



ARTICLE 2

To see if the Town will vote to appropriate by transfer from available funds the sum of Four Hundred Forty-Three Thousand Five Hundred Dollars (\$443,500) to supplement the following fiscal year 2010 appropriations, or take any other action thereon:

Transfer			
From Account	Amount	To Account	Amount
Ambulance Receipts	\$41,500	Ambulance Services	\$41,500
Free Cash	\$100,000	Snow and Ice	\$100,000
Free Cash	\$75,000	DPW Salary – Overtime Snow and Ice	\$75,000
Ambulance Receipts	\$7,000	Collectors Expense	\$7,000
Ambulance Receipts	\$220,000	Municipal capital – Quint Fire Truck	\$220,000
Total	\$443,500	Total	\$443,500

(Board of Selectmen)

The Finance Commission, by unanimous vote of those present, recommends that the Town so vote.

By a unanimous vote the Finance Commission has recommended approval of the Fire Department's request to purchase a used Quint Style Fire Ladder Truck for a cost not to exceed \$220,000. Approximately \$20,000 of this amount will be spent on equipment to meet fire fighting and EMT requirements for this vehicle. This purchase will be added to Article 2 which is the FY10 supplemental spending article. The source of funding for the fire truck and equipment will be the Ambulance Receipts Account.

This ten year old piece of fire apparatus costs approximately one third the cost of a new piece of equipment and has an expected additional operational life span of ten to fifteen years. It was recently advertised for sale and identified by the Fire Chief as an unusually good choice for Westwood because its dimensions enable it to travel under the bridge on East Street near the Islington fire station. The Westwood Fire Department has had full access to all maintenance records, has inspected the vehicle and will have an independent third party evaluate it to ensure that it is in appropriate condition and meets Westwood's needs. Operationally, the vehicle will better allow the fire department to have appropriate equipment on scene for fire and medical responses. If upon completion of due diligence the fire department does not purchase the vehicle, the appropriated funds will be returned to the Ambulance Receipts Account.



ARTICLE 9

To see if the Town will vote (i) to approve an Economic Development Proposal (“Proposal”) submitted to the Town by Cabot, Cabot & Forbes (the “Developer”) in accordance with Sections 5 through 12 of Chapter 293 of the Acts of 2006, as amended (“I-Cubed”), consisting of roadway, utility and other public infrastructure improvements related to the construction of Westwood Station Boulevard and modifications to the intersection of Canton Street and University Avenue, as well as any other infrastructure that is related to the Proposal; (ii) to establish a Municipal Liquidity Reserve (as defined in I-Cubed) to hold funds received by the Town from the Developer to secure reimbursement to the Commonwealth of Massachusetts for debt service paid by the Commonwealth on bonds to be issued by the Massachusetts Development Finance Agency to provide funds for the Proposal, and (iii) to authorize the Board of Selectmen to approve and the Board of Selectmen and the Town Treasurer to enter into such agreements with the Developer, the Commonwealth and the Massachusetts Development Finance Agency as are necessary to implement the Economic Development Proposal as the Board of Selectmen, following consultation with the Westwood Finance Commission, determine to be in the best interests of the Town, provided that the Town’s obligation for local infrastructure development assistance under such Proposal shall not exceed six million dollars, or take any other action in relation thereto.

(Board of Selectmen)

The Finance Commission, by unanimous vote of those present, recommends that the Town so vote.

As in most other cities and towns across Massachusetts, Westwood’s municipal budget is strained by increasing costs and capital needs. These costs are only partially offset by property tax increases, which are capped at 2.5 percent by law. The Town relies, therefore, upon tax revenues from new growth to make up shortfalls so that we can adequately fund essential services such as the schools, libraries and the fire, police and public works departments. The area known as Westwood Station represents the single largest opportunity for tax revenue from new growth in Westwood. As discussed below, Town officials project that the first phase of Westwood Station development could result in net new revenues to the Town of approximately \$1.3 million.

To benefit from this potential new tax resource, the Commonwealth of Massachusetts, the Town and the owner of the property need to provide infrastructure that will enable growth. We have been advised by the owners of Westwood Station that highly creditworthy retail users, such as Wegman’s and Target, are prepared to commit to long-term leases at Westwood Station, increasing the value of that property and, thus, our new growth tax base. For Wegman’s, Target and the like to come to Westwood Station, however, we need a road system in the area that will appropriately handle traffic so that their stores can receive customers and delivery trucks from the neighboring highways.



Unfortunately, the work on the highway infrastructure feeding Westwood Station has been stalled in part due to the owner's inability to finance this necessary but expensive infrastructure. On January 19, 2010, however, the owner of the property and Town officials received welcome news: two state agencies announced their intention to provide from their own resources an estimated \$49.0 million to fund the construction of this infrastructure. The Mass. Department of Transportation, for example, agreed (subject to various conditions, including that construction begin in 2010) in this letter to fund projects that would make the Blue Hill Drive exit from 128 more appropriate for the kind of traffic Westwood Station will receive once it is operating at capacity. Additionally, the Mass. Department of Housing and Economic Development agreed to provide \$13.0 million of the projected \$19.0 million thought necessary to build Westwood Station Boulevard – a roadway entirely within the boundaries of Westwood – which is the critical internal spine to current and future phases of the project.

The two state agencies proposed that the additional \$6.0 million of funding for Westwood Station Boulevard come from a state financing program known as the Infrastructure Investment Initiative (“I-Cubed”). Through I-Cubed, construction companies receive funds from a bond offering issued by the Commonwealth. During the construction phase of the project, the debt service obligations (interest and principal amortization) are paid by the owner of the property directly. Once the project has reached agreed-upon occupancy thresholds, the debt service for the bonds is paid for by the new state tax revenues, largely sales taxes from merchandise sold on-site and payroll taxes from people employed at Westwood Station. Town officials and members of the FinCom have worked with the project's owners to understand the likely level of new state revenues once the project has met these occupancy thresholds. (The projections have also been made publicly available through the project owner's Economic Development Proposal, which is posted on the Town's website.) From our review of these projections, it appears that these state revenues will be sufficient to pay the debt service obligations on the I-Cubed bonds.

Importantly, this warrant article asks the Town not to approve I-Cubed in a final way, but rather to authorize the Selectmen to enter into a final agreement when all other necessary predicates have occurred, including the receipt by the Town of a letter from the Mass. Department of Administration & Finance and the Mass. Department of Revenue detailing their assessment of the projected new state tax revenues and agreeing to the methodology by which new state tax revenues are counted. The FinCom understands that neither the Commonwealth nor the Selectmen would proceed with the I-Cubed financing if these new state tax revenues are not projected by the Department of Revenue to exceed the debt financing costs.

If the I-Cubed bonds are approved by the Commonwealth and the Selectmen and are issued, the Town plays the role of a conditional guarantor of the bonds. As mentioned above, new state tax revenues are the primary source of payment for the debt servicing obligations. In the event that these are inadequate, the Commonwealth will have recourse to a Municipal Liquidity Reserve (“MLR”), which is an escrowed fund equal to two times the annual debt service obligation funded by the project owner (not the Town). In the unlikely event that these two sources are inadequate to fund the debt service obligations, the FinCom expects that the owner of the project will become directly responsible for the shortfall pursuant to an agreement with the Town and the Commonwealth or otherwise through Town tax levies. In the worst case scenario, the Town can become directly liable to pay the debt service if the new state tax revenues are so deficient that the MLR becomes depleted and the developer becomes insolvent or otherwise unable or unwilling to pay. In this case, the Town would fund debt service payments directly, but would get a statutory first lien (akin to a mortgage) on the project and the underlying land. This lien can be foreclosed upon by the Town if necessary, but we believe the project has so much value in excess of any possible Town lien that the project owners or their lender would take necessary measures to ensure this foreclosure does not occur.



In assessing this warrant article, the FinCom studied the economic benefits to the Town by applying the following formula:

***Net Incremental Tax Benefit – Incremental Municipal Costs –
{Magnitude of I – Cubed Expense x Probability of I – Cubed Expense}***

In consultation with the Town’s tax assessment consultant, we learned that the value of Phase I of the project is estimated to be between \$96.0 million and \$104.0 million. At the current business tax rate, this equates to approximately \$2.3 million in annual tax payments to the Town from the parcel. The Town estimates that it currently receives approximately \$490,000 in taxes from this parcel, yielding projected incremental property tax revenue to the Town of approximately \$1.8 million. (It is important to note that (i) this estimate makes certain assumptions about the tenancy of the project and (ii) the Town assessors have not yet participated in an official assessment). From this number, we deducted projected incremental municipal costs of approximately \$450,000, representing police and fire overtime, dispatch costs and DPW expenses, which numbers were developed by Town department heads. Finally, FinCom members deducted the expense of I-Cubed to the Town based on their own assessments of the probability that the Town could ever become liable for the debt service obligations. Ultimately, the FinCom concluded that the net benefits to the Town of the project from an economic perspective were clearly positive. We voted unanimously to support the warrant article before you.

Finally, the FinCom heard from residents at three formal hearings on the warrant. Generally, the comments were supportive of the measure. Where residents voiced opposition, it was principally due to the late introduction of these issues, land use concerns (which were more properly a subject for the Planning Board) and the general desire for the property owner to fund the infrastructure on its own. The FinCom understands these concerns. In particular, we would have preferred to have the Dept. of Administration & Finance and Dept. of Revenue preliminary approval letters before we reviewed the matter. Notwithstanding these concerns, we concluded that the opportunity to progress this important project now is too weighty to pass on.

The Westwood Station property is privately owned and will eventually be developed, but we are glad to see it developed pursuant to uniform and responsible design standards and not piecemeal. We hope that the other conditions necessary to start work on the project are pursued with alacrity so that the project can begin to provide the Town with increased tax revenues at the earliest possible date. The I-Cubed financing and the Commonwealth’s broader commitment to the highway infrastructure funding and the development of Westwood Station Boulevard not only gives new life to the stalled project, it accelerates the much needed and long awaited highway work in the University Avenue area. The FinCom encourages the Town to support this warrant article and we hope that the project will soon develop into the revenue generating platform we have long hoped it will become.



Finance Commission Comments on Articles 10, 11 and 12

Several years ago the Town established a zoning bylaw for a Mixed Use Overlay District (MUOD) in the area known as Westwood Station to enable development of comprehensive projects of appropriate scale that would 1) provide a desirable mix of residential and non-residential uses to serve Town and regional interests and generate new tax revenue, 2) encourage and facilitate use of nearby public transportation, and 3) promote creative, efficient solutions in developing complex sites (sometimes referred to as “smart growth”). The MUOD zoning bylaw was originally crafted with the understanding that the area would be developed by a single owner in a few large phases. This is no longer feasible given current economic conditions, so a new approach is necessary to enable the site to be developed in accordance with the original MUOD vision. The developer’s revised first phase development plan contemplates a smaller retail development totaling approximately 450,000 square feet, served by surface parking, in an area that had originally been permitted with a density of approximately 800,000 square feet, including two stories of retail space served by a two-level structured parking arrangement.

Articles 10, 11 and 12 amend the MUOD bylaw to facilitate financing and construction of this and future phases of the project by enabling development in smaller phases and with separate ownership entities, and by providing flexibility to the Planning Board.

Members of the Finance Commission have attended several Planning Board meetings and hearings to understand the necessity and likely impact of the changes, and the Finance Commission has heard from residents at three public meetings. In addition, we note that a majority of the Planning Board has voted in favor of all three articles (4 in favor and 1 opposed for Articles 10 and 11, and 3 in favor and 2 opposed for Article 12). The Planning Board is elected by the voters to study our land use issues in a comprehensive and consistent way, and the Finance Commission respects their expertise in matters of land use. The Finance Commission has concluded that the proposed amendments are necessary for the development to proceed, reasonable for a project of this scope, and preserve the Planning Board’s ability to protect the Town’s interests and ensure that the project is developed in accordance with the original vision of the MUOD bylaw. We have asked the Town to investigate and address a concern expressed at our public hearing regarding the proximity of Fast Order Food establishments to abutting residential neighborhoods; this may result in an amendment to Article 10, in which case the Finance Commission may make a further recommendation on one or more articles at Town Meeting.

Article 10 affects five areas of the MUOD zoning bylaw related to the Area Master Plan:

- 1. Phase Protection – this change clarifies that a violation by any phase or owner will not expose other phases or owners to penalties. The Finance Commission understands that the developer will be accountable to the Town for all matters regarding phase protection, which is to be memorialized in a revised development agreement.*
- 2. Sub-Area Master Plan Lot – this change would allow the designation of sub-area master plan lots as discreet components of a larger area master plan lot, in order to permit individual ownership, financing and phasing of portions of a project, while maintaining the overall appearance and function of a single cohesive development.*
- 3. Area-wide Compliance – this would allow various bylaw provisions such as those related to signage, parking, lot coverage, open space, vegetation and impervious surface requirements to be applied on an area-wide basis, rather than on a lot-by-lot basis, provided they are secured by a recorded*



easement, restriction or other appropriate instrument. The Finance Commission understands that the developer will be accountable to the Town for all matters regarding area-wide compliance, which is to be memorialized in a revised development agreement.

- 4. Parking – this would allow for non-structured parking to be installed between the streets and buildings in certain areas, and would establish that off-street parking requirements, once approved by the Planning Board, would be considered final and could not subsequently be increased unless there is a change in use or intensity.*
- 5. Uses – 1) because the land proposed for development under Phase 1 lies partially in MUOD 1 and partially in MUOD 2, the Fast Order Food section of the bylaw must be expanded to MUOD 1 to accommodate potential food service establishments. The current proposal includes food service establishments associated with Wegman's, Target, and possibly two restaurants. This change would also accommodate food service establishments to serve office buildings that may be developed in future phases. 2) in accordance with the reduced size of Phase 1, the Area Master Plan threshold for restaurants with entertainment would be reduced from 500,000 square feet to 300,000 square feet of Retail Sales and Services.*

***Article 11** allows for minor field changes and design modifications to a project after granting of an EIDR approval by the Planning Board. The common example given is a last minute change to a different variety of plant material than was approved by the Planning Board. Other examples might include reconfiguration or relocation of parking lot drainage structures to achieve approved levels of drainage; changes to the pattern of window mullions which do not change the overall character of a facade; the slight relocation of a storefront entrance to accommodate a tenant's revised floor plan; or the substitution of approved street light fixtures with fixtures of a somewhat different profile than those approved by the Planning Board. It is already common practice for the Planning Board to grant EIDR approval with conditions that certain features may be modified with the approval of the Town Engineer, Town Planner, Safety Officer or Fire Chief. This proposed amendment clarifies the Planning Board's authority to allow such administrative approvals by Town staff, while limiting the scope of modifications that can be so approved. This will avert delays in construction for inconsequential changes that would otherwise require Planning Board review and approval.*

***Article 12** allows the Planning Board to approve deviations from specific requirements of the MUOD section (9.6) of the zoning bylaw, which could not otherwise be permitted without the granting of variances from the Zoning Board of Appeals or Town Meeting approval of zoning changes. In order for this new discretion to be exercised, the Planning Board must first find that the request to modify satisfies the following conditions: 1) The use is otherwise permitted in the MUOD, 2) The modification is consistent with the intent of Section 9.6 and 3) The modification has a beneficial impact on an Area Master Plan or Sub-Area Master Plan. It should be noted that this does not allow any discretion to authorize an increase in height limitations.*

The intent of the Article is to provide some flexibility and discretion to the Planning Board to consider requests from the Developer of the Westwood Station project to deviate from MUOD zoning requirements, but only to the extent that such deviations would not have a material impact on the plan. In lieu of requiring the developer to seek a variance or waiting for the next Town Meeting to consider changes to bylaws, this discretionary authority would allow the Planning Board to consider non-conforming elements of the Developer's proposal for the Area or Sub-Area Master Plan in a timely manner which could help expedite the project's completion.



Discretionary authority in quantitative deviations is restricted to 10%. For example, Section 9.6.11.3 limits the first phase of development to no more than 25% of the gross floor area in the overall Area Master Plan. Under Article 12, the Planning Board could relax this standard to allow Phase 1 to contain up to 27.5% of the overall gross floor area. Similarly, the Planning Board could consider requests to increase or decrease requirements of parking, number of residential housing units, impervious surface amounts, etc., by no more than 10%.

Less clear is how or whether Article 12 might be applied to requests for deviations from the more qualitative requirements of the bylaw, and some Finance Commission members expressed reservations regarding the breadth of authority granted by this amendment. Clearly this amendment will extend more responsibility and demands on the Planning Board to thoroughly review and consider any requested deviations requests as part of the permitting process. However, the Finance Commission notes that other respected communities home to complex developments, including Newton and Cambridge, have provisions in their bylaws that provide this type of discretionary authority to their Planning Boards.

ARTICLE 10

To see if the Town will vote to amend Section 9.6 [Mixed Use Overlay District (MUOD)] to add to and revise certain provisions thereof as follows, or take any other action in relation thereto:

- 1) Amend Subsection 9.6.3 [Applicability] and add Subsection 9.6.3.1 and Subsection 9.6.3.2 to read as follows:

9.6.3 **Applicability.** Except as otherwise provided herein, the provisions of this Section shall apply to MUOD 1, MUOD 2 and MUOD 3.

9.6.3.1 **Area Master Plan.** A project in a MUOD may be authorized by special permit for an Area Master Plan encompassing any parcel or set of parcels held in common or separate ownership which have an aggregate land area of fifty (50) acres or more and are located in one or more MUODs. All parcels in the Area Master Plan shall be referred to collectively as a single “Area Master Plan Lot.” Any area within an Area Master Plan Lot, whether held in single or multiple ownership, may be designated as a “Sub-Area Master Plan Lot” by the Planning Board. If an application under MUOD provisions involves more than one ownership, each owner of land included in the Area Master Plan shall be a party to, or consent to, the application.

9.6.3.2 **Separation of Lots and Phases.** Notwithstanding any provision of this Bylaw or any permit issued hereunder to the contrary:

9.6.3.2.1 Any individual Area Master Plan or Sub-Area Master Plan may consist of one or more phases and/or one or more uses.



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- 9.6.3.2.2 Any violation of this Bylaw or any permit issued hereunder by an owner or occupant of a single lot or ownership unit or demised premises within an Area Master Plan Lot or a Sub-Area Master Plan Lot shall not constitute a violation by any other owner or occupant within the same or any other Area Master Plan Lot or Sub-Area Master Plan Lot.
- 9.6.3.2.3 The requirements of this Bylaw shall not be applied to the individual lots or ownership units comprising an Area Master Plan Lot or Sub-Area Master Plan Lot, but shall be applied as if the Area Master Plan Lot or Sub-Area Master Plan Lot, as applicable, were a single conforming lot whether or not the same is in single or multiple ownership.
- 9.6.3.2.4 Upon the issuance of an EIDR approval under this Bylaw for any phase of an Area Master Plan, such phase shall be deemed to be in compliance with the provisions of this Bylaw notwithstanding the status of any other phase in the Area Master Plan and/or any noncompliance of such other phase with the phasing plan, phasing requirements set forth herein or otherwise.
- 2) Amend Subsection 9.6.5 [Permitted Uses] so that Subsection 9.6.5.6 and Subsection 9.6.5.11 reads as follows:
- 9.6.5.6 Establishments selling fast order food;
- 9.6.5.11 Restaurant with Entertainment, provided that (a) the Restaurant with Entertainment is part of an Area Master Plan that includes at least 300,000 square feet of Retail Sales and Services uses in the aggregate; (b) the Entertainment is at all times subordinate and incidental to the Restaurant use; and (c) the Entertainment takes place while the Restaurant is offering meal service. For purposes of this Section, Entertainment shall be defined within the MUOD as the provision of live, recorded, or interactive music, comedy, vocals, drama or media or other entertainment licensed by the Town but shall not include Adult Use;
- 3) Amend Subsection 9.6.7 [Alternative Regulations], Subsection 9.6.9.2 [Water Resource Protection District] and Subsection 9.6.9.3 [Open Public Amenity Areas] so that Subsection 9.6.7.4, Subsection 9.6.9.2.4 and Subsection 9.6.9.3 read as follows:
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- 9.6.7.4 The maximum impervious surface requirements shall be met across the aggregate of: (a) all land within the Area Master Plan Lot, and (b) land outside the Area Master Plan Lot, but within an MUOD, that is subject to a recorded easement, restriction or covenant or other appropriate instrument, but do not have to be met on each individual lot.
- 9.6.9.2.4 For purposes of providing the minimum amount of vegetation area and the amount of impervious materials coverage in Section 9.3.7.3 the following shall apply: Vegetation may be provided within the area subject to an Area Master Plan Special Permit or application therefor and/or areas outside the Area Master Plan/Application, but within an MUOD, that are subject to a recorded easement, restriction or covenant or other appropriate instrument. If an Area Master Plan includes areas within both the MUOD and WRPOD, and if the impervious materials cover more than fifteen percent (15%) of the portion of such area within the WRPOD, then all storm drainage other than roadway runoff, and as allowed by the Department of Environmental Protection (DEP), parking lot runoff, shall be recharged within the area subject to the Area Master Plan and roadway and such parking lot runoff shall comply with the stormwater management standards adopted by the Massachusetts Department of Environmental Protection.
- 9.6.9.3 **Open Public Amenity Areas.** Not less than ten percent (10%) of the aggregate land area, exclusive of wetlands, contained within the Area Master Plan must be comprised of areas to which the public has at least visual access, including landscaped areas and such features as pedestrian walks, patios, landscaped plazas, and incidental structures to support them, but excluding auto traveled ways, driveways and parking surfaces. The foregoing requirement may be satisfied within the Area Master Plan Lot or outside the Area Master Plan Lot on land in an MUOD that is subject to a recorded easement, restriction or covenant or other appropriate instrument. An initial determination of whether a particular area or feature meets this requirement shall be made by the Planning Board in its decision on the Area Master Plan and a definitive decision shall be made pursuant to the review of individual projects within an Area Master Plan under Section 7.3, Environmental Impact and Design Review.
- 4) Amend Subsection 9.6.9.1 [Parking Requirements] and add a new Subsection 9.6.9.1.2 so that Subsection 9.6.9.1 and Subsection 9.6.9.1.2 read as follows, and renumber subsections as appropriate:
- 9.6.9.1 **Parking Requirements.** Requirements to assure parking adequacy are to be established in the Area Master Plan, which shall depart from the provisions of Section 6.1, Off-Street Parking in the following ways:
- 9.6.9.1.2 Parking requirements (actual or reserved) for any phase of an Area Master Plan, once approved by the Planning Board under EIDR, shall not be subject to modification; provided, however, additional parking spaces shall be required for
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a change in use or intensity that increases the parking requirements as set forth in Section 6.1.2.

- 5) Further amend Subsection 9.6.9.1 [Parking Requirements] so that Subsection 9.6.9.1.3, Subsection 9.6.9.1.4, and Subsection 9.6.9.1.5 read as follows:

9.6.9.1.3 There shall be no minimum parking setback requirements as required in Section 6.1.18 except at any boundary line at the perimeter of an Area Master Plan, other than where it abuts another Area Master Plan, unless such minimum parking setback requirement is waived by the Planning Board in its discretion.

9.6.9.1.4 Parking shall preferably be structured and shall not be primarily located so that it separates buildings from street sidewalks. Parking shall instead be primarily located below the building, to its rear, or to its side. The foregoing provisions shall not apply to (a) any portion of an Area Master Plan Lot that is located outside the 1,500-foot zone surrounding the main pedestrian entrance to the depot building at the Massachusetts Bay Transportation Authority's University Park/Route 128 Station (the "Station Zone"), or (b) any portion of an Area Master Plan where strict enforcement of such provisions would inhibit the purpose and intent of Section 9.6 as the Planning Board may determine in its discretion.

9.6.9.1.5 In an Area Master Plan, the requirements of Section 6.1.23 shall not apply.

- 6) Amend Subsection 9.6.9.4 [Sign Location] and Subsection 9.6.9.5 [Signs] so that the subsections read as follows:

9.6.9.4 **Sign Locations.** Signs may be set back less than the fifteen (15) feet from the street line. Signs or sign structures may project or extend over sidewalks, private ways or, with the approval of the Board of Selectmen, public ways.

9.6.9.5 **Signs.** Notwithstanding the requirements of Section 6.2 of this Bylaw, the Planning Board may through the Environmental Impact and Design Review process under Section 7.3 of this Bylaw approve the erection and maintenance of such signs that (a) are located within the boundaries of, or relate to, a project for which an MUOD Area Master Plan Special Permit has been issued under Section 9.6.4 of this Bylaw, and (b) comply with signage guidelines approved by the Planning Board in connection with the issuance of such Area Master Plan Special Permit and with the conditions of any consolidated special permit issued as part of such Area Master Plan Special Permit pursuant to Sections 9.6.4 and 6.2.17 of this Bylaw. The provisions of Section 6.2 of this Bylaw shall apply to signs erected and maintained other than in accordance with an Area Master Plan Special Permit that establishes sign guidelines. Off-Premises Signs shall be permitted within the Area Master Plan Lot or elsewhere in the MUOD provided an appropriate license, recorded easement or other appropriate arrangement is



implemented. In no event shall any off-premises sign exceed the maximum sign area applicable to an on-premises sign within the Area Master Plan Lot.

- 7) Amend Subsection 9.6.10 [Area Master Plan Requirements] to add the following sentence at the end of Subsection 9.6.10.8:

The owner of a lot within an Area Master Plan Lot shall be entitled to lawfully divide such lot, including without limitation plans approved pursuant to Massachusetts General Laws Chapter 41, Section 81P, without modifying the applicable Area Master Plan Special Permit, EIDR Approval or other approval under this Bylaw, consistent with the provisions of this Section 9.6. Lots within an Area Master Plan Lot or Sub-Area Master Plan Lot may be separated by a public or private way.

(Board of Selectmen/Planning Board)

The Finance Commission, by a vote of 13 in favor and 1 abstention, recommends that the Town so vote.

ARTICLE 11

To see if the Town will vote to amend Section 9.6 [Mixed Use Overlay District (MUOD)] to add to and revise certain provisions thereof as follows, or take any other action in relation thereto:

Amend Subsection 9.6.13.1 [Environmental Impact and Design Review], add a new Subsection 9.6.13.2, and renumber subsections as appropriate, so that the amended subsection reads as follows:

9.6.13.1 **Environmental Impact and Design Review.** Approval of an Area Master Plan does not substitute for the otherwise required review of individual buildings pursuant to Section 7.3, Environmental Impact and Design Review, except as expressly hereinafter provided. To the extent that a building's impacts, mitigation and features are approved as part of the Area Master Plan, such impacts, mitigation and features shall be reviewed for general consistency with the Area Master Plan Special Permit, subject to the provisions of Section 9.6.10.6. Consistency with the Area Master Plan Special Permit shall be a consideration in the Section 7.3 review of individual building applications. The following will require a special permit amendment to the Area Master Plan:

9.6.13.1.1 A proposed amount of development exceeding the amount authorized for that category of use cumulatively through that phase in the Area Master Plan;

9.6.13.1.2 An unmitigated increase beyond the explicit impact limitations established in the Area Master Plan;



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- 9.6.13.1.3 Failure to make provision for impact mitigations required in the Area Master Plan;
 - 9.6.13.1.4 Substantial departure from the configuration of building forms and access patterns indicated in the Area Master Plan; or
 - 9.6.13.1.5 Other departures whose impacts because of their scale, severity or kind would be of substantial public consequence.
- 9.6.13.2 The EIDR decision shall authorize administrative approval of minor plan modifications meeting the criteria set forth in the decision by the Town Planner, or other Town staff as designated in the decision, in which case no modification of the Area Master Plan Special Permit shall be required. A minor plan modification shall be limited to minor adjustments to any physical elements in an approved plan whereby there is no material increase in unmitigated impacts upon the community or the neighborhood. A plan modification, for purposes of this subsection, shall be deemed to be minor if the changes proposed:
- 9.6.13.2.1 Are materially consistent with the approved Area Master Plan Special Permit, Sub-Area Master Plan Special Permit or EIDR Approval from which the modification is requested;
 - 9.6.13.2.2 Involve no material increase in building size; or floor area, or material decrease in parking supply;
 - 9.6.13.2.3 Do not materially vary from the approved layout of buildings, parking facilities, streets and access drives, utilities, and other principal site elements;
 - 9.6.13.2.4 Do not materially change the design and operation of the stormwater system;
 - 9.6.13.2.5 Do not materially increase vehicle trips; and
 - 9.6.13.2.6 Do not result in any material decrease in the amount of approved landscaping, pedestrian area or open space.

(Board of Selectmen/Planning Board)

The Finance Commission, by unanimous vote of those present, recommends that the Town so vote.



ARTICLE 12

To see if the Town will vote to amend Section 9.6. [Mixed Use Overlay District] by adding and revising certain provisions thereof, or take any other action relative thereto:

- 1) Amend Subsection 9.6.13 by deleting the word “Conditions” from the title of Section 9.6.13 and replacing it with the new title “General Provisions.”
- 2) Amend Subsection 9.6.13 by adding the following new Subsection 9.6.13.7:

9.6.13.7 **Discretionary Authority.** In connection with the approval of an Area Master Plan Special Permit, a Sub-Area Master Plan Special Permit, or an EIDR Approval, the Planning Board in its discretion may modify the application of the requirements of Section 9.6 by up to ten percent (10%). In such cases the Planning Board must find that:

9.6.13.7.1 The use is otherwise permitted in the MUOD;

9.6.13.7.2 The modification is otherwise consistent with the intent of Section 9.6; and

9.6.13.7.3 The modification has a beneficial impact on the Area Master Plan or Sub-Area Master Plan.

No modification herein shall authorize an increase in the height limitations in the MUOD.

- 3) Amend Subsection 9.6.13 by renumbering existing Subsection 9.6.13.6, entitled “Appeal,” to be Section 9.6.14.

(Board of Selectmen/Planning Board)

The Finance Commission, by a vote of 12 in favor and 2 opposed, recommends that the Town so vote.

ARTICLE 19

To see if the Town will vote to approve certain amendments related to Special Residential Development, including the following:

- 1) Remove Section 8.5 [Major Residential Development] in its entirety, and renumber sections as appropriate.
 - 2) Amend Section 4.1 [Principal Uses], Sub-section 4.1.3 [Residential Uses] by deleting Sub-section 4.1.3.4 [Major Residential Development per Section 8.5] in its entirety, and renumber as appropriate.
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- 3) Amend Section 4.1 [Principal Uses], Sub-section 4.1.3 [Residential Uses] by changing the section reference number for Senior Residential Development from “8.6” to “8.5” in Sub-section 4.1.3.5, so that the amended Sub-section reads as follows:

4.1.3.5 Senior Residential Development per Section 8.5

- 4) Amend Section 4.1 [Principal Uses], Sub-section 4.1.3 [Residential Uses] by changing the section reference number for Residential Retirement Community from “8.7” to “8.6” in Sub-section 4.1.3.6, so that the amended Sub-section reads as follows:

4.1.3.6 Residential Retirement Community per Section 8.6

- 5) Amend Section 4.2 [Notes for Table of Principal Uses], note 9, by deleting the words “Section 8.5, Major Residential Development (MRD)”, and by changing the section reference number for Senior Residential Development from “8.6” to “8.5”, so that the amended note reads as follows:

⁹ The Planning Board shall be the Special Permit Granting Authority for an Earth Material Movement special permit application in connection with 1) the construction of streets and the installation of municipal services as shown on a subdivision plan; or 2) a plan submitted pursuant to Section 7.2, Major Business Development (MBD), Section 7.3, Environmental Impact Design Review (EIDR), Section 8.5, Senior Residential Development (SRD), or Section 9.5, Planned Development Area Overlay District (PDAOD).

- 6) Amend Section 6.1 [Off-Street Parking], Sub-section 6.1.3 [Residential Uses] by deleting Sub-section 6.1.3.4 [Major Residential Development per Section 8.5] in its entirety, and renumber as appropriate.

- 7) Amend Section 6.1 [Off-Street Parking], Sub-section 6.1.3 [Residential Uses] by changing the section reference number for Senior Residential Development from “8.6” to “8.5” in Sub-section 6.1.3.5, so that the amended Sub-section reads as follows:

6.1.3.5 Senior Residential Development per Section 8.5

- 8) Amend Section 6.1 [Off-Street Parking], Sub-section 6.1.3 [Residential Uses] changing the section reference number for Residential Retirement Community from “8.7” to “8.6” in Sub-section 6.1.3.6, so that the amended Sub-section reads as follows:

6.1.3.6 Residential Retirement Community per Section 8.6

- 9) Amend Section 7.1 [Earth Material Movement], Subsection 7.1.1 [Special Permit Required], by deleting the words “Section 8.5, Major Residential Development (MRD)”, and by changing the section reference number for Senior Residential Development from “8.6” to “8.5”, so that the amended sub-section reads as follows:
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7.1.1 **Special Permit Required.** No soil, loam, sand, gravel, topsoil, borrow, rock, sod peat, humus, clay, stone or other earth material shall be exported, imported and/or regraded on any premises within the Town unless such export, import and/or regrading will constitute an exempt operation as hereinafter provided or is done pursuant to a special permit therefor granted by the Board of Appeals. The Planning Board shall be the Special Permit Granting Authority for the export, import and/or regrading of earth material on any parcel of land in connection with 1) the construction of streets and the installation of municipal services as shown on a subdivision plan; or 2) a plan submitted pursuant to Section 7.2, Major Business Development (MBD), Section 7.3, Environmental Impact and Design Review (EIDR), Section 8.5, Senior Residential Development (SRD), or Section 9.5, Planned Development Area Overlay District (PDAOD).

10) Amend Section 9.6 [Mixed Use Overlay District], Subsection 9.6.4 [Special Permit Required], by deleting the words “Section 8.5, Major Residential Development (MRD)”, and by changing the section reference number for Residential Retirement Community from “8.7” to “8.6” and the section reference number for Senior Residential Development from “8.6” to “8.5”, so that the amended Sub-section reads as follows:

9.6.4 **Special Permit Required.** Development under MUOD provisions requires special permit approval of an Area Master Plan by the Planning Board in compliance with the provisions of this section. Application for any special permits which may otherwise be required pursuant to this Bylaw, except for the special permit required under Section 8.6, Residential Retirement Community and Section 9.3, Water Resource Protection Overlay District, may be consolidated into a MUOD Area Master Plan special permit application. Such consolidated special permit application may be acted upon by the Planning Board in accordance with the requirements of Section 9.6.12 by issuance of an Area Master Plan special permit, regardless of which board is designated as the Special Permit Granting Authority in the applicable sections of this Bylaw. Special permits pursuant to Section 5.5.6, Creation of Ways, Section 6.3.2 Buffer Areas in Nonresidential Districts, Section 6.5, Floor Area Ratio Limitation, Section 7.2, Major Business Development (MBD), and Section 8.5, Senior Residential Development (SRD) shall not be required for development under a MUOD Area Master Plan.

(Planning Board)

The Finance Commission, by unanimous vote of those present, recommends that the Town so vote.



After the Finance Commission voted its recommendation for Indefinite Postponement of Article 19 (please see pp. 46-47 of the Finance Commission 2010 Annual Report), the Planning Board requested that the Finance Commission consider a reduced article in its place. The reduced article deletes Section 8.3 (Major Residential Development), which has been invalidated by the court, and related references in other sections of the zoning bylaw. The Planning Board believes and the Finance Commission concurs that it would be in the Town's best interest to remove the invalidated Major Residential Development section from the Zoning Bylaw at this time.