall match the ratio of openings to solid wall of existing buildings to which they are appended. New infill construction shall likewise maintain a high ratio of openings to solid walls, taking their cue from neighboring buildings. Blank walls shall not be permitted.</p>	 <p>The ratio of openings to solids on this building approximates 1:1, not only providing air and light to the occupants but a sense of safety for pedestrians.</p>

Brookline Neighborhood Conservation District Study

Architectural Features / Doorways

Entranceways and doors are outstanding features on most of the large apartment buildings in the Sewall – Lawrence neighborhood and on many of the single family houses as well. Sidelights and transoms, along with windows in the doors themselves, add a welcoming feeling to even the grandest entrance.

Original doors and door surrounds shall be maintained. No infill of door openings is permitted. New construction shall incorporate similar openness and level of architectural detail in building entrances.



On the most massive buildings in the neighborhood, impressive entryways are an effective way of articulating a building facade.

Architectural Features / Porches & Balconies

Porches and balconies are quite common in the neighborhood and serve to encourage “eyes on the street” and consequent feeling of security for pedestrians.

Original balconies and porches shall be maintained. Screening in of porches is allowable so long as any the screen is located on the inside of such architectural features as columns and railings.

New construction should provide porches and balconies overlooking the public way wherever feasible.



The open porch, above, is well integrated with the overall architectural expression of the dwelling. The added porch canopy, below, and infilled doorway clashes with the original architectural style of the building.



Brookline Neighborhood Conservation District Study

Architectural Features / Basements and Foundations

Most of the buildings in this neighborhood have raised basements, in particular apartment buildings, which allows for windows and basement dwelling units. The height of such raised basements is typically three to four feet. When raised in this fashion, the finish of the foundation walls is highly visible and becomes a part of the main facades—which is appropriate for a pedestrian-oriented neighborhood like this one. Raised basements often have a water table or horizontal banding between the basement and first floor levels.

Renovations and new construction shall both provide highly finished foundations for buildings with raised basements. Raised basements to match adjacent building are encouraged for any new construction.



A traditional architectural style take advantage of a raised basement to create a base that contributes to the overall aesthetic of the building.

Appendix B

Table—Neighborhood Conservation Districts and
Related Regulations from Across the County

Appendix C
NCD Regulations &
Background Information from 20 communities

Appendix C-1
Amesbury, Massachusetts

Appendix C-2
Atlanta, Georgia

Appendix C-3
Bethlehem, Pennsylvania

Appendix C-4

Boise, Idaho

Appendix C-5
Cambridge, Massachusetts

Appendix C-6
Chapel Hill, North Carolina

Appendix C-7
Dallas, Texas

Appendix C-8
Dayton, Ohio

Appendix C-9
Iowa City, Iowa

Appendix C-10
Jefferson Parrish, Louisiana

Appendix C-II
Lake Forest, Illinois

Appendix C-12
Lexington, Massachusetts

Appendix C-13
Nashville, Tennessee

Appendix C-14
Omaha, Nebraska

Appendix C-15
Philadelphia, Pennsylvania

Appendix C-16

Phoenix, AZ

Appendix C-17
Portland, Oregon

Appendix C-18
Roanoke, Virginia

Appendix C-19
San Antonio, Texas

Appendix C-20
Santa Clara, California

Appendix C-21
Wilmington, Delaware

Appendix D

Issues for Discussion – Phase I Report

Appendix E

Publication by Indianapolis Historic Preservation Commission
“The Difference Between Districts”

Appendix F

Article “Design Review Reviewed, Administrative versus Discretionary Methods” by Jack L. Nasar and Peg Grannis

Appendix G

Article 13 prepared for the Spring 2005 Town Meeting