

TOWN CLERK'S OFFICE  
ARLINGTON, MA 02174

2023 SEP 19 AM 8:43

# 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: Housing Corporation of Arlington (the "Applicant")

PROPERTY: 10 Sunnyside Avenue, Arlington, MA (the "Property")

ASSESSORS' MAP: Assessors' Parcel 033.0-0002-002.B

Docket #: #3747

DEVELOPMENT NAME: 10 Sunnyside Avenue

DATE: September 12, 2023

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### I. PROCEDURAL HISTORY

1. An application for a Comprehensive Permit was received by the Town of Arlington Zoning Board of Appeals (the "Board") on or about March 20, 2023 ("Application"). The Application proposes the development of forty-three (43) rental units, along with approximately 600 square feet of commercial/office space on the ground floor, 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 May 2, 2023, after an extension was granted by the Applicant.
3. The Project is located on the Property, which is located at 10 Sunnyside Avenue, Arlington, Massachusetts. The Property is located on approximately 0.379 acres of land.
4. The Property is located in the Vehicular Oriented Business (B4) Zoning District. Nearby uses consist of commercial and office uses, as well as residential uses on Michael Street and Silk Street.
5. The Property consists of approximately 0.379 acres. The Property currently contains an existing commercial building and associated parking area. The Property contains significant pavement, covering approximately ninety-six percent (96%) of the Property. No stormwater management structures are

### **APPROVED FINAL DECISION**

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- currently 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 forty-three (43) rental units within 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 Executive Office of Housing and Livable Communities (“EOHLC”) or Other Subsidizing Agency). The Applicant currently proposes that one hundred percent (100%) of the units will be restricted as affordable for families making not more than sixty percent (60%) of Area Median Income (“AMI”). The Applicant also proposes approximately 600 square feet of ground-level commercial/office space.
  8. During the public hearing, the Applicant was assisted primarily by Erica Schwartz, its Executive Director, its counsel Mary Winstanley O’Connor, of Krattenmaker O’Connor & Ingber, P.C., its civil engineer Stephen Garvin, P.E., of Samiotes Consultants, Inc., its architect Nick Buehrens of Utile, Inc., and its landscape architect Kate Kennen, RLA of Offshoots, Inc.
  9. The Board utilized the services of Sean Reardon, P.E., of Tetra Tech, Inc., for civil engineering peer review. The Board also utilized the services of Town Counsel Douglas Heim, Esq., Planning Director Claire Ricker, Town Engineer Wayne Chouinard, 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, neighbors, and other interested persons throughout the hearing process. The Board also heard significant input from town departments, including the Arlington Redevelopment Board, the Department of Planning and Community Development, the Arlington Board of Health, the Engineering Division, the Transportation Advisory Committee, the Arlington Affordable Housing Trust, the Clean Energy Future Committee, the Arlington Fire Department, the Inspectional Services Department, and the Arlington Tree Committee. The Conservation Commission noted that the property was not under its jurisdiction, and therefore it had no comments to provide.

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## II. JURISDICTIONAL FINDINGS

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 non-profit entity, 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 252 Massachusetts Avenue, Arlington, MA 02474.
  - b. The Applicant has received a written determination of Project Eligibility from the Department of Housing and Community Development (now the Executive Office of Housing and Livable Communities) dated March 16, 2023, a copy of which was provided to the Board with the original application.
  - c. The Applicant is the owner of the Property by virtue of a deed from MB Realty Group, LLC dated October 14, 2022 and recorded with the Middlesex South Registry of Deeds in Book 80851, at Page 359. Furthermore, 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 with the Subsidizing Agency that limits its profit to an amount consistent with the definition of Reasonable Return set forth in 760 CMR 56.02.
12. The Town of Arlington (the "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 6.54% 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 April 27, 2022. Thus, the Town does not meet the ten percent (10%) statutory minimum.
  - b. The Board has previously asserted a claim that there are existing affordable housing units that are on sites that comprise more than one- and one-half percent (1.5%) of the total land area of the Town that is zoned for

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residential, commercial or industrial use (excluding land owned by the United States, the Commonwealth of Massachusetts, or any political subdivision thereof). This claim was rejected by the Housing Appeals Committee. Without waiving its rights on the other pending matters, the Board did not provide the Applicant 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 0.379 acre parcel of land located at 10 Sunnyside Avenue. The Property is located within the Vehicular Oriented Business (B4) Zoning District.
14. The Project abuts various commercial uses in the B4 and B2A (Major Business) Zoning Districts. The closest residential units are located to the rear of the Property on Silk Street and on the corner of Sunnyside Avenue and Michael Street, approximately 150 feet from the Property.
15. The Project is located within a short walk of many resources, including a grocery store, schools, parks, recreational facilities, a public swimming pool, and a public library. It is very close to the Alewife Greenway Bike path, which connects the

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project to the Alewife MBTA station as well as a network of other paths including the Minuteman Bikeway. As noted below, it is also conveniently located to public transit.

16. The intersection of Alewife Brook Parkway and Broadway, located approximately 375 ft southeast of the Property, currently operates at a Level of Service (LOS) F. However, the Project is not projected to have a significant impact on delays at this intersection.
17. The traffic study indicates that the LOS at the driveway for the Project and Sunnyside Avenue will operate at an LOS A, with minimal delays.
18. The applicant proposes twenty-one (21) parking spaces for the forty-three (43) unit development. The Zoning Bylaw generally requires one parking space per dwelling unit (Section 6.1.4), but this requirement is reduced by 10 percent for affordable housing (Section 8.1.2). The Board has the discretion under Section 6.1.5 to reduce parking to as little as twenty-five percent (25%) of the otherwise required amount, if the Board is satisfied that parking is adequate and if satisfactory Transportation Demand Management measures are provided. In a mixed-use project, no parking needs to be provided for a commercial use of less than 3,000 square feet. In this case, forty-three (43) parking spaces are required by the bylaw before the affordable housing adjustment, and thirty-nine (39) spaces are required afterwards. The Board has the discretion to reduce the required parking to as few as ten (10) spaces. The proposed twenty-one (21) spaces are well within the Board's discretion.

The 21 spaces proposed by the Applicant represent approximately 0.49 spaces per dwelling unit. The Applicant has shown, however, that in its three other developments comparable in size to this one, the ratio of parking spaces actually used by tenants to the number of dwelling units averages 0.49.

19. Several neighbors expressed concern regarding the size and height of the building. They were concerned that the building was too large for the neighborhood, and set a precedent for larger development in their smaller scale neighborhood. The proposed Project is compliant with the height and lot coverage requirements in the Zoning Bylaw. The Applicant has requested waivers for the Rear Yard Setback, Landscaped Area, and Usable Open Space requirements. In the course of the hearings, the Applicant indicated that a reduction in the number of floors would make the project impractical and uneconomic.
20. Tenants of other HCA properties expressed concerns regarding management of trash and recycling at their buildings. They also expressed concerns regarding indoor air quality at those facilities.

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### Wetlands

21. The Property is located approximately four hundred feet (400') from Alewife Brook and approximately 0.5 miles from the Mystic River. The Property is not within any jurisdictional wetland areas.
22. Because the Project is not located within any jurisdictional wetland areas, the Applicant is not required to obtain an Order of Conditions from the Arlington Conservation Commission pursuant to the Wetlands Protection Act, and the local wetlands bylaw and regulations are inapplicable. In addition, the site is outside of the Floodplain District and the Inland Wetland District per Sections 5.7 and 5.8 of the Zoning Bylaw respectively.

### The Transportation Network

23. All access to the Project will be from Sunnyside Avenue.
24. The Project will provide twenty-one (21) parking spaces for the residential units and commercial space.
25. The Project will provide sixty (60) long-term bicycle parking spaces and five (5) short-term bicycle parking spaces. Access to the Alewife-Greenway Bike Path is available directly across Sunnyside Avenue.
26. The Project is adjacent to the "Broadway @ Sunnyside Ave" MBTA bus stop and across the street from the "Broadway opp Sunnyside Ave" MBTA bus stop. Both stops are served by bus route 87. The closest crosswalk on Broadway is located approximately 310 feet southeast of Sunnyside Avenue at Alewife Brook Parkway. The Project is also less than a quarter mile away from the Clarendon Hill Busway, which is served by bus routes 87, 88, 89, and 89/93. These bus routes in turn connect to the red, green, and orange subway lines, which provide access to much of the region.
27. During the hearing, the neighbors expressed many concerns regarding the traffic on Sunnyside Avenue, and the potential for additional disruption from increased on-street parking and loading. It was proposed that a Loading Zone be established in front of the Property to provide delivery vehicles space outside the travel lane. It was also requested that on-street parking be limited on Sunnyside Avenue to further facilitate the flow of traffic. This was specifically recommended adjacent to the corner with Broadway to improve sightlines and pedestrian visibility.

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#### Civil Engineering, Site Design, and Stormwater Impact

28. The Board engaged in review of potential civil engineering, site design, traffic, and stormwater impacts of the Project.
29. The Project will connect to the Arlington municipal water and sewer systems.
30. Approximately ninety-six percent (96%) of the site is currently covered by impervious surface. The Project will decrease the amount of the site covered by impervious surface to ninety percent (90%) of the Property. The Applicant proposes the installation of a stormwater management system to further improve stormwater runoff from existing conditions. This system adequately and appropriately addresses the impervious surface on the Property.
31. 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.
32. The project has been designed to minimize its carbon footprint. It will be all electric for HVAC and appliances. While using natural gas for the time being for domestic hot water, the Applicant is continuing to explore the use of heat pump technology for that purpose and will, in any event, design the Project to facilitate future electrification. The Project will be Passive House (Phius) certified. Passive House is a performance-based building standard that focuses on dramatic reduction of energy use and costs, while ensuring a comfortable, quiet, healthy and low carbon building.<sup>1</sup> Finally, the Project will feature rooftop photovoltaic cells for onsite generation.

#### Solar Access and Shading Impacts

33. Several residents of Michael Street expressed concerns regarding shadows cast by the proposed building and their impact on existing photovoltaic systems. Utile, Inc. conducted detailed shadow studies and concluded that the annual impact would be a reduction of less than 0.003% of the annual solar energy potential for the photovoltaic array most impacted by the increased shadowing from the Project.

#### Affordability and Local Concerns

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<sup>1</sup> Arlington's Town Meeting adopted the state's Specialized Stretch Energy Code, which requires multifamily housing in excess of 12,000 square feet to use Passive House design. The Specialized Code will be effective in Arlington on January 1, 2024.

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34. The Project, as conditioned herein, will address the lack of affordable rental units in the Town. The Applicant proposes that one hundred percent (100%) of the units will be affordable at sixty percent (60%) AMI. This fulfills a pressing need for deeply affordable rental units in Arlington, and meets the terms of the Project Eligibility Letter issued by the Department of Housing and Community Development on March 16, 2023.
35. The Board is in receipt of many letters from Town residents in support of increased affordable housing in Arlington, the HCA, and in favor of this Project. Many of the letters specifically cite that the proposal to provide 100% of the units at 30%-60% AMI as an important factor in their approval.
36. 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.
37. 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.
38. The Board acknowledges concerns raised by abutters and other interested parties about the Project's scale and traffic/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.
39. 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 Housing Corporation of Arlington. The Property is defined as the property located at 10 Sunnyside Avenue, Arlington, Massachusetts, shown on a plan entitled "10 Sunnyside Ave. Comprehensive Permit", located at 10 Sunnyside Avenue, Arlington, MA, prepared by Utile, Inc., Samiotes Consultants, Inc., BF&A, and BLW Engineers,



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dated March 9, 2023, with revisions through August 1, 2023. 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 a rental development.

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 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 Utile, Inc., Samiotes Consultants, Inc., BF&A, and BLW Engineers:

“10 Sunnyside Ave. Comprehensive Permit”, located at 10 Sunnyside Avenue, Arlington, MA, prepared by Utile, Inc., Samiotes Consultants, Inc., BF&A, and BLW Engineers, dated March 9, 2023, with revisions through August 1, 2023, and also includes the supplemental materials prepared by Utile, Inc., Samiotes Consultants, Inc., and Offshoots, Inc., and submitted to the Board on May 2, 2023, May 16, 2023, June 13, 2023, July 10, 2023 and August 1, 2023, and consisting of the following sheets.

|       |   |          |
|-------|---|----------|
| G0.00 | Cover Sheet                               | 03/09/23 |
| G0.01 | Locus Map                                 | 03/09/23 |
| G0.02 | Building Renderings                       | 03/09/23 |
| G0.03 | Building Renderings                       | 03/09/23 |
| _____ | ALTA/NSPS Land Title Survey Sheet 1 of 2  | 10/28/22 |
| _____ | ALTA/NSPS Land Title Survey Sheet 2 of 2  | 10/28/22 |
| C1.00 | Site Preparation and Erosion Control Plan | 08/01/23 |
| C2.00 | Site Layout Plan                          | 08/01/23 |
| C3.00 | Site Utility Plan                         | 08/01/23 |
| C4.00 | Grading Plan                              | 08/01/23 |
| C5.00 | Stormwater Management Plan                | 08/01/23 |

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|       |  |          |
|-------|--|----------|
| C6.00 | Civil Details                                    | 08/01/23 |
| C6.01 | Civil Details                                    | 08/01/23 |
| C6.02 | Civil Details                                    | 08/01/23 |
|       |  |          |
| A1.01 | Floor Plan – First Floor                         | 03/09/23 |
| A1.02 | Floor Plan – Second Floor                        | 03/09/23 |
| A1.03 | Floor Plan – Third and Fourth Floors             | 03/09/23 |
| A1.05 | Floor Plan – Fifth Floor                         | 03/09/23 |
| A1.07 | Floor Plan – Roof                                | 03/09/23 |
| A3.00 | Exterior Elevation – East (Sunnyside Ave)        | 03/09/23 |
| A3.01 | Exterior Elevation – West (Rear)                 | 03/09/23 |
| A3.02 | Exterior Elevation – South                       | 03/09/23 |
| A3.03 | Exterior Elevation – North                       | 03/09/23 |
| A3.10 | Building Axons                                   | 03/09/23 |
| A3.50 | Building Sections – E-W                          | 03/09/23 |
| A3.51 | Building Sections – N-S                          | 03/09/23 |
|       |  |          |
| _____ | Project Introduction, Site Context (Sheets 2-19) | 05/02/23 |
| _____ | Bicycle Parking Information (Sheets 2-5)         | 05/16/23 |
| _____ | Material Diagrams (Sheets 3-8)                   | 06/13/23 |
| _____ | Lighting Plan (Sheet 9)                          | 06/13/23 |
| _____ | EV Charging Stations Plan (Sheet 12)             | 06/13/23 |
| _____ | Landscape Plans (Sheets 18-33)                   | 06/13/23 |
| _____ | Solar Impact Study (Sheets 2-3)                  | 08/01/23 |

- A.3 The Applicant (or its successor entity) shall be a Limited Dividend Entity as required by Chapter 40B and its successors and assigns shall comply with the limited dividend and other applicable requirements of Chapter 40B and the regulations adopted thereunder.
- A.4 The Project shall consist of not more than forty-three (43) rental units located in a single structure, and other related residential amenities, all as shown on the Approved Plans. The distribution of units shall be as presented in the Approved Plans. The Project shall also consist of approximately 600 square feet of commercial space on the ground floor.
- A.5 There shall be a minimum of twenty-one (21) vehicle parking spaces (inclusive of the required accessible spaces).

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- A.6 Pursuant to the revised Waiver List submitted to the Board and attached hereto as Exhibit A, the Applicant has requested, and the Board has granted, those waivers from the Arlington Zoning Bylaw and other local by-laws and regulations as specified therein. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§ 20-23. A waiver has been granted for fees and charges related to fire safety, building permits, plan reviews, occupancy permits, plumbing permits, gas fitting, infiltration and inflow fees, and electrical permits. This waiver does not include fees or charges related to public safety details, if and when required. Any subsequent revision to the Approved Plans, including but not limited to revisions in the Final Plans, referenced below, that requires additional or more expansive waivers of any local by-laws or regulations, must be approved by the Board in accordance with 760 CMR 56.05(11).
- 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 thirty (30) days following submission. Should thirty (30) 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 and landscape maintenance. In this regard, the proposed site access ways within the Project shall not be dedicated to or accepted by the Town.

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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 (EOHLC or other Subsidizing Agency), pursuant to the applicable subsidy program, a minimum of twenty-five percent (25%) or eleven (11) of the forty-three (43) rental units shall be reserved for rent by income-eligible households, meaning that they shall be leased to and occupied by households, 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"). The Applicant has proposed that one hundred percent (100%) of the units be restricted to households whose income is not more than sixty percent (60%) of AMI. The Board acknowledges that the specifics regarding affordability is within the exclusive jurisdiction of the Subsidizing Agency, but strongly encourages the Applicant to ensure that its proposal, that one hundred percent (100%) of the units be affordable to households earning not more than sixty percent (60%) AMI be followed.

B.2 All of the Project's Affordable Units shall be restricted for lease to households earning no more than the maximum allowable household income, adjusted for household size, as determined by EOHLC 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 lease of any Affordable Units, and shall ensure that the Project complies with the Subsidizing Agency's Fair Housing requirements.

B.4 For the initial rent-up 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.

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**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, if necessary, for technical reviews and inspections 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. Outside peer review shall only be used if Town staff is not reasonably able and available to review a particular aspect or aspects of the Final Plans. 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 any required NPDES filing.
- c. Submit to the Board for review and administrative approval the following final drawings and plans (“Final Plans”) for review and approval by the Town, 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.
  - i. Final Civil Engineering Drawings and Plans with applicable sheets signed and sealed by the Professional Land Surveyor of record and the Professional (Civil) Engineer of record.
  - ii. Final Architectural Plans signed and sealed by the Registered

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- Architect of record.
- iii. Final Landscape Plans signed and sealed by the Registered Landscape Architect of record.
- iv. Final Lighting Plans signed and sealed by a Professional Engineer.

The Final Plans shall be submitted to the Board at least 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").

All plantings shall consist of native, non-invasive, drought-tolerant species. Plantings installed along streets, drives, and walkways shall also be salt-tolerant. The Management Company shall be responsible for addressing ongoing maintenance of landscaping features.

- d. Submit to the Director of Planning and Community Development the Final 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 Director of Inspectional Services and/or Director of Planning and Community Development concerning the Final Site Plans within thirty (30) days after the Final Site Plan Submission Date, the Final Plans, as delivered, will be deemed to have been approved.
- e. 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.
- f. The Final Plans shall show designated snow storage areas or the snow shall be removed from the site.
- g. 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:

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- a. Record this Comprehensive Permit with the Middlesex South Registry of Deeds, at the Applicant's expense, and provide proof of such recording to the Board.
- b. Submit to the Board and the Director of Planning and Community Development evidence of Final Approval from the Subsidizing Agency, 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 Director of Inspectional Services 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 Director of Inspectional Services 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 Director of Inspectional Services a copy of all required Federal, State, and local permits and approvals required to begin construction of the Project.
- g. Obtain all necessary demolition, 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 water and sewer system fees as per officially promulgated fee schedules uniformly applicable to all other Town of Arlington projects, except as expressly waived herein. Notwithstanding anything contained herein, the Applicant shall not be responsible to pay for inflow and infiltration fees.
- i. The Applicant shall receive written approval from the Arlington Fire Chief or his/her designated representative for the proposed building emergency

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services access to the site prior to issuance of a building permit.

**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 Director of Inspectional Services.
- 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:

- 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.



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- b. The Applicant shall provide to the Board 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, trash removal, vegetation management, transportation management policies, smoking policies, and other issues addressed in the conditions herein. The plan shall be submitted to the Board after its approval by the Executive Office of Housing and Livability.

**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), the Department of Planning and Community Development, the Inspectional Services Department, and other Town staff and consultants as may be determined.
- E.2 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. Written notice of such meeting shall be provided to parties in interest (pursuant to G. L. c. 40A, § 11) at least fourteen (14) days prior to such meeting. Additionally, the Applicant shall provide notice to such parties who request to be notified. The Applicant shall during the course of construction maintain a website or similar web-based information system, open to anyone who is interested, providing regular updates of the information referred to above as well as information on communicating concerns or requests for additional information to the Applicant and site general contractor. Information regarded access to the website shall be prominently posted at the construction site during the construction period.
- E.3 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.4 The proposed construction shall be in accordance with applicable Federal and State laws, rules and regulations.
- E.5 All site retaining walls four (4) feet or greater in height shall be designed by a Massachusetts Professional Structural Engineer.

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- E.6 During construction, the Applicant shall conform to all local (except as waived herein), State, and Federal laws and provide advance notice to abutters and other residents who request to be noticed 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.7 Appropriate exterior signage shall be shown on the Final Plans, consistent with the substantive provisions of the Arlington Zoning Bylaw. 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.8 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.9 The Project shall be all electric, except that natural gas may be used for domestic hot water if electric domestic hot water is not reasonably feasible. If the Project uses natural gas for domestic hot water, it will be designed to enable and facilitate future conversion to electric domestic hot water service.
- E.10 The Applicant shall install lighting on the site that conforms to the Town of Arlington's Zoning Bylaw and Town Bylaw and approved Lighting Plan referred to in Condition A.2. Management of outdoor lighting shall be the responsibility of the Applicant.
- E.11 Utilities, including but not limited to telephone, electric, and cable, entering the Property 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.12 Soil material used as backfill for pipes, access drives, or structures shall be certified by the Geotechnical Engineer to the Director of Inspectional Services as meeting design specifications, as applicable.

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- E.13 Construction activities shall be conducted between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday and between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays. These hours may be extended on a temporary basis, as necessary, by written agreement with the Director of Planning and Community Development. There shall be no construction activities on Sundays and 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 Department of Public Works and shall not be subject to the timing restrictions set forth above.
- E.14 Parking of all vehicles and equipment must be on the Property during construction. The Contractor may make arrangements to park vehicles on adjacent private property, but public ways may only be used for deliveries and by prior arrangement with the Town of Arlington unless included in an approved CMP. In no event will construction parking be allowed on Michael Street.
- E.15 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.16 No 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 in accordance with the Approved Landscape Plans.
- E.17 All dumpsters and other trash and recycling containers 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.

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- E.18 All retaining walls visible from a public way or direct abutters, as determined by the Director of Inspectional Services 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.19 Snow may only be stored within the areas of the Property designated for that purpose 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 or public ways.
- E.20 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 except as waived. 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.21 The Applicant is responsible for the sweeping, removal of snow, and sanding of the internal roadways, driveways, walkways, and sidewalks providing access to both the residents of the Project and emergency vehicles. The Applicant is responsible for maintaining the adjacent public sidewalk free and clear of snow and other obstructions per the Town Bylaws.
- E.22 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.23 The Applicant shall comply with DPW requirements regarding curb-cut permits, except that applicable fees are waived.
- E.24 To the extent earth removal 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. A copy of the plan will be kept on file at the jobsite.
- E.25 All catch-basins shall have oil/water separators as shown on the Approved Plans.

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- E.26 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 Inspectional Services 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 specifically excluding inflow and infiltration fees, and further excluding any specific fee waivers granted herein.
- E.28 The Applicant shall perform a preconstruction and post-construction survey of abutting properties including photographs and/or video in order to document preconstruction and post-construction conditions.
- E.29 The Applicant shall monitor vibrations in the vicinity of the Property throughout the course of construction. Prior to the commencement of construction, the Applicant shall submit a plan/proposal for review by the Board for the monitoring of vibrations in the vicinity of the Property.
- E.30 The Applicant shall submit truck access diagrams to the Board showing turning paths for construction vehicles approaching, accessing, and departing the site. These diagrams shall be included and approved as a part of the CMP.
- E.31 The Applicant shall hire a licensed Pest control company to conduct a comprehensive assessment of pest activity on the property and then develop and implement an Integrated Pest Management Plan for all phases of the project (before construction, during construction, and post-occupancy). The use of second-generation anticoagulant rodenticides is prohibited.
- E.32 Any fence installed along the property boundary shall be wood and installed so the finished side faces the abutting property.

**F. Traffic/Traffic Safety Conditions / Sidewalks**

- F.1 Site access for residents and visitors will be provided via Sunnyside 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.

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- F.3 The proposed site provides twenty-one (21) parking spaces, including eleven (11) compact parking spaces and one (1) accessible parking space. The Applicant shall depict which spaces will be compact spaces on the Final Plans, and shall provide appropriate signage and pavement markings to identify such compact parking spaces. No changes to the number, configuration or designation of parking spaces shown on the Approved Plans shall be made unless approved by the Board through a modification process pursuant to 760 CMR 56.05(11).
- F.4 The Applicant shall ensure that emergency services 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 sixty (60) long-term bicycle parking spaces that are covered and secure.
- F.6 The Applicant shall provide five (5) outdoor short-term bicycle parking spaces. These spaces shall be near a location of public building access.
- 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 two electric vehicle charging stations serving four (4) parking spaces in the garage. The Applicant shall provide for future expansion of five (5) additional parking spaces per the EV Charging Stations Plan.
- F.9 The Applicant shall provide a stop bar at the site driveway approach to Sunnyside Avenue. A stop sign shall be provided for vehicles exiting the parking garage onto Sunnyside Avenue.

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- F.10 In consultation with the Town's Senior Transportation Manager, the Applicant shall provide a Transportation Demand Management Plan consistent with the Town's Sustainable Transportation Plan, which aims to reduce the use of single occupancy motor vehicles and encourage low-polluting transportation modes such as walking, biking, and the use of public transit. As part of such a plan the Applicant shall provide new residents with transportation information packets with information on getting around Arlington and neighboring communities sustainably. Such plans may also include relevant bus schedules, information on the status of the transit system, information regarding the availability and location of bike rental stands, and other information on sustainable transportation options. The Board is aware that options such as charging for parking may not be available. However, the Project has been designed for easy access to walking, biking, and transit options, and has been sited to take advantage of convenient nearby, schools, parks and other recreational facilities, restaurants, and entertainment options, all in line with the Sustainable Transportation Plan.
- F.11 The Applicant shall work with the Department of Public Works to repair the sidewalk from Broadway to the Project Site to the extent allowed by the Applicant's funders and lenders and at the expense of the Town or other third parties. The Applicant shall support efforts to repair sidewalks and improve pedestrian safety at the intersection of Sunnyside Avenue and Broadway.
- F.12 The Applicant will provide appropriate auditory and/or visual warning systems to ensure safe egress from the garage subject to the approval of the Town's Senior Transportation Planner.
- F.13 The Applicant shall propose to the Transportation Advisory Committee that the town establish a Loading Zone on Sunnyside Avenue in front of the proposed development. This zone shall be available for deliveries, and shall not be available for parking. In addition, the Applicant shall request that a No Parking Zone be established at the corner with Broadway to better accommodate vehicle queuing at the intersection.

**G. Police, Fire, Public Safety, and Emergency Medical Conditions**

- G.1 The Management Company shall provide an emergency contact name and telephone number to the Arlington Police Department and Fire Department. The contact information shall be updated as necessary.
- G.2 Stairwells and garages must provide the required fire rated separation. Residential units must have a minimum one-hour fire rated separation.

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- G.3 Compliance with all State Building Code and NFPA requirements relating to fire access and safety shall be met.
- G.4 All elevators must have emergency battery or generator backup as required by the Massachusetts State Elevator Code.
- G.5 The Project shall maintain access for fire department personnel as determined by the Fire Chief.
- G.6 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] and the Approved Lighting Plan.
- G.7 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.8 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.
- G.9 During construction, the Project shall have a superintendent on-site during working hours to address security and traffic concerns with the Police Department.
- G.10 The Applicant shall consult with the Fire Department to obtain approval of all proposed fire hydrant locations. If the Arlington Fire Department approves different hydrant locations than shown on the Approved Plans, such modification shall be accepted administratively as an insubstantial change pursuant to 760 CMR 56.05(11).

**H. Water, Sewer and Utilities**

- H.1 The Applicant shall be responsible for the design and installation of the utilities servicing the Project.



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- 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 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. Any connections to the Town water main shall be triple-gated and a tee connection.
- H.4 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.5 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. The Arlington Department of Public Works shall work with the Applicant on permitting disconnects to facilitate the demolition of the existing structure.
- H.6 The Applicant shall be responsible for all trash, recycling, and yard waste 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.7 Utility meters, where required to be mounted externally, are to be located on the sides of the building. Do not mount utility meters or other structures on the front of the building.

**I. Wetlands/Floodplain/Environmental Conditions**

- I.1 Prior to the commencement of construction, erosion control measures shall be installed consistent with the Approved Plans.

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- I.2 While no dewatering is anticipated by the Applicant, any water discharged as part of any dewatering operation shall be passed through filters, on-site settling basins, settling tank trucks, or other devices to ensure that no observable sediments or pollutants are carried into any Resource Area, street, drain, or adjacent property. Any catch basins, drains, and outfalls to be used in dewatering operations shall be cleaned out before operations begin.
- I.3 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.4 The application of plant nutrients shall comply with 330 CMR 31.00. No other herbicides or treatment methods are approved.
- I.5 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.6 The Applicant shall protect all adjacent catch basins using silt socks during construction.
- I.7 The Applicant shall conduct catch basin sump cleanings at the end of the project work period.
- I.8 The Applicant shall submit copies of the SWPPP inspection reports to the ZBA within 10 days of the date of each report.
- I.9 The Project is to maintain existing drainage patterns at the property boundary so that no runoff is directed to abutting properties or that runoff from abutting properties is not otherwise blocked from following the flow path prior to development of this Project.

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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 to comply with the Bylaws of the Town of Arlington. Parking of vehicles on private ways without the permission of the property owner is prohibited.
- J.5 The Project entrance way, 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.

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- J.6 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.

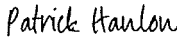
### **DECISION**

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 forty-three (43) rental apartment units in a single structure, along with approximately 600 square feet of commercial space, pursuant to Chapter 40B, §§ 20-23, for the development described above.

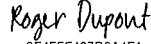
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**RECORD OF VOTE**

The Board of Appeals voted 5-0, at its public meeting on Tuesday, September 12, 2023, to grant a Comprehensive Permit subject to the above-stated Conditions, with this Decision as attested by the signatures below.

DocuSigned by:  
  
341638B704324C9...  
Patrick Hanlon, Acting Chair

DocuSigned by:  
  
05A0488B8B14CS...  
Christian Klein

DocuSigned by:  
  
CF4FFFA87D8A4F1...  
Roger DuPont

DocuSigned by:  
  
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Venket Holi

DocuSigned by:  
  
2B317049228A4F3...  
Daniel Ricardelli

Dated: September 12, 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, 730 Massachusetts Avenue, Arlington, Massachusetts, 02476. 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.

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## **DECISION ON WAIVERS**

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 5.3.17 – This section requires buildings more than three (3) stories in height to be stepped back 7.5 feet at the fourth (4<sup>th</sup>) story of thirty feet (30') above grade, whichever is less. The Applicant requests a waiver to allow no stepping back, as shown on the Approved Plans.

### **Board Action: Waiver Granted.**

2. Zoning Bylaws Article 5, Section 5.5.2.A – This section requires a minimum rear setback of twenty-four feet (24'). The Applicant proposes a rear setback of five feet (5').

### **Board Action: Waiver Granted.**

3. Zoning Bylaws Article 5, Section 5.21.A.2.D – This section includes a ten percent (10%) minimum Landscaped Open Space and twenty percent (20%) minimum Useable Open Space requirement. Both of these percentages are in relation to the Gross Floor Area of the Project. The Applicant proposes Landscaped Open Space approaching ten percent (10%) and no Usable Open Space.

### **Board Action: Waiver Granted, consistent with the Approved Plans.**

4. Zoning Bylaws Article 6, Section 6.1.12 – This section establishes bicycle parking requirements for long-term parking spaces (1.5 spaces per dwelling unit for the residential portion of the building and 0.3 spaces per 1,000 gross square feet for the office portion) and short term parking spaces (0.1 spaces per residential unit and 0.5 per 1,000 gross square feet of office use). The total number of bicycle parking spaces required by this section is 72 spaces: 66 spaces long-term and 6 short-term. The applicant proposes 65 spaces: 60 spaces long-term and 5 short-term. The Applicant also requests a waiver from the Bicycle Parking Design Guidelines and related provisions of the Zoning Bylaw.

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**Board Action: Waiver Denied. A waiver from the requirements of the Bicycle Parking Design Guidelines and Section 6.1.12 Bicycle Parking in the Zoning Bylaw is unnecessary, as the Board may modify the requirements of the Bylaw based on specific conditions unique to the proposal. Bicycle parking consisting of sixty (60) long term and five (5) short term bicycle parking spaces is approved per Conditions F.5 and F.6. Stacked bicycle parking is also approved per the provided Bicycle Parking Information.**

5. Zoning Bylaws Article 6, Section 6.1.4 – This Section requires one (1) off-street parking space per residential unit plus additional off-street parking for the commercial space. The Applicant requests a waiver to allow a total of twenty-one (21) parking spaces for the proposed forty-three (43) rental units and the associated approximately 600 square feet of commercial space.

**Board Action: The Board believes that the proposed parking would be sufficient and that the TDM plan required by this permit justifies a reduction of the required parking to 21 parking spaces and exercises its discretion to allow such a reduction. To the extent it may be thought ineffective, Waiver Granted.**

6. Zoning Bylaws Article 6, Section 6.1.11(C)(11) – This Section requires no more than twenty percent (20%) of required parking spaces be sized for compact cars. The Applicant requests a waiver to allow (11) spaces to be sized for compact cars.

**Board Action: Waiver Granted.**

7. Zoning Bylaws Article 6, Section 6.1.11(C)(3) – This section requires each required off-street parking spaces to have direct access to an aisle or driveway having a minimum width of twenty-four feet (24'). The Applicant requests a waiver to allow a reduction in the drive aisle requirement to twenty-one (21').

**Board Action: Waiver Granted to allow a minimum drive aisle of twenty-two feet (22') consistent with the Approved Plans.**

8. Zoning Bylaws Article 6, Section 6.1.11(D)(1-6) – This Section is applicable to all parking and loading areas which are not inside a structure.

**Board Action: Waiver denied as Not Applicable to the Project.**

9. Zoning Bylaws Article 5, Section 5.3.7(A) and (B) – These sections address screening requirements for parking areas.

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**Board Action: Waiver denied as not applicable to the project, as the Property does not abut any buildable residential lots.**

10. Title IX, Article 3, Sections 4A and 4B – These sections set forth fees for fire safety, building permits, plan reviews, occupancy permits, plumbing permits, gas fitting, infiltration and inflow fees and electrical permits

**Board Action: Waiver Granted as Follows: The Board notes that this waiver includes fees and charges related to fire safety, building permits, plan reviews, occupancy permits, plumbing permits, gas fitting, infiltration and inflow fees, and electrical permits, but does not include fees and charges for public safety details, if and when required.**

11. Title V, Article 15, Section 6(D) – This section requires compliance with the Arlington Stormwater Bylaw, which requires compliance with the Massachusetts Stormwater Handbook, which would require an infiltration system. The Applicant requests a waiver of any requirement to install an infiltration system.

**Board Action: It is the Board's determination that the Arlington Stormwater Bylaw is not applicable to this Project. To the extent it may be determined that the Bylaw is applicable, Waiver Granted.**

12. Comprehensive Permit Requirements – The Applicant requests a waiver of the requirement to provide a statement of impacts on municipal facilities.

**Board Action: Waiver Granted.**

13. Arlington Stormwater Management Rules and Regulations – The Applicant requests a waiver of these provisions in their entirety. The Applicant notes that the proposal reduces the amount of impervious area on the Property, that the Property is less than one acre, and that the majority of the runoff will be clean water from roofs.

**Board Action: Waiver Granted. It is the Board's determination that the Arlington Stormwater Management Rules and Regulations are not applicable to this Project. To the extent it may be determined that the Bylaw is applicable, Waiver Granted.**



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14. Title V, Section 12 (Noise Abatement) – The Applicant requests a waiver of the prohibited times under subsection 3.A to allow exterior work to begin at 7:00 am on weekdays and 8:00 am on Saturdays. The Applicant agrees to abstain from exterior work on Sundays and legal holidays in exchange for the earlier weekday and Saturday starting times.

**Board Action: Waiver Granted.**

**END OF DECISION**