

TOWN OF ARLINGTON

Zoning Board of Appeals

730 Massachusetts Avenue

Arlington, MA 02476

DECISION ON APPLICATION FOR COMPREHENSIVE PERMIT

G.L. c. 40B, §§ 20-23

APPLICANT: 1025 Mass Ave, LLC (“Applicant”)

PROPERTY: 1021 and 1025 Massachusetts Avenue, Arlington, MA (the “Property”)

ASSESSORS’ MAP: Assessors Parcel 055.0-0002-0019.0 and 055.0-0002-0020.0

DEVELOPMENT NAME: The Residences at Mill Brook

DATE: April __, 2023

I. PROCEDURAL HISTORY

1. An application for a Comprehensive Permit was received by the Town of Arlington Zoning Board of Appeals (“Board”) on or about September 20, 2022 (“Application”). The Application proposes the development of fifty (50) units of home ownership housing with associated parking in a single structure located at the Property (the “Project”).
2. The Board’s public hearing on the Application was duly opened on December __, 2022 (after the Applicant granted an extension of the thirty-day period to open the public hearing).
3. The Project is located on the Property, which is located at 1021-1025 Massachusetts Avenue, Arlington, Massachusetts. The Property is [adjacent to the Residence 6 \(R6\) Zoning District as is abutted by an apartment building, a two family, and a condominium development known as Mill Brook](#) located on approximately 1.08 acres of land.
4. The Property is located in the ~~Industrial~~ [Business 1 \(B1\) Zoning District and is adjacent to the Residence 6 \(R6\) Zoning District. Nearby-Abutting uses are an apartment building with 12 units, a two family building, and condominium](#)

DRAFT – DRAFT -- DRAFT

building with 98 units, and other nearby uses consist of commercial and office uses.

5. The Property consists of approximately 1.08 +/- acres. The Property currently contains two (2) existing structures on footprints comprising ~~11~~11% lot coverage of the Property. Additionally, the Property contains significant pavement, covering approximately ~~25~~25% of the Property, for a current total impervious area of ~~36~~36%. No stormwater management structures are present on the Property to attenuate runoff from the existing impervious area.
6. The Applicant provided various materials, reports, studies, and revised plans throughout the course of the public hearing on the Application.
7. The Applicant proposes the fifty (50) home ownership condominium units in a single structure, of which a minimum of twenty-five percent (25%) will be restricted as affordable units as determined by the Subsidizing Agency. The Applicant also proposes approximately ~~935~~1700 s.f. of ground-level commercial space.
8. During the public hearing, the Applicant was assisted primarily by its principal Matthew Maggiore, Jacquelyn Maggiore and ~~David Mann~~Paul Maggiore, of Maggiore Construction, its counsel Paul Feldman, Esq., of Davis Malm, its civil engineer Michael J. Novak, P.E., of Patriot Engineering, LLC, its architect Chris Mulhern, AIA, of Harrison Mulhern Architects, its environmental consultant Richard A. Kirby, of LEC Environmental Consultants, Inc., and its traffic engineer Shaun P. Kelly, of Vanasse & Associates, Inc.
9. The Board utilized the services of Sean Reardon, P.E., of BETA Group, Inc., and Cliff Boehmer of Davis Square Architects for design review. The Board also utilized the services of Town Counsel Douglas Heim, Esq., Planning Director Claire Ricker, and other town staff. The Board was also represented during the course of the hearing by Paul Haverty, Esq., of Blatman, Bobrowski, Haverty & Silverstein, LLC as its Chapter 40B technical consultant through a grant from the Massachusetts Housing Partnership.
10. During the public hearing, there was significant public input. The Board heard input from abutters and other interested persons throughout the hearing process. The Board also heard significant input from town departments, including the Conservation Commission, the Department of Planning and Community Development, and the Transportation Advisory Committee.

II. JURISDICTIONAL FINDINGS

DRAFT – DRAFT -- DRAFT

11. The Applicant has demonstrated its eligibility to submit an application for a Comprehensive Permit to the Board, and the development fulfills the minimum project eligibility requirements set forth in 760 CMR 56.04(1) as follows:
 - a. The Applicant is a limited liability company, and has indicated in its application that it will conform to the limited dividend requirements of G. L. 40B, §§ 20-23, thus establishing it is a limited dividend entity. The Applicant has a principal address of 13 Wheeling, Avenue, Woburn, MA 01801.
 - b. The Applicant has received a written determination of Project Eligibility from MassHousing dated August 19, 2022 under the New England Fund Program, a copy of which was provided to the Board with the original application.
 - c. The Applicant provided a copy of a Purchase and Sale Agreement between 1021 Massachusetts ~~Avenue~~Avenue, LLC and MAJ Investment, LLC (~~a related entity of 1025 Mass Ave, LLC~~that has been assigned to the Applicant) and a copy of a Purchase and Sale Agreement between Jonathan Nyberg and Sara Q. Dolan and MAJ Investment, LLC (that has been assigned to the Applicant). The Subsidizing Agency determined that the Applicant has site control to pursue a comprehensive permit a part of its Project Eligibility Letter. Pursuant to 760 CMR 56.04(6), this determination is conclusive as to the issue of site control.
 - d. The Applicant has agreed to execute a Regulatory Agreement that limits its ~~annual distributions~~return in accordance with G. L. c. 40B and the regulations (760 CMR 56.00 et seq.) and guidelines adopted thereunder by DHCD.
12. The Town of Arlington (“Town”) did not meet the statutory minima set forth in G. L. c. 40B, § 20 or 760 CMR 56.03(3) to 56.03(7) at the time the original application was filed.
 - a. At the time of the filing of the Application, the number of low or moderate income housing units in the Town constituted ~~—~~5.7% of the total year-round housing units in the Town, based on the most recent publicly available copy of the DHCD Subsidized Housing Inventory, dated December 21, 2020. Thus, the Town does not meet the ten percent (10%) statutory minimum.
 - b. In another pending comprehensive permit application, the Board has asserted a claim that there are existing affordable housing units that are on

DRAFT – DRAFT -- DRAFT

sites that comprise more than one and one half percent (1.5%) of the total land area of the Town that is zoned for residential, commercial or industrial use (excluding land owned by the United States, the Commonwealth of Massachusetts, or any political subdivision thereof). The Board timely asserted this claim pursuant to 760 CMR 56.03(8). The Applicant appealed this claim to the Department of Housing and Community Development, which issued a decision dated November 17, 2016, reversing the Board' Safe Harbor determination. The Board appealed this decision to the Housing Appeals Committee. On October 15, 2019, the Housing Appeals Committee upheld the decision of the Department of Housing and Community Development. The Board ultimately issued a decision approving a comprehensive permit for this development, which is currently under appeal. Without waiving its rights on the other pending application, the Board did not provide the Applicant ~~of~~ with written notice of this safe harbor pursuant to 760 CMR 56.03(8) on this application.

- c. The granting of this Comprehensive Permit will not result in the commencement of construction of low or moderate income housing units on a site comprising more than three tenths of one percent of land area in the Town or ten acres, whichever is larger, zoned for residential, commercial or industrial uses (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof) in any one calendar year.
- d. The Town has an approved Housing Production Plan pursuant to 760 CMR 56.03(4), but is not currently within (or eligible for) certification.
- e. The Town has not achieved recent progress toward its housing unit minimum pursuant to 760 CMR 56.03(5).
- f. The Project as originally submitted does not constitute a Large Project pursuant to 760 CMR 56.03(6).
- g. The Applicant's Comprehensive Permit Application does not constitute a Related Application pursuant to 760 CMR 56.03(7).

III. FACTUAL FINDINGS

Location of Project

13. The Project is located on a previously developed 1.08 acre parcel of land located at ~~1021-1025~~ 1021-1027 Massachusetts Avenue. A portion of the Property is

DRAFT – DRAFT -- DRAFT

located within the 200-foot riverfront area for Mill Brook. The Property is located within the ~~Industrial~~ (Business 1 (B1)) Zoning District.

14. In addition to being located next to various commercial uses, the Project also ~~abuts~~ directly abuts an apartment building with 12 units, a two family building, and condominium building with 98 units.

Wetlands

15. The Applicant proposes work within the outer two hundred foot (200') buffer to the riverfront area associated with Mill Brook. ~~This work includes riverfront area already consists of a degraded area of 2,517+/- square feet that is an existing paved parking area. The proposed work includes 4,619+/- square feet of disturbance to the riverfront area construction of portions of the proposed structure resulting in new degraded riverfront area of 2, the 102+/- square feet. The installation of a subsurface stormwater management infiltration system is also proposed in the riverfront area. Two areas of on-site mitigation are proposed to address the new disturbance to the riverfront area: (1) creation of a restored woodland area of 7,362+/- square feet and (2) creation of a meadow area of 4,119+/- square feet. The work will also include removal of trees, the installation of erosion controls, grading, and installation of a retaining wall, paths, a bench and fencing; the installation of a subsurface infiltration system and the creation of an urban park. The work within the outer two hundred foot (200') buffer zone to the riverfront will also include 2,514 square feet of existing paved parking area.~~
16. The Project also proposes ~~limited work~~ off-site enhancement within ~~the inner~~ one hundred foot (100') ~~buffer zone to of~~ Mill Brook, ~~including grading and erosion control~~ consisting of the removal of invasive plants and installation of new native plantings.
17. The Project will be required to obtain an Order of Conditions from the Arlington Conservation Commission pursuant to the Wetlands Protection Act.
18. ~~The Project proposed _____ square feet of~~ All work within the ~~AURA~~ Adjacent Upland Resource Area (AURA) is limited to ~~for the woodland restoration and replacement of an existing fence.~~
19. The Project is in compliance with Section 25D of the Arlington Regulations for Wetlands Protection because ~~the Project proposes mitigation to increase the pervious area within the 0'-25' AURA, which is considered an enhancement of the resource area~~ 0'-25' AURA is off-site and no additional pervious area will occur.

DRAFT – DRAFT -- DRAFT

20. The Applicant submitted an Impact Analysis on the Natural and Built Environment prepared by LEC Environmental Consultants, Inc.
21. The Applicant utilized NOAA 14+ data for the stormwater management calculations, consistent with current best practices.

The Transportation Network

22. Primary access to the Project will be from Massachusetts Avenue.
23. The Project will provide fifty (50) on-site parking spaces for the residential units and commercial space.
24. The Project will provide ~~—~~49 bicycle parking spots in the basement and 26 hanging bicycle racks in the garage.

Civil Engineering, Site Design, and Stormwater Impact

25. The Board engaged in review of potential civil engineering, site design, traffic, stormwater and floodplain impacts of the Project.
26. The Project will connect to the Arlington municipal water and sewer systems.
27. Approximately ~~—~~25% of the site is currently covered by impervious surface. The Project will ~~—~~increase the amount of the site covered by impervious surface to ____% of the Property. ~~The Board finds that reduction in the total amount of impervious surface is a benefit to the Property. Applicant proposes installation of a full stormwater mitigation system designed in full compliance with the Massachusetts Stormwater Regulations and based on with stormwater calculations using National Oceanic and Atmospheric Administration NOAA++ precipitation data. This system adequately and appropriately addresses the increase in the amount of impervious surface that is proposed.~~
28. Stormwater management has been designed to be in compliance with the Mass Stormwater management standards in accordance with 310 CMR 10.05(6)(k) through (q) and defined in detail in the MassDEP Stormwater Management Handbook. The system incorporates best management practices (BMP's) to facilitate total suspended solids (TSS) removal, infiltration and detention of stormwater flows.
29. The Project, as conditioned herein, will address the lack of affordable home ownership units in the Town.

DRAFT – DRAFT -- DRAFT

30. The Board finds that the conditions imposed in Section IV of this Decision are necessary in order to address Local Concerns. The Board finds that such conditions will not render the project uneconomic. To the extent that such conditions may render the project uneconomic (as defined in 760 CMR 56.02), the Board finds that the Local Concerns outweigh the potential benefits of the proposed affordable units.
31. The Board finds that granting certain waivers from local by-laws and regulations is acceptable even though granting waivers may have an adverse impact on Local Concerns.
32. The Board acknowledges concerns raised by abutters and other interested parties about the Project's potential incompatibility with nearby uses, ~~particularly relating to traffic and parking impacts~~. The Board has addressed these concerns by the imposition of appropriate conditions. The Board further finds that conditions detailed below appropriately address these matters of local concern in a manner that outweighs the regional need for affordable housing. The Board finds that the conditions imposed below address local and regional housing needs while properly protecting valid issues of local concern.
33. The Board finds that the construction of the Project, as conditioned, will be consistent with local needs.

IV. CONDITIONS

A. **General**

- A.1 The holder of this Comprehensive Permit is 1025 Mass Ave, LLC. The Property is defined as the property located at 1021 and 1025 Massachusetts Avenue, Arlington, Massachusetts, shown on a plan entitled "1021 and 1025 Massachusetts Avenue, Comprehensive Permit Plan Set, Located in Arlington, MA" dated September 19, 2022, with revisions through _____, prepared by Patriot Engineering. The Project is defined as all features shown on the plans listed below in Condition A.2 or as otherwise required by this Comprehensive Permit. The Project is intended to be declared as a condominium and therefore use of the term Applicant herein shall also include the Condominium Association for any conditions that are continuing obligations after the Project is constructed and the condominium created.
- A.2 Except as may be provided for in the following Conditions or in the Final Plans referenced below, the Project shall be constructed substantially in conformance with the plans and drawings listed below in this Condition A.2, which for

DRAFT – DRAFT -- DRAFT

purposes of this Comprehensive Permit shall be considered the Approved Plans for the Project (“Approved Plans”). Minor changes to the Approved Plans (e.g., changes that do not materially affect the location of, or increase the height or massing of the structures, or increase the number of units contained in the residential buildings) shall be submitted to the Director of Planning and Community Development who shall have the authority to approve such changes as immaterial changes. If the Director of Planning and Community Development determines that the proposed changes do not conform to the requirements of this Comprehensive Permit, they shall so notify the Applicant and the Applicant shall either bring the plans into conformance with this Decision or seek modification in accordance with 760 CMR 56.05(11). The Approved Plans consist of the following plan set from Patriot Engineering, Inc., and Harrison Mulhern Architects:

“1021 and 1025 Massachusetts Avenue, Comprehensive Permit Plan Set, (1021 Assessors Map 55, Lot 19) (1025 Assessors Map 55, Lot 20) Comprehensive Permit Plan Set, (To Accompany a Zoning Board of Appeals Application) Located in Arlington, MA dated September 19, 2022”, with revisions through _____, prepared by Patriot Engineering, and consisting of the following sheets:

Sheet 1	Cover Sheet
Sheet 2	Existing Conditions Plan
Sheet 3	Site Demolition Plan
Sheet 4	Site Grading and Utility Plan
Sheet 5	Site Utility Plan
Sheet 6	Site Details – I
Sheet 7	Site Details - II

“1021-1025 Massachusetts Avenue, Arlington, MA” dated September 19, 2022 prepared by Harrison Mulhern Architects, with revisions through _____, ~~2021~~ April 14, 2023, and consisting of the following sheets:

A 1.0	Basement Floor Plan
A 1.1	Ground Floor Plan
A 1.2	Second Floor Plan
A.1.3	Third Floor Plan
A 1.4	Fourth Floor Plan
A 1.5	Fifth Floor Plan
<u>A.1.6</u>	<u>Roof Plan</u>
A 2.1	Front Elevation/Rear Elevation
A 2.2	Right Elevation/Left Elevation
A 2.3	Section Elevation

DRAFT – DRAFT -- DRAFT

- A.7 Except as otherwise specifically provided herein, where this Decision provides for the submission of plans or other documents for approval by the Director of Planning and Community Development or other Town Departments, the Director of Planning and Community Development or applicable Department Head will use reasonable efforts to review and provide a written response within ~~forty-five~~ fifteen (45~~15~~) days following submission. ~~For submissions that require assistance from an outside consultant, as determined by the Director of Planning and Community Development or applicable Department Head, the thirty-day time period shall not begin until the consultant's fee has been fully funded by the Applicant. Should forty-five~~ Should fifteen (45~~15~~) days elapse without a response as aforesaid, said plans or documents shall be deemed approved.
- A.8 This Comprehensive Permit may be subsequently assigned or transferred pursuant to 760 CMR 56.05(12)(b). The pledging of the Property as security under any conventional loan financing terms as set forth in the financing entity's Loan Documents or any foreclosure sale pursuant to the same shall not constitute an assignment or transfer under this paragraph.
- A.9 The provisions of this Comprehensive Permit Decision and Conditions shall be binding upon the successors and assigns of the Applicant, and the obligations shall run with the land. In the event that the Applicant sells, transfers, or assigns its interest in the development, this Comprehensive Permit shall be binding upon the purchaser, transferee, or assignee and any successor purchasers, transferees or assignees. The applicable limited dividend restrictions shall apply to the owner of the project regardless of sale, transfer, or assignment of the project.
- A.10 The sidewalks, driveways, roads, utilities, drainage systems, and all other on-site infrastructure shown on the Approved Plans as serving the Project shall remain private in perpetuity, and the Town shall not have, now or in the future, any legal responsibility for the operation or maintenance of the infrastructure, including but not limited to snow removal, landscape maintenance, and hydrant maintenance. In this regard, the proposed site access ways within the Project shall not be dedicated to or accepted by the Town.
- A.11 Unless otherwise indicated herein, the Board may designate an agent to review and approve matters on the Board's behalf subsequent to this Decision.

B. Affordability

- B.1 Except as may otherwise be allowed by the Subsidizing Agency (MassHousing or other Subsidizing Agency), pursuant to the applicable subsidy program, a minimum of twenty-five percent (25%) or thirteen (13) of the home ownership shall be reserved for income-eligible households, meaning that they shall be sold to and occupied by households, as proposed by the Applicant, whose income (adjusted for household size) is not more than eighty percent (80%) of the Area Median Income (“AMI”), as determined by the United States Department of Housing and Urban Development (“HUD”) and the Subsidizing Agency (the “Affordable Units”). Affordable Units shall be dispersed throughout the Project in accordance with the guidelines of the Subsidizing Agency. The Board acknowledges that affordable unit location is an issue within the exclusive jurisdiction of the Subsidizing Agency.
- B.2 All of the Project’s Affordable Units shall be restricted for sale to households earning no more than the maximum allowable household income, adjusted for household size, as determined by MassHousing or any substitute Subsidizing Agency. The Affordable Units shall be maintained as affordable in perpetuity, which for the purposes of this Decision shall mean for so long as the Property does not comply with applicable zoning requirements without the benefit of this Comprehensive Permit.
- B.3 The Applicant shall obtain approval by the Subsidizing Agency of an Affirmative Fair Housing Marketing Plan (“AFHMP”) prior to the sale of any Affordable Units, and shall ensure that the Project complies with the Subsidizing Agency’s Fair Housing requirements.
- B.4 For the initial sale of the units in the Project, the maximum number of Affordable Units allowed by law that may be subject to a local preference is seventy percent (70%), if approved by the Subsidizing Agency. The Board chooses not to implement any local preference, recognizing the regional need for affordable housing is paramount.

C. Submission Requirements

- C.1 Prior to any construction or site development activities (including site clearing, tree removal, grading, etc.) on the Property, whether or not pursuant to a building permit (except as allowed by the Director of Planning and Community Development, as noted below), the Applicant shall:
- a. Deliver to the Board a check in a reasonable amount determined by the Director of Planning and Community Development to be used for staff to retain outside experts, only if necessary because town staff lacks the necessary expertise and state law does not require the building contractor

DRAFT – DRAFT -- DRAFT

to provide the inspection information, for and technical ~~reviews and inspections~~ review and inspection are required under these conditions but at inception shall not exceed \$6,500 unless an alternate amount has been agreed upon by the Board and the Applicant. Said funds shall be deposited by the Board in an account pursuant to G. L. c. 44, § 53G and shall only be used for technical reviews and inspections associated with this Project. Any unspent funds shall be returned to the Applicant with accrued interest at the completion of the project. If at any time the Board reasonably determines that there are insufficient funds to cover the costs of technical reviews, it shall inform the Applicant and the Applicant shall forthwith deliver additional funds as specified by the Board in a reasonable amount as may be determined by the Board. Said funds may be used by the Board to hire civil engineering, traffic engineering, and/or other professionals that the Board deems reasonably necessary to ensure compliance with the conditions hereof.

- b. Obtain and file a copy of a National Pollution Discharge Elimination System (NPDES) Permit from the U.S. Environmental Protection Agency (EPA), if necessary. The Board shall also be provided a copy of the Stormwater Pollution Prevention Plan (SWPPP) submitted along with ~~the~~ any NPDES filing.
- c. Submit to the Board for review and administrative approval Final Engineering Drawings and Plans (“Final Plans”), such approval to be that the plans conform to the requirements of this Comprehensive Permit and incorporate the relevant conditions herein. The Final Plans shall also incorporate all relevant conditions and requirements of permitting agencies having jurisdiction. Applicable sheets of the Final Plans shall be signed and sealed by the Professional Land Surveyor of record, the Professional (Civil) Engineer of record, and a Registered Landscape Architect. Final Architectural Plans shall be stamped by a Registered Architect. The Final Plans shall be submitted to the Board at least ~~forty-five (45)~~ thirty (30) days prior to the anticipated date of commencement of building construction or submission of an application for building permits, whichever is earlier (the “Final Site Plan Submission Date”).
- d. Submit to the Board for its administrative approval, a landscaping plan with the Final Plans, signed and sealed by a Registered Landscape Architect, depicting the following:
 - i. Overall planting plan that includes a demarcation of clearing and the limits of work;

DRAFT – DRAFT -- DRAFT

- ii. Planting plans for drives showing shade trees and lighting fixture locations;
- iii. Plans of walkways in open space and recreation areas, if any;
- iv. Prototype planting plans for each building;
- v. Prototype screening plans for dumpsters, depicting plantings and fencing;
- vi. Planting schedules listing the quantity, size, height, caliper, species, variety, and form of trees, shrubs, and groundcovers;
- vii. Tree protection and preservation plans
- vii. Construction fencing along abutting property lines; and
- ix. Construction details.

All plantings shall consist of native, non-invasive, drought-tolerant species. Plantings installed along drives and walkways shall also be salt-tolerant. Twelve (12) months after completion of plantings, the Applicant shall remove and replace any dead or diseased plantings and trees serving as screening. The Condominium documents shall address ongoing maintenance of landscaping features.

- e. ~~Submit to the Director of Planning and Community Development a construction mitigation plan including, but not limited to, dust control measures, fill delivery schedules, stockpiling areas, and like matters.~~
Other than site work and such other work as may be authorized in writing by the Director of Planning and Community Development, no other construction of units shall commence and no building permits shall be issued under this Comprehensive Permit until the Director of Planning and Community Development and other applicable staff has approved the Final Plans as being in conformance with this Decision. If no written response or comments have been given to the Applicant by the Building Commissioner and/or Director of Planning and Community Development concerning the Final Site Plans within forty-five (45) days after the Final Site Plan Submission Date, the Final Plans, as delivered, will be deemed to have been approved.

DRAFT – DRAFT -- DRAFT

- f. The Applicant shall include on the Final Plans all of the various changes that have occurred during the hearing process. These plans should reflect site plan changes including but not limited to surface parking, proposed grading, stormwater systems, garage elevation, and other relevant site features.
 - ~~g. The Final Plans shall show designated snow storage areas.~~
 - ~~g.~~ ~~h.~~ The Applicant must provide notification to the Arlington Assessor's Office for address and unit numbering.
- C.2 Prior to the issuance of any building permits, the Applicant shall:
- a. Record this Comprehensive Permit ~~and the Subdivision Plan~~ endorsed by the Board with the Middlesex South Registry of Deeds, at the Applicant's expense, and provide proof of such recording with the Board.
 - b. Submit to the Board and the Director of Planning and Community Development evidence of Final Approval from the Subsidizing Agency (MassHousing), as required by the Project Eligibility letter and the Chapter 40B regulations.
 - c. Submit to the Board a copy of the Regulatory Agreement and Monitoring Services Agreement for the Project. Execution and recording of such Regulatory Agreement with DHCD shall be complete prior to the issuance of any building permit. It is understood and agreed that Monitoring provisions may be included with the Regulatory Agreement, in lieu of a separate Monitoring Services Agreement.
 - d. Submit to the Building Commissioner final Architectural Plans prepared, signed and sealed by an architect with a valid registration in the Commonwealth of Massachusetts ("Architectural Plans"). The Architectural Plans shall be submitted in such form as the Building Commissioner may request pursuant to the State Building Code.
 - e. An automatic sprinkler system conforming with NFPA 13 and a fire alarm system conforming to NFPA 72 shall be required in all residential buildings. Both systems shall be monitored by a UL approved central station monitoring service.
 - f. Obtain and file with the Building Commissioner a copy of all required Federal, State, and local permits and approvals required to begin construction of the Project.

DRAFT – DRAFT -- DRAFT

- g. Obtain all necessary building, electrical, plumbing, and associated permits required to begin construction of the Project required by state law (it is understood that compliance with this requirement is part of the building permit process, rather than required prior to the issuance of building permits).

~~h. The Applicant will be responsible for all applicable sewer permit, capacity impacts and privilege fees, as applicable.~~

h. ~~i.~~ The Applicant will be responsible for all applicable water and sewer connection and system fees as per officially promulgated fee schedules uniformly applicable to all other Town of Arlington projects. There are currently no capacity impacts and privilege fees (sometimes referred to as I & I fees) required, and if later adopted, such fees shall not be applicable to this Project.

i. ~~j.~~ The Applicant shall perform additional test pits at the proposed stormwater basins to confirm groundwater elevations. These test pits shall be done during seasonal high groundwater conditions and shall be witnessed by the Town and/or its agent.

D. Construction Completion/Certificate of Occupancy

D.1 Prior to issuance of a certificate of occupancy for any structure in the Project, the Applicant shall:

- a. Submit engineer's interim certification of compliance with utilities plan and profiles for such Phase (as applicable) to the Building Commissioner.
- b. Provide a letter to the Board, signed by the Applicant's civil engineer, certifying that the structure and supporting infrastructure has been constructed in compliance with the Final Plans in all material respects.
- c. Obtain acceptance from the Arlington Fire Department of testing of all fire protection systems, fire alarm systems, fire sprinkler systems, and local smoke alarms within the dwelling units of the structure.
- d. Obtain a sewer connection sign-off from the Arlington Department of Public Works for the structure.

D.2 Prior to issuance of the certificate of occupancy for the Project, the Applicant shall:

DRAFT – DRAFT -- DRAFT

a. Submit to the Board, in digital file format and full-size paper copies, a final as-built plan including profiles, showing actual-in ground installation of all applicable utilities, rim and invert elevations, roadway, sidewalk and associated construction. The file format shall be in AutoCAD file delivery shall be in full model view and individual sheet views. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered in the Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet.

~~b. — The Applicant shall provide to the Board evidence of a property management plan (if property management will be done in-house), or shall provide a copy of a contract with a Management Company if property management will be conducted by a third party. The Applicant shall submit to the Board all information relating to the issues of building security, public access, pet policy, staffing, trash removal, and smoking policies, and other issues addressed in the conditions herein.~~

eb. Submit to the Board, for review by its Counsel, a copy of the Condominium Association Master Deed and Rules and Regulations. ~~At minimum, the Condominium Association Documents shall address issues relating to public access, snow removal, trash removal, and other issues addressed in the conditions herein.~~ to insure such documents contain a reference that the Condominium is subject to this Decision and, identify the following continuing conditions after the receipt of an occupancy permit:

- (i) Section I: 7,8,9,13,14 and 16
- (ii) Section I: 7,8,9,13,14 and 16

E. Project Design and Construction

E.1 Prior to the commencement of any work on the Property, the Applicant and the site general contractor shall attend a preconstruction conference with representatives from the Arlington Fire Department, the Department of Public Works (Arlington Water and Sewer Division and Engineering Division), Planning and Community Development and other Town staff and consultants as may be determined. ~~The Applicant and the site general contractor shall host a meeting open to all members of the public to review the construction schedule, hours, policies, procedures, and other neighborhood impacts at least fourteen (14) days prior to the start of construction.~~

DRAFT – DRAFT -- DRAFT

~~E.2 — Prior to the pre construction conference, the Applicant shall submit a Construction Management Plan (“CMP”) for administrative approval by the Board. The CMP shall provide documentation of various construction related activities, including:~~

- ~~1. — A Project Description and outline of primary construction tasks,~~
- ~~2. — A Project Schedule including hours of operation, duration of primary construction tasks and estimated completion date,~~
- ~~3. — Project logistics, including staging areas, truck routes, laydown areas, contractor parking, and construction traffic management,~~
- ~~4. — Site Management including noise mitigation, dust control and security,~~
- ~~5. — Public Safety and Coordination, including contact information and site inspections.~~

E.2 The construction management plan (“CMP”) attached hereto as Exhibit B has been reviewed and approved and construction of the Project shall be performed in compliance with the CMP.

~~E.2~~ E.2 Upon reasonable notice and subject to construction activity, the Applicant shall permit representatives of the Board to observe and inspect the Property and construction progress until such time as the Project has been completed and the final occupancy permit issued.

E.3 The proposed construction shall be in accordance with applicable Federal and State laws, rules and regulations.

E.4 All site retaining walls four (4) feet or greater in height shall be designed by a Massachusetts Professional Structural Engineer.

E.5 During construction, the Applicant shall conform to all local (except as waived herein), State, and Federal laws and provide advance notice to abutters per the Town’s Residential Construction Control Agreement regarding noise, vibration, dust, and blocking of Town roads in order to accommodate delivery of materials to the site or for other construction staging purposes. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Adequate provisions shall be made by the Applicant to control and minimize dust on the site during construction in accordance with the construction mitigation plan. The Applicant shall keep all portions of any public way used as access/egress to the Project free of soil, mud or debris deposited due to use by construction vehicles associated with the Project.

- E.6 Appropriate signage shall be shown on the Final Plans, consistent with the sign information shown on the Approved Plans. A temporary sign including the name and address of the project and contact information for the Applicant, general contractor, engineers, architect, and other relevant parties shall be posted on site for the duration of construction operations.
- E.7 The location of all utilities, including but not limited to electric, telephone, and cable, shall be shown on the Final Plans. All transformers and other electric and telecommunication system components shall be included on the Final Plans.
- E.8 The Applicant shall use electric heat and hot water for the Project, if reasonably available at the time of the submission of Final Plans.
- E.9 The Applicant shall install lighting on the site that conforms to the Town of Arlington's Zoning Bylaw and Town Bylaw. Lighting shall be down-lit/shielded to prevent light spillover onto surrounding properties and comply with dark sky requirements. Management of outdoor lighting shall be the responsibility of the Applicant.
- E.10 Utilities, including but not limited to telephone, electric, and cable, shall be located underground. The general contractor shall be responsible for coordinating all subsurface work with Dig Safe prior to the commencement of any excavation.
- E.11 Soil material used as backfill for pipes, access drives, or structures shall be certified by the Geotechnical Engineer to the Building Commissioner as meeting design specifications, as applicable.
- E.12 The Applicant shall test the soil during construction to confirm soil types in the areas of the infiltration system. Such testing shall be witnessed by the Board's designee. All unsuitable material, if any, discovered in excavation for the infiltration system shall be removed and disposed of in accordance with State and local regulations.

- E.13 Construction activities shall be conducted between the hours of ~~8:00~~-7:00 a.m. and 6:00 p.m., Monday through Friday and between the hours of ~~9:00~~-8:00 a.m. and 5:00 p.m. on Saturdays, Sundays, or legal holidays. For purposes of this condition, construction activities shall be defined as: start-up of equipment or machinery, delivery of building materials and supplies; delivery or removal of equipment or machinery; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; removal of stumps and debris; loading of construction dumpsters and erection of new structures. All off-site utility work shall be coordinated and approved by the Building Department and shall not be subject to the timing restrictions set forth above. Parking of all vehicles and equipment must be on the Property during construction.
- E.14 Burning or burial of construction or demolition debris on the site is strictly prohibited. All such materials are to be removed from the site in accordance with applicable law. During construction, the site shall be secured against unauthorized entry or vandalism by fencing, or other appropriate means, and all construction materials shall be stored or stockpiled in a safe manner. Any floodlights used during the construction period shall be located and directed so as to prevent spillover or illumination onto adjacent properties. All construction activities are to be conducted in a workmanlike manner.
- E.15 No building areas shall be left in an open, unstabilized condition longer than sixty (60) days. Temporary stabilization shall be accomplished by hay bales, hay coverings or matting. Final stabilization shall be accomplished by loaming and seeding exposed areas.
- E.16 All dumpsters serving the Project shall be enclosed and covered (with the exception of construction dumpsters used during construction). The Board shall review the dumpster location as part of the approval of the Final Plans if different from what has been shown on the Approved Plans.
- E.17 All retaining walls visible from a public way or direct abutters, as determined by the Building Commissioner based upon the time of year when such walls would be most visible, shall be constructed in an aesthetic manner. Specifically, retaining walls shall avoid the use of exposed concrete [similar to a foundation wall](#) to the greatest extent practicable.
- E.18 Snow shall be stored within the areas of the Property designated on the Approved Plans. To the extent snowfall exceeds the capacity of the designated snow storage areas, the Applicant shall truck the excess snow off-site. Snow may not be placed in or adjacent to resource areas.

- E.19 The Applicant shall comply with all applicable local, state and federal requirements relating to noise from construction activities, including the regulations contained at 310 CMR 7.10 and the DEP's Noise Policy contained in DAQC Policy 90-001 as well as the Arlington Noise Abatement Bylaw contained at Title V, Section 12. The Applicant shall also implement all necessary controls to ensure that vibration from construction activities does not constitute a nuisance or hazard beyond the Property. Upon notification from appropriate municipal officials, the Applicant shall cease all construction activities creating noise in excess of state and federal standards, and shall implement such mitigation measures as is necessary to ensure the construction activity will comply with applicable State and Federal requirements.
- E.20 The Applicant is responsible for the sweeping, removal of snow and sanding of the internal roadways and driveways providing access to both the residents of the Project and emergency vehicles. Neither snow nor sand may be placed in or adjacent to resource areas.
- E.21 The Applicant shall maintain all portions of any public road, whether state or local roads, used for access to the Property by construction vehicles, free from soil, mud or debris deposited due to such use during the duration of construction.
- E.22 The Applicant shall comply with DPW requirements regarding curb-cut permits.
- E.23 ~~To the extent~~ If other than routine earth removal associated with construction of footings and foundation walls and excavation for the basement area, is necessary, the Applicant shall prepare an earth removal plan, showing all necessary cuts and fills, and describing the number of truck trips necessary for the earth removal.
- E. 24 All catch-basins that will receive runoff from vehicles shall have oil/water separators as shown on the Approved Plans.
- E. 25 Project sidewalks and pathways/walkways shall be compliant with the requirements of the Americans with Disabilities Act ("ADA") and the requirements of the Massachusetts Architectural Access Board ("AAB").
- E. 27 This Comprehensive Permit shall be a master permit which is issued in lieu of all other local permits or approvals that would otherwise be required, except for the issuance of Building Permits and Certificates of Occupancy by the Building Department under the State Building Code; provided, however, the Applicant shall pay all local fees for such permits or approvals as published in the Town regulations or bylaws, including but not limited to building permits, inspections, water and sewer connections, and curb cuts.

DRAFT – DRAFT -- DRAFT

E.28

F. Traffic/Traffic Safety Conditions / Sidewalks

- F.1 Site access will be provided via Massachusetts Avenue.
- F.2 The Applicant shall install all proposed traffic signs and pavement markings shown on the approved final plans. Signs and markings shall conform to the Manual on Uniform Traffic Control Devices (MUTCD), latest edition and other applicable state or local requirements.
- F.3 The proposed site provides fifty ~~(50)~~ one (51) parking spaces in a ~~combination of structured-garage-spaces and surface parking spaces~~. No changes to the number, configuration or designation of parking spaces shown on the final approved plans shall be made unless approved by the Board through a modification process.
- F.4 The Applicant shall ensure that emergency ~~vehicles~~ personnel can adequately maneuver through the site. The Arlington Fire Department shall review the Final Plans to ensure compliance with this condition.
- F.5 The Applicant shall provide ~~75~~ 75 long-term bicycle parking spaces that are covered and secure.
- F.6 The Applicant shall provide ~~5~~ 5 outdoor short-term bicycle parking spaces. These spaces shall be near a location of public building access, such as the courtyard area.
- F.7 The Applicant shall provide new residents with transportation information packets with information on getting around Arlington sustainably.
- F.8 The Applicant shall provide electric vehicle charging stations at 5% of the parking spaces in the garage. The Applicant shall provide for the expansion of the number of charging stations in accordance with tenant demand.

G. Police, Fire, and Emergency Medical Conditions

- G.1 The Condominium Association shall provide ~~professional property management and maintenance personnel on the premises during typical business hours and an~~ emergency contact name and number for representative of the unit owners ~~and to~~ the Arlington Police Department and Fire Department.
- G.2 Stairwells and garages must be two-hour fire rated. Residential units must be one-hour fire rated.

DRAFT – DRAFT -- DRAFT

- G.3 The residential structure shall be fully sprinklered to NFPA regulations.
- G.4 Compliance with all State Building Code and NFPA requirements relating to fire access and safety shall be met.
- G.5 All elevators must have emergency generator backup.
- G.6 The Project shall maintain fire [personnel](#) access to all four sides of the residential structure at all times.
- G.7 The Project shall provide adequate external lighting to ensure safety of the residents of the Project. External lighting shall conform to the requirements of the local Regulation of Outdoor Lighting [Title V, Section 14].
- G.8 During times of construction, the Project, including all structures shall be accessible to Fire Department and other emergency vehicles. Additionally, all hydrants shall be operational during construction in accordance with NFPA requirements. ~~Standpipes shall be operational on each floor during construction, as required by the Building Code and the Fire Department.~~
- G.9 The Applicant shall consult with the Fire Department prior to the commencement of construction to provide an on-site emergency plan, which shall be updated as necessary throughout the construction process.
- H. Water, Sewer and Utilities**
- H.1 The Applicant shall be responsible for the design and installation of the utilities servicing the Project.
- H.2 All water and sewer infrastructure shall be installed in conformance with the Arlington Water and Sewer Division's technical requirements. The Applicant shall provide the Arlington Water and Sewer Division with calculations to ensure the distribution system for the area has the necessary capacity to meet system demand required prior to the commencement of construction.
- H.3 Fire hydrants shall be placed as shown on the Approved Plans in locations approved by the Arlington Fire Department. If the Arlington Fire Department approves different hydrant locations, such modification shall be accepted administratively as an insubstantial change pursuant to 760 CMR 56.05(11).

- H.4 The service size for the domestic water service should be verified by the Arlington Water and Sewer Division and information on the fire service size and requirements should be verified by the Arlington Fire Department. The Applicant shall submit information regarding the size of both the domestic and fire services as part of Final Plans, after consultation with the Arlington Water and Sewer Division. ~~The Applicant shall replace the water main, hydrants and gate valves.~~ Any connections to the Town water main shall be triple-gated and a tee connection.
- H.5 The water and sewer utilities servicing the buildings in the Project shall be installed and tested in accordance with applicable Town requirements and protocols, except as may be waived herein.
- H.6 Utilities shall be installed underground by the Applicant using methods standard to those installations. Utilities shall be defined as electric service lines, telephone lines, water service lines, CATV lines, municipal conduit and the like. The Applicant shall request a Grant of Location from the Select Board for any installation of new utility poles or underground conduit in the public right of way as needed.
- H.7 The Applicant shall be responsible for all trash and recycling removal from the Property. The Town of Arlington shall not have any responsibility for trash, recycling, compost, and/or yard waste pickup at the Property.

~~H.8 Fire hydrants shall remain private, and shall be maintained by the Applicant.~~

I. Wetlands/Floodplain/Environmental Conditions

- I.1 Prior to the commencement of construction, erosion control measures shall be installed consistent with the Approved Plans.
- I.2 No uncovered stockpiling of materials shall be permitted within the 100 foot Wetland Buffer Zone or Adjacent Upland Resource Areas (“AURA”) or other resource areas.
- I.3 No dumpsters shall be allowed within the AURA or other Resource Areas.
- I.4 No heavy equipment may be stored within the AURA of other Resource Area.
- I.5 Any dirt or debris spilled or tracked onto any paved streets shall be swept up and removed daily.

- I.6 The Applicant must retain a professional engineer to oversee the installation of the stormwater management system. A stormwater mitigation report must be submitted to the ZBA within 10 days of the completion of the stormwater management system. The stormwater report shall include as-built plans, photographs from installation, and a written summary of the installation of the stormwater management system and stormwater best management practices.
- I.7 To avoid adding excess nitrogen runoff, the Applicant shall only treat the planted areas within resource areas with slow release nitrogen fertilizer. Application of this fertilizer cannot occur in the summer, or after storm events. Lawn fertilizer shall only be applied twice a year, in spring and fall. The application of plant nutrients shall otherwise comply with 330 CMR 31.00. No other herbicides or treatment methods are approved. No pesticides or rodenticides shall be used to treat pest management issues within Resource Areas. These shall be continuing conditions in perpetuity that survives the expiration of this permit.
- I.8 Pervious surfaces shown on the project plans shall be maintained as specified in the stormwater report and logs/reports shall be maintained by the Applicant. Pervious surfaces shown on the project plans shall not be replaced by impervious surfaces. This shall be a continuing condition in perpetuity that survives the expiration of this permit.
- I.9 No snow storage is permitted within the AURA or other Resource Areas. A snow storage plan shall be submitted to the ZBA prior to construction completion. If these areas are insufficient for storage during the snow season, snow shall be removed from the site. Sediments and debris shall be removed from snow storage areas in the early spring. This shall be a continuing condition in perpetuity that survives the expiration of this permit.
- I.10 The Applicant shall protect all adjacent catch basins using silt socks during construction.
- I.11 The Applicant shall conduct catch basin sump cleanings at the end of the project work period.
- I.12 The Applicant shall submit copies of the SWPPP inspection reports to the ZBA within 10 days of the date of each report.
- ~~I.13 The Applicant shall submit for review and approval by the ZBA an invasive management plan for work in the AURA and other Resource Areas outlining all locations for invasive management, the species and quantities of invasive plants to be managed, and the method of management.~~

DRAFT – DRAFT -- DRAFT

~~I.14~~I.13 All mitigation plantings and all plantings within resource areas shall be native and be installed and maintained according to the standards of the American Association of Nurserymen (AAN). No cultivars of native plantings shall be allowed. This shall be a continuing condition in perpetuity that survives the expiration of this permit. An irrigation system shall be installed to provide adequate and appropriate water for the plantings.

~~I.16~~I.14 All plantings planted and invasive species removed through this project in Resource Areas or as mitigation on site shall be initially monitored for three years. ~~A~~The off-site enhancement on the Mill Brook condominium property shall be monitored for two years. After installation is complete a monitoring report shall be submitted annually ~~in June~~by November 15th for the three year and two year monitoring ~~period~~periods, reporting on the health of the new plantings and the success of the invasive plant management. The annual report shall identify any plantings that did not survive and summarize the replacement of the plantings. A survival rate of 80% must be achieved at the end of the third monitoring year. If there is less than a 80% survival rate of the plantings after the third year, the Applicant must submit recommendations for replacements to the ZBA for approval. After the initial three year monitoring period for the on-site restored woodland, annual monitoring reports will be provided to the Arlington Zoning Board of Appeals and Conservation Commission by November 15th of every year for an additional 7-year monitoring period so that the monitoring period is 10 years after installation of the restored woodland. These additional monitoring reports will describe the condition of the restored woodland, overview the management efforts undertaken over the past growing season (such as plant replacement, invasive species management, etc.), and describe the anticipated management efforts required for the subsequent growing season so that the restored woodland successfully matures as designed. These additional monitoring reports shall include representative photographs of the restored woodland from photographic stations established within the woodland, such that year to year images can be compared.

Regarding invasive species management, the restored woodland and off-site Riverfront Area restoration shall be managed for invasive species during their respective monitoring periods to determine if any invasive/exotic plants included on the Invasive Plant list provided by the Massachusetts Invasive Plants Advisory Group have colonized the restored woodland and/or off-site Riverfront Area restoration on the Mill Brook Condo property. Specifically, these areas shall be evaluated once annually during the late spring/early summer to detect invasive exotic plants prior to seed production.

Observed invasive plants shall be removed from the site either by hand or with hand tools (shovels, weed wrenches, etc.) to the extent practicable and appropriately disposed of off-site. If non-mechanical removal is not practical, then the stem shall be cut flush to the ground in the late summer prior to seed production, and the cut stem shall immediately be painted or dabbed with glyphosate by a certified herbicide applicator.
Upon removal of invasive shrubs or saplings, if necessary, native shrubs or saplings from the approved restoration planting plan shall be installed to adequately re-vegetate the exposed area. Replacement native shrubs or saplings shall be selected based on the size and type referenced for the area on the approved restoration plan, or functional equivalent native shrub or sapling at the discretion of the landscape architect or wetland scientist conducting the annual monitoring and overseeing the management efforts.
Upon the removal of native groundcover plants or perennials, the native seed mixture referenced on the approved restoration planting plan shall be applied to the managed area and raked in per the manufacturer's specifications.

In creating the initial Condominium annual budget, and for the annual budgets thereafter, the Applicant or Condominium Association, as applicable, shall include a separate line item in the budget for the anticipated expenses relating the satisfying the obligations of this condition.

~~I.17~~I.15 The Applicant shall protect all area trees that will remain on the property per the Town Wetlands Protection Regulations, Section 24 Vegetation Removal and Replacement, protecting trees through securing (not nailing) 2x4 boards, between 6-8 feet in length, around tree base. The boards shall be installed vertically such that one end is installed directly into the ground. Alternative protection measures must be approved by the ZBA.

~~I.18~~I.16 All on-site mitigation as proposed as part of this project shall remain in perpetuity. The approved planting areas, invasive removal areas, the water quality units, and the stormwater system shall remain in perpetuity and if replacement is necessary, shall be subject to the approval of the Commission. This shall be a continuing condition in perpetuity that survives the expiration of this permit.

J. Other General Conditions

- J.1 This Decision will be deemed to be final upon the expiration of the appeal period with no appeal having been filed or upon the final judicial decision following the filing of any appeal, whichever is later, as per 760 CMR 56.05(12)(a). In accordance with 760 CMR 56.05(12)(c), this Comprehensive Permit shall expire three (3) years from the date that the permit becomes final, unless (i) prior to that time construction authorized by the Comprehensive Permit has commenced or (ii) the time period is otherwise tolled in accordance with law. The Applicant may timely apply to the Board for extensions to the Comprehensive Permit as permitted by law.
- J.2 The Applicant shall comply with all local regulations of the Town and its boards, commissions, and departments unless specifically waived herein or as otherwise addressed in these conditions.
- J.3 The Applicant shall copy the Board on all correspondence between the Applicant and any federal, state, or Town official, board, or commission concerning the conditions set forth in this Decision, including but not limited to all testing results, official filings, environmental approvals, and other permits issued for the Project.
- J.4 This Decision prohibits the parking or storage of any unregistered vehicle on the site, and likewise prohibits the service of any vehicles on the site, except during construction. Overnight parking of vehicles on public ways ~~is prohibited in the~~ shall be in accordance with Town of Arlington by-laws and regulations.
- J.5 In the event that the Condominium Association (or its Management Company) fails to maintain the stormwater management system for the Project in accordance with its operation and maintenance plan, within fourteen (14) days of notification by the Town to the Condominium Association/Management Company, the Town may conduct emergency maintenance and/or repair, as it deems necessary, and the Applicant shall, prior to the issuance of any certificates of occupancy, convey such easement or other rights in a form mutually acceptable to the Town and the Applicant as may be reasonably necessary to complete such repair and/or maintenance. In the event the Town opts to perform such maintenance in accordance with this paragraph, the ~~Applicant~~ Condominium Association shall reimburse the Town within forty-five (45) days for all of its reasonable expenses related to such work.
- J.6 The Project entrance way and interior roads, and drainage systems associated therewith shall remain private, and the Town shall not have any legal responsibility for the operation and maintenance of such. The Town shall also have no obligations relating to the proposed recreational areas on the Property, the construction and operation of which shall be the sole responsibility of the Applicant.

DRAFT – DRAFT -- DRAFT

J.7 If any default, violation or breach of these conditions by the Applicant is not cured within thirty (30) days after notice thereof (or such longer period of time as is reasonably necessary to cure such a default so long as the Applicant is diligently and continuously prosecuting such a cure), then the Town may take one or more of the following steps: (a) enforcement by the Zoning Enforcement Officer pursuant to G. L. c. 40A, § 7; (b) by mandamus or other suit, action or other proceeding at law or in equity, require the Applicant to perform its obligations under these conditions; or (c) take such other action at law or in equity as may appear necessary or desirable to enforce these conditions. If the Town brings any claim to enforce these conditions, and the Town finally prevails in such claim, the Applicant shall reimburse the Town for its reasonable attorneys' fees and expenses incurred in connection with such claim.

DECISION

In consideration of all of the foregoing, including the plans, documents and testimony given during the public hearing, the Board hereby grants the Applicant a comprehensive permit for the construction of fifty (50) home-ownership condominium units in a single structure, along with approximately ~~935~~ 1700 square feet of commercial space, pursuant to Chapter 40B, §§ 20-23, for the development described above.

RECORD OF VOTE

The Board of Appeals voted _____, at its public meeting on _____, 2023, to grant a Comprehensive Permit subject to the above-stated Conditions, with this Decision as attested by the signatures below.

Decision on Application for Comprehensive Permit
1025 Mass Ave, LLC
1021-1025 Massachusetts Avenue, Arlington, MA
April __, 2023
Page 29 of 32

Dated: _____, 2023

Filed with the Town Clerk on _____, 2023.

Town Clerk

Notice: Appeals, if any, by any party other than the Applicant, shall be made pursuant to Massachusetts General Laws, Chapter 40A, s. 17, and shall be filed within twenty (20) days after the filing of this notice in the Office of the Town Clerk, Town Hall, Groveland, Massachusetts. Any appeal by the Applicant shall be filed with the Housing Appeals Committee pursuant to G. L. c. 40B, § 23, within twenty (20) days after the filing of this notice in the Office of the Town Clerk.

DRAFT – DRAFT -- DRAFT

DECISION ON WAIVERS [\[SEE UPDATED WAIVER REQUEST LIST\]](#)

The Board takes the following action on the waiver requests of local rules and regulations submitted by the Applicant as it has determined necessary for the construction of the Project as approved by the Board:

1. Zoning Bylaws Article 5, Section 5.5.3 – This section prohibits multi-family use in the underlying zoning district. The Applicant requests a waiver of this section to allow the proposed Project consisting of fifty (50) multi-family home-ownership condominium units and associated ~~935~~-1700 square feet of commercial space.

Board Action: Waiver Granted.

2. Zoning Bylaws Article 5, Section 5.5.2 – This section requires a minimum front yard setback of twenty feet (20'). The Applicant requests a waiver to allow a minimum front setback of seventeen feet (17').

Board Action: Waiver Granted.

3. Zoning Bylaws Article 5, Section 5.5.2 – The Applicant also requests a waiver of the maximum height requirement of this section, which limits the height of structures to three (3) stories and thirty-five feet (35'). The Applicant requests a waiver to allow a structure containing five (5) stories and a building height of sixty-six feet four inches (66'4").

Board Action: Waiver Granted.

4. Zoning Bylaws Article 5, Section 5.5.2 – The Applicant also requests a waiver of the Floor Area Ratio (FAR) requirement in this section, which limit FAR to a maximum of .75. The Applicant requests a waiver to allow a FAR of 2.0.

Board Action: Waiver Granted.

5. Zoning Bylaws Article 6, Section 6.1.4 – This Section requires 1.15 parking spaces per one-bedroom unit, 1.5 spaces per two-bedroom unit and two spaces per units having three or more bedrooms. The Applicant requests a waiver to allow a total of fifty (50) parking spaces for the proposed fifty (50) condominium units and associated ~~935~~-1700 square feet of commercial space.

Board Action: Waiver Granted.

DRAFT – DRAFT -- DRAFT

6. Bicycle Parking Design Guidelines – These Guidelines do not allow hanging bike spaces to count toward the minimum number of required bike spaces. The Applicant requests a waiver to allow forty-nine (49) bicycle storage units in the basement and twenty-six (26) hanging bicycle spaces in the garage.

Board Action:

7. Town Bylaws, Title V, Article 16, Sections 2 and 4 (Tree Protection and Preservation) – The Applicant requests a waiver of the requirement to make a payment to the tree fund for removal of protected trees, in lieu of the riverfront restoration proposed in the Approved Plans.

Board Action: Waiver Granted.

8. Town Bylaws, Title V, Article 8 (Wetlands Protection) – The Applicant requests a waiver of the procedural requirement of obtaining an Order of Conditions from the Arlington Conservation Commission. No substantive waivers of the Wetlands Protection Bylaw was requested.

Board Action: Waiver Denied as Unnecessary. Pursuant to G. L. c. 40B, §§ 20-23, a comprehensive permit subsumes all local permitting requirements. Accordingly, this comprehensive permit includes an Order of Conditions under the local bylaw, thus no waiver is required.

9. Town Bylaws, Title V, Article 15 (Stormwater Management) – The Applicant requests a waiver of the procedural requirements of obtaining approval of a stormwater management plan. No substantive waivers of this article are requested.

Board Action: Waiver Denied as Unnecessary. Pursuant to G. L. c. 40B, §§ 20-23, a comprehensive permit subsumes all local permitting requirements. Accordingly, this comprehensive permit includes approval of the stormwater management plans under the local bylaw, thus no waiver is required.

10. Arlington Historical Commission – The Applicant notes that the structure at 1021 Massachusetts Avenue is listed on the Historic Structures Inventory, requiring a determination from the Arlington Historical Commission whether the structure is preferably retained under the demolition delay bylaw. The Applicant requests that the Board determine that the structure is not required to go through the demolition delay process.

Board Action:

DRAFT – DRAFT -- DRAFT

Decision on Application for Comprehensive Permit
1025 Mass Ave, LLC
1021-1025 Massachusetts Avenue, Arlington, MA
April __, 2023
Page 32 of 32

11. Town Bylaw Title V, Article 14 (Outdoor Lighting) – This bylaw prohibits uplighting. The Applicant requests a waiver to allow some uplighting as shown on the Approved Plans.

Board Action:

12. Sewer Inflow and Infiltration Fees – The Applicant requests a waiver of any applicable sewer inflow and infiltration fees.

Board Action: Waiver Granted.

DRAFT

DRAFT – DRAFT -- DRAFT