



TOWN OF ARLINGTON

MASSACHUSETTS 02476

781 - 316 - 3090

DEPARTMENT OF PLANNING and COMMUNITY DEVELOPMENT

DECISION OF THE BOARD

EDR Docket #3386, 30-50 Mill Street
December 13, 2010

This decision applies to the special permit application by WP East Development Enterprises, LLC, which seeks a special permit subject to Environmental Design Review (EDR) to construct a 116 unit, multi-story, apartment building and a 1 story retail or office building and kiosk at 30-50 Mill Street. The site was the headquarters of Brigham's Ice Cream from 1968 to 2008. The applicant would demolish the existing buildings and construct a podium-style building above at-grade parking, associated utilities, compensatory flood storage mitigation, and drainage improvements.

The application filed petitions for various forms of relief to construct the above-referenced buildings and improvements with the Conservation Commission, the Arlington Redevelopment Board (hereinafter referred to as the "ARB", the "Redevelopment Board" or, simply, the "Board") and the Zoning Board of Appeals in March, 2010. Town staff convened a Development Review Team meeting with the applicant on April 6, 2010. A site visit with the developer and members of the Redevelopment Board and Zoning Board of Appeals was held in May, 2010. The Conservation Commission will issue its order of conditions after the other boards have issued their Decisions, consistent with the Massachusetts Wetlands Protection Act and the wetlands bylaw of the Town of Arlington. The Zoning Board of Appeals granted a variance for frontage and a height variance on July 6, 2010. The Redevelopment Board opened and continued the EDR Special Permit hearing by agreement with the applicant on April 12, 2010, to allow time for the Zoning Board of Appeals to render its decision (which occurred on August 20, 2010), since the effect of that decision would impact the plans subject to Environmental Design Review. The Board then continued the hearing and took testimony on August 23, 2010, September 13, 2010, September 27, 2010, October 4, 2010, October 25, 2010, November 8, 2010, and November 22, 2010.

The 3.87 acre site is bounded by the Minuteman Bikeway to the north, Arlington High School to the west, the Mill Brook and 22 Mill Street Office condominium building to the south, and Shattuck's Hardware and Mill Street to the east. The site is in a depression approximately 22' below the bike path, and much of the site is in the flood plain. For this reason, the main structure would be built on piers above at-grade parking.

Materials considered by the Board in rendering this Decision:

March 5, 2010 Memorandum from the Arlington Bicycle Advisory Committee to the ARB et al
March 15, 2010 Allen & Major Environmental Design Review Special Permit Application
April 2010 MS Transportation Systems/New England Engineering Group Traffic Impact Access Study

May 25, 2010 memorandum from Jeffrey Maxtutis, Transportation Advisory Committee Working Group to Arlington Redevelopment Board

June 16, 2010 Revision 1, Allen & Major Operations & Maintenance Plan

June 16, 2010 Revision 1, Allen & Major Drainage Report
 July 15, 2010 Director's Report from Carol Kowalski to the Arlington Redevelopment Board
 July 20, 2010 Letter from Ann LeRoy to Carol Kowalski regarding the Brigham's site development
 July 21, 2010 Memorandum from Kurt Kelly, Arlington DPW to Town Engineer Michael Rademacher re. drainage
 Allen & Major 30-50 Mill Street 8-17-10
 Proposed Color Presentation Plan CPP-1
 Proposed Landscape Plan C-6a, Parking Area Landscape Exhibit EXH-1
 Open Space-Landscaped Exhibit EXH-2
 Memorandum from Cube 3 to Redevelopment Board August 18, 2010 re. Floor Area Ratio Calculations
 Open Space-Usable Exhibit EXH-3
 Shattuck Ace Hardware Store Parking Exhibit EXH-4
 Memorandum from WP East Development Enterprises LLC August 18, 2010
 Letter August 18, 2010 from Allen & Major to Rick Dickason re. access drive over the Mill Brook
 August 18, 2010 WP East Development Enterprises, Transportation Demand Management Plan
 Letter August 23, 2010 from William Scully, P.E., New England Engineering Group to Christopher Loreti
 September 3, 2010 memorandum from Joey Glushko to Carol Kowalski re. Useable Open Space
 Allen & Major 30-50 Mill Street September 7, 2010:
 Proposed Color Presentation Plan CPP-1
 Open Space-Landscaped Exhibit 9-8-10
 Revised Zoning Takeoffs, EXH-2,
 Open Space-Useable Exhibit, 9-8-10
 Revised Zoning Takeoffs EXH-3, Cube 3, Retail First Floor Plan A1-101, 9-8-10
 Cube 3, Exterior Building Elevations, A1-201, 9-8-10
 Cube 3, Exterior Building Elevations, A1-202, 9-8-10
 Cube 3 Parking Level Gross Square Footage Diagram, 9-13-10
 Cube 3 First Floor Gross Square Footage Diagram, 9-13-10
 Cube 3 Typical Floor Gross Square Footage Diagram, 9-13-10
 Cube 3 Loft Floor Gross Square Footage Diagram, 9-13-10
 September 13, 2010 Memorandum from Kurt Kelley, Arlington DPW to Town Engineer Michael Rademacher re. dewatering and stormwater
 September 2010 revised MS Transportation Systems/New England Engineering Group Traffic Impact Access Study
 September 12, 2010 email from Patricia Worden to Carol Kowalski
 September 20, 2010 letter, exhibits, and photos, Michael Fitzpatrick, DMD, 22 Mill Street
 September 23, 2010 Director's Report from Carol Kowalski to the Arlington Redevelopment Board
 September 27, 2010 Allen & Major JS-1 Jason Street Mass Ave intersection plan
 September 27, 2010 letter from 22 Mill Street Condominium Association to Arlington Redevelopment Board
 October 20, 2010 Allen & Major Revision 2, (ABB-1, EX-1, C-1, C-2, C-3, C-4, C-5, C-6A, C-6B, C-7, C-8, D-1, D-2, D-3, D-4, D-5, D-6, D-7, D-8, A-100, A-101, A-102, A-103, A-104, A-105, A-081)
 October 21, 2010 memorandum from Carol Kowalski, Director of Planning to Joseph Curro, Chairman, School Committee,

October 22, 2010 memorandum from Arlington Transportation Advisory Committee Working Group to Arlington Redevelopment Board
October 25, 2010 Design and LEED update slide presentation
October 25, 2010 Parking and Unit Mix table, Laura Wiener
October 27, 2010 Allen & Major Revision 3 (ABB-1, EX-1, C-1, C-2, C-3, C-4, C-5, C-6A, C-6B, C-7, C-8, D-1, D-2, D-3, D-4, D-5, D-6, D-7, D-8, A-081, A-100, A-101, A-102, A-103, A-104, A-105, A-201, A-202, A-301, A-302)
October 28, 2010 revisions to Allen & Major CPP-1, EXH-1, EXH-2, EXH-3, EX-5
October 28, 2010 letter from Joseph Curro, Chairman, Arlington School Committee to Carol Kowalski
November 3, 2010 memorandum from WP East Development Enterprises LLC to Arlington Redevelopment Board re. updated plans reflecting changes requested by the Board
November 8, 2010 Memorandum from Cube 3 Studio to Arlington Redevelopment Board re. revised Floor Area Ratios with revised Gross Square Footage Diagrams and Elevations
November 8, 2010 Cube 3 Studio Proposed Materials sheet
November 11, 2010 Allen & Major EXH-6, sample paving types sheet
Architectural Area Lighting cut sheet stamped received November 17, 2010
November 17, 2010 Allen & Major Revision 4 (ABB-1, EX-1, C-1, C-2, C-3, C-4, C-5, C-6A, C-6B, C-7, C-8, D-1, D-2, D-3, D-4, D-5, D-6, D-7, D-8, A-081, A-100, A-101, A-102, A-103, A-104, A-105, A-201, A-202, A-210, A-301, A-302, A1-101, A1-201)
November 21, 2010 Memorandum from Arlington Transportation Advisory Committee to Arlington Redevelopment Board
November 22, 2010 Memorandum from Chief Robert Jefferson
2004 lease between Brigham's and 22 Mill Street for parking on the Brigham's premises

FINDINGS OF THE BOARD

Section 10.11a-1 The uses requested are listed in the Table of Use Regulations as a Special Permit use in the district for which application is made or is so designated elsewhere in this Bylaw.

The applicant originally proposed an apartment building and a retail use. The apartment use, which is Use 1.05 in Section 5.04 Table of Use Regulations, requires a special permit, as does the retail building of 3,500 square feet, Use 6.16 in Section 5.04 Table of Use Regulations. The applicant subsequently requested permission for professional/medical offices at the site as well as limited parking on the site by employees of the 22 Mill Street office condominium. The proposed professional/medical office use is listed in the table of Use Regulations as Use 6.20 in Section 5.04. The proposed parking by the 22 Mill Street office condominium, which is Use 5.06 in Section 5.04 Table of Use Regulations, also requires a special permit.

The applicant has designed the development to acknowledge and incorporate the bikepath and bikepath users. To this end, the developer and the Board agree that both the kiosk and the retail building will reflect this intentional association with the bikepath to distinguish this development as a unique place. The developer and Board agree, as set out in Special Condition 10 hereinbelow, that certain uses shall be allowed without reopening the special permit and certain uses shall not be allowed absent reopening the special permit and the approval of the Board.

The Board finds that Standard 10.11a-1 of the bylaw has been met.

Section 10.11a-2 The requested use is essential or desirable to the public convenience or welfare.

A range of uses are allowed at this site under the Arlington Zoning Bylaw. The Koff Associates' Development Sites Assessment undertaken for the Town in 2009, as part of the Commercial Development study, contemplated the former Brigham's site and concluded that residential development was the most likely potential use for the site. Lack of highway and subway access make it undesirable for office use or big box retail. Furthermore, the lack of tourist demand, universities, or large employers nearby limits the demand for hotel use, according to the Koff Study. The ABC Study by City Design Collaborative in 1995 recommended a rezoning from Industrial to Business 5 in order to expand the Arlington Center commercial district to include the Brigham's Site. The site was subsequently re-zoned to B2A, which allows for residential development.

The 2004 Housing Strategy Plan recommended that under-utilized sites be inventoried to identify opportunities to expand affordable housing. As detailed in Special Condition 9, the proposed residential use will produce 17 affordable rental apartments under Arlington's inclusionary zoning bylaw at Section 11.08, which is desirable.

The proposed retail or office use on the site is important in reinforcing the retail presence of Shattuck's Hardware Store on Mill Street. The retail use also encourages a mixed-use (residential mixed with retail) approach that many in the Arlington community see as favorable. The possible medical office use would complement the successful medical office use at 22 Mill Street.

Affordable housing, and siting housing near the bikepath to reduce vehicle trips are both desirable. The Board finds this standard is met.

Section 10.11a-3 The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.

The applicant submitted a traffic impact and access study prepared by MS Transportation Systems/New England Engineering Group. As provided in Special Condition 3, it is proposed that vehicles will enter and exit the site from Mill Brook Drive, via an easement across the culvert owned by the 22 Mill Street office condominium, and the driveway connecting the site to Mill Street is proposed to be one-way, egress-only to Mill Street.

The Arlington Transportation Advisory Committee (TAC) reviewed the study and prepared a memorandum to the Board dated May 25, 2010. TAC met with Bill Scully, P.E. from New England Engineering Group on September 7, 2010. TAC requested an updated traffic impact study addressing issues that TAC had identified, and requesting that the developer propose offsite mitigation. As set out in Special Condition 4, the proposed mitigation includes a flashing warning beacon at the intersection of the bikepath and Mill Street activated by sensing the presence of pedestrians or bicycles on the bikeway. Additional mitigation proposed includes two signs instructing drivers not to block the intersections of Mill Brook Drive and the access drive with Mill Street, as set out in Special Condition 3.

The former use of the site as offices, a manufacturing plant and restaurant, which were open from early morning until late evening, caused continuous short traffic trips to and from the site throughout the day. The number of trips generated by a residential use of the site versus its former use will decrease. The traffic impact report and the traffic simulation prepared by New England

Engineering Group found that future operating conditions of the study area intersections would not change significantly.

The Board finds based upon the evidence presented that the proposed development will not create undue traffic congestion or unduly impair pedestrian safety. The Board finds that this standard has been met.

Section 10.11a-4 The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety, or the general welfare.

The Town Engineer has reviewed the drainage plans for the proposed development. The Town Engineer also asked the developer to undertake water flow tests and pressure tests and to do flow calculations. Together, the Town Engineer's memoranda of July 21, 2010, and September 13, 2010, and the applicant's drainage study establish that there is sufficient capacity in the Town's water and sewer system, and that stormwater management plans are acceptable.

Further, the information provided by the applicant's engineers indicates that the impact of the proposed project on the public water and sewer system will actually be less than the prior uses at the site.

The Board finds this standard has been met.

Section 10.11a-5 Any special regulations for the use, set forth in Article 11 are fulfilled.

The special regulations in Article 11 applicable to the development are 11.05, Inland Wetland District, 11.06, Environmental Design Review, and 11.08, Affordable Housing Requirements.

The Zoning Board of Appeals heard testimony on the application for a special permit under 11.05, Inland Wetland District and granted the permit based upon the plans presented at the time. The Zoning Board of Appeals will be asked by the developer to revise its decision, taking into consideration the change to the building footprint that was made by the developer during Environmental Design Review.

The developer has agreed to comply with Section 11.08, Affordable Housing Requirements, as set out in Special Condition 8.

The Board finds that this standard is met with respect to Sections 11.05 and 11.08 of the Bylaw. The Environmental Design Review standards of Section 11.06 are evaluated below.

EDR-1 Preservation of Landscape: The landscape shall be preserved in its natural state insofar as practicable, by minimizing tree and soil removal and any grade changes shall be in keeping with the general appearance of neighboring developed areas.

The current site is covered almost entirely by building or paving. Paving is proposed to be reduced by approximately .75 acre. The proposed development will retain the existing trees between the lot and the bike path on the north side, eight existing trees will be maintained along the west/southwest edge of the lot, and two existing trees in the southeast corner will be retained. The grade changes steeply behind Shattuck's hardware store, and will be re-graded. Re-grading in the southwest corner will create a storm water control area to the north and introduce significantly more landscaping, as well as some landscaped areas within the parking lot.

As set out in Special Conditions 13 and 14, the developer proposes to remove asphalt paving that extends from the former Brigham's parking lot into the Town-owned pocket park near the Mill Brook, and to replace light fixture heads and benches at the Town-owned park near the Mill Brook. The Town will have responsibility for the maintenance of the pocket park upon completion of the park improvements by the applicant.

Parking landscaping meets 8.12b(5) of the bylaw by extending landscaped area into the parking area.

The Board finds this standard has been met.

EDR-2 Relation of the Building to the Environment: Proposed development shall be related harmoniously to the terrain and to the use, scale and architecture of the existing buildings in the vicinity that have functional or visible relationship to the proposed buildings. The Arlington Redevelopment Board may require a modification in massing so as to reduce the effect of shadows on the abutting property in an R-1 or R-2 district or on public open space.

The applicant proposes a single multi-story building (original plan called for four stories above a parking story) and a single story retail/office building. The slope of the property and siting of the proposed footprint on the plans give the effect of the building receding from view into the site, except for the upper stories and the roof. From Mill Street, the parking level will not be visible due to a 13' grade drop. Four levels above one parking podium were mitigated by a flat roof and step-downs to three stories above the parking in some areas. The building will appear to rise only 46' 7" as viewed from Mill Street, and at a distance of 120' from the Mill Street sidewalk. The revised, final plans reduce the visual impact of the building mass from the High School, Mill Street, the Minuteman Bikeway, and Mill Brook Drive. The proposed building is set back a minimum of 42" from the bikepath, whereas the existing structure actually encroaches into the right-of-way for the bikepath.

The multi-story apartment building will be of distinctly different architecture than the adjacent brick former mill buildings, and would be clad in lap siding and fiber cement panel as well as a stucco finish in some areas at the parking level. This differs from the brick finish material of most of the prominent buildings on both sides of Mill Street to the east, 22 Mill Street bounding the south, and Arlington High School at a distance to the west. This difference in proposed finish materials is appropriate, and will distinguish the project's construction from the historic brick former mill structures and the high school. The flat and varied rooflines and cornices break up the mass of the building. Deep relief and heavy profile in architectural detail also help to relieve the effect of the massing. Further, the proposed project will generally cast less shadow on the abutting properties and on the Minuteman Bikeway than the existing building. The applicant produced a shadow study depicting the shading effect on the Bikeway at 9:00 am, 12:00 pm and 3:00 pm in July and January. Because the buildings proposed are substantially set back from the Bikeway, the net shadowing effect on the Bikeway is reduced.

The proposed retail/office building is an acceptable use near the bikepath and Shattuck's hardware store.

The Board finds this standard has been met.

EDR-3 Open Space: All open space (landscaped and usable) shall be so designed as to add to the visual amenities of the vicinity by maximizing its visibility for persons passing by the site

or overlooking it from nearby properties. The location and configuration of usable open space shall be so designed as to encourage social interaction, maximize its utility and facilitate maintenance.

Currently there is no existing usable open space on the site, as none was required for the former uses. As set out in Special Condition 11, the proposal creates a publically-accessible landscaped open space of roughly 700 square feet near the bike path and retail store, linked by a publically accessible walking path through the site to the Town-owned pocket park adjacent to the Mill Brook. The applicant proposes to improve the Town-owned park, for which the School Committee has granted permission. Publicly-accessible open space is not required, but is certainly desirable in this location near the Mill Brook, the High School, and adjacent to the bikepath.

An amount equivalent to 10% of the Gross Floor Area is required for landscaped usable open space. An area equivalent to 61% of the GFA is proposed. As such, the open space provided exceeds the requirement. The Board finds this standard met.

EDR-4 Circulation: With respect to vehicular and pedestrian and bicycle circulation, including entrances, ramps, walkways, drives, and parking, special attention shall be given to location and number of access points to the public streets (especially in relation to existing traffic controls and mass transit facilities), width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, access to community facilities, and arrangement of vehicle parking and bicycle parking areas, including bicycle parking spaces required by Section 8.13 that are safe and convenient and, insofar as practicable, do not detract from the use and enjoyment of proposed buildings and structures and the neighboring properties.

The Arlington Transportation Advisory Committee acted, at the Board's request, as a peer-reviewer of the developer's Traffic Impact and Access Study.

The applicant proposes one-way use for the drive-way off Mill Street. This drive will be "egress-only" as set out in Special Condition 3. An agreement between the developer and the 22 Mill Street owners on the future repair and maintenance of the culvert bridge as set out in Special Condition 22 will address future aesthetic and structural concerns. As set out in Special Conditions 2, 3, 4, 5, 6 and 23, the applicant proposes to mitigate traffic impacts as follows: (1) signage at the intersection of Massachusetts Avenue, Mill Street and Jason Street; (2) signage at the intersection of Mill Brook Drive and the access drive with Mill Street; (3) a flashing beacon at the intersection of Mill Street and the bikepath; (4) pedestrian warning mitigation at the sidewalk intersecting the site drive exit; and (5) provision of an "opticom" at the traffic signal of Mill Street and Summer Street for control by emergency vehicles. The Board finds this standard has been met.

EDR-5 Surface Water Drainage: Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Available Best Management Practices for the site should be employed, and include site planning to minimize impervious surface and reduce clearing and re-grading. Best Management Practices may include erosion control and stormwater treatment by means of swales, filters, plantings, roof gardens, native vegetation, and leaching catchbasins. Stormwater should be treated at least minimally on the development site; that which cannot be handled on site shall be removed from all roofs, canopies, paved and pooling areas and carried away in an underground drainage system. Surface water in all paved areas shall be collected in intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved areas.

In accordance with Section 10.11,b, the Board may require from any applicant, after consultation with the Director of Public Works, security satisfactory to the Board to insure the maintenance of all stormwater facilities such as catch basins, leaching catch basins, detention basins, swales, etc. within the site. The Board may use funds provided by such security to conduct maintenance that the applicant fails to do.

The Board may adjust in its sole discretion the amount and type of financial security such that it is satisfied that the amount is sufficient to provide for any future maintenance needs. The Town Engineer reports that he accepts the developer's information provided showing that there is sufficient capacity in the Town's water and sewer system. The Town Engineer's memoranda accept both stormwater management plans, and finds that the plans provide for sufficient water and sewer capacity. The Board agrees to require financial security as described in Special Condition 25.

The Board finds this standard has been met.

EDR-6 Utilities Service: Electric, telephone, cable, TV, and other such lines of equipment shall be underground. The proposed method of sanitary sewage disposal and solid waste disposal from all buildings shall be indicated.

Gas and water lines are indicated on the plan. Electricity, telephone and data transmission lines are proposed to be overhead through the driveway from Mill Street, and then underground from the existing service terminus. The placement of utilities is subject to the final approval of the utility providers. Any deviation from the approved plans shall be submitted to the Board. A trash compacter serving the residential building is proposed under the building within the podium parking area.

The Board finds this standard has been met.

EDR-7 Advertising Features: The size, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall not detract from the use and enjoyment of proposed buildings and structures and the surrounding properties.

The developer did not apply for sign approval with this application. Sign details are subject to a Board review and approval of location, number, size, placement and lighting of future proposed signage, approval of which shall be considered by the Board as a future amendment to this permit at a duly advertised and noticed public hearing, as set out in Special Conditions 18 and 19. Subject to such future application and Board approval, the Board finds this standard has been met.

EDR-8 Special Features: Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

The plans submitted include the location of trash disposal, truck loading area and rooftop HVAC units and provide for appropriate screening. Final approval of these features to demonstrate consistency with the plans reviewed and approved during the hearings shall be made by the Board upon review of the detail drawings at 100% of design, including details of screening of special features and landscaping details. The Board finds this standard is met.

EDR-9 Safety: With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation and maximize accessibility by fire, police and other emergency personnel and equipment. Insofar as practicable, all exterior spaces and interior public and semi-public spaces shall be so designed to minimize the fear and probability of personal harm or injury by increasing the potential surveillance by neighboring residents and passersby of any accident or attempted criminal act.

The proponent has reported that the Fire Chief is now satisfied with the plans, and will provide a letter to the Board.

Snow that can be accommodated on site shall be placed in the areas designated by the Conservation Commission. Snow that cannot be accommodated in these areas on site shall be removed off site. Hydrants are shown on the plan and were located in consultation with the Fire Chief.

The publically accessible path from the bikeway to the site will be illuminated at night for safety. The Board finds this standard has been met.

EDR-10 Heritage: With respect to Arlington's heritage, removal or disruption of historic, traditional, or significant uses, structures or architectural elements shall be minimized insofar as practical whether these exist on the site or on adjacent properties.

The Brigham's manufacturing buildings are not on the Town's inventory of historically significant buildings; they are not subject to the demolition delay bylaw. The building's close proximity to the railroad was intentional for ease of loading freight and delivery of goods to and from the site. As this functional relationship between the building and the railroad has long been abandoned, it is appropriate to provide separation and greater distance between the new use as residential apartments and the contemporary use of the rail-bed as a bikepath.

There are no architecturally significant features of the existing buildings that are necessary or desirable to preserve or reflect in the architecture of the new building.

The properties at 6 Mill Street and 29 Mill Street are listed in the inventory of historic properties. The proposed development will not be visible to the public from 6 Mill Street. The apartment building at 17 Mill Street was constructed in 1982. The altered ca. 1880 Victorian at 29 Mill Street is noted in the Arlington Historical Commission 1976 publication, "Mill Brook Valley: A Historical and Architectural Survey". The proposed development will not disrupt or affect the remaining historic features evident in the 29 Mill Street structure.

The Board finds this standard is met.

EDR-11 Microclimate: With respect to the localized climatic characteristics of a given area, any development which proposes new structures, new hard surface, ground coverage or the installation of machinery which emits heat, vapor or fumes shall endeavor to minimize insofar as practicable, any adverse impacts on light, air and water resources or on noise and temperature levels of the immediate environment.

The proposed development will reduce the amount of impermeable surface on the site, thereby reducing the heat-island effect. The HVAC equipment is to be located on the roof of the residential building and is expected to emit about 76 decibels. Mounted at the roof height of approximately 60 feet, this decibel level will be further reduced. The site is relatively large and the equipment will be roof-mounted so heat, vapor, or fumes will not be detectable. As set out in Special Condition 15, no equipment mounted on the roof of any building on the site is proposed

to extend beyond the eaves or be visible from the public view. The developer will include details of screening of rooftop equipment at the Board's 50% review.

The Board finds this standard is met.

EDR-12 Sustainable Building and Site Design: Projects are encouraged to incorporate best practices related to sustainable sites, water efficiency, energy and atmosphere, materials and resources, and indoor environmental quality. Applicants must submit a current Green Building Council Leadership in Energy and Environmental Design (LEED) checklist, appropriate to the type of development, annotated with narrative description that indicates how the LEED performance objectives will be incorporated into the project.

The applicant submitted a LEED for Homes Checklist.

Sustainable sites.

The subject property is an excellent site for redevelopment. The existing site is already fully developed, and its redevelopment will include removing paved surface and replacing some of it with pervious, landscaped areas. The existing site has sewer and utility service already available.

The existing site is well located, near basic services, including the Town Hall, Library, Senior Center, public schools, and restaurants and shops, including a food market, hardware store, pharmacy, and medical offices. It has excellent access to public transportation, with bus access to the MBTA Red Line at Alewife and Harvard Stations. It abuts the Minuteman Bikeway, which also provides access to the Red Line at Alewife Station, as well as other locations in Arlington and Lexington, for pedestrians and bike riders.

Because of its excellent access to pedestrian, bicycle and public transit facilities, this is a good location for Transportation Demand Management practices, and the applicant has submitted a Transportation Demand Management Plan that satisfies the Transportation Advisory Committee, as set out in Special Condition 7. The proposed shared parking arrangement with 22 Mill Street condominiums and the proposed bicycle amenities for tenants and the public also satisfy this standard.

Water efficiency.

Drainage and flood storage will be improved over the existing conditions on the site. The developer has proposed water efficiency strategies including water saving devices within the units, and native plant species for landscaping to reduce need for irrigation.

Energy and Atmosphere.

The applicant has stated that it will build into the development measures that will use less energy for heating and cooling, such as insulation and high efficiency HVAC systems, and energy star rated appliances. Applicant will meet the Town's new Building Stretch Code.

Materials and Resources.

The applicant will make efforts to use materials efficiently and reduce construction waste diverted to landfills.

Indoor Environmental Quality.

The applicant has taken some measures to ensure environmental quality, such as providing fans for fresh air and isolation of the garage from interior spaces.

The developer agrees to employ full cut-off, fully shielded exterior site and building lighting to prevent light pollution, off-site light trespass and glare, as set out in Special Condition 16.

The Board finds this is standard met.

Section 10.11a-6 The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health, morals, or welfare.

The requested uses, multi-family residential and retail or professional offices, exist in the district and will not alter the integrity or character of the district. Activity from the neighboring Arlington High School campus and Minuteman Bikeway will exert a pronounced public-oriented influence on the experience of living in this residence. This is reflected by the proposed allowance for public access across the site from the pavilion park in the northeast corner of the site, adjacent to the bikeway at the proposed kiosk, to the pocket park, as set out in Special Condition 11, and in the design of the parking to include bicycle parking. The Board finds this standard has been met.

Section 10.11a-7 The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood.

The proposed residential and retail/office uses will not create an excess of either to the detriment of the neighborhood. The new residents and employees will support area retail on Mill Street, Summer Street and Massachusetts Avenue. The Board finds this standard is met.

DECISION

The Board finds that the proposal is an appropriate re-use of the property, and grants the following special permits, subject to the following general and special conditions:

Special permit for Use 1.05 Apartment House from the Table of Use Regulations (section 5.04 of the Zoning Bylaw);

Special permit for Use 5.06 Commercial off-street parking, Table of Use Regulations;

Special permit for retail Use 6.16 Retail, Table of Use Regulations;

Special Permit for Use 6.20 Office, Table of Use Regulations.

General Conditions

1. The final plans and specifications for the site, including all buildings, signs, exterior lighting, and landscaping shall be subject to the approval of the Arlington Redevelopment Board for consistency with the plans reviewed and approved during the hearings. The Board shall maintain its jurisdiction over plans and specifications by approving them at 100% of completion. At the time of submission of the 50% drawings, the Applicant shall submit for approval:

- a. Samples of exterior materials proposed for the building, including colors, and other features that comprise the details of the final design
- b. Exterior Lighting Plan
- c. Landscaping Plan, including details on size and species of plantings
- d. Details of screening of rooftop equipment
- e. Wayfinding and other signage for the residential, office and retail uses.

2. The final plans and specifications approved by the Board for this permit shall be the final plans and specifications submitted to the Building Inspector of the Town of Arlington in connection

3. Snow removal from all parts of the site, as well as from any abutting public sidewalks, shall be the responsibility of the owner or occupant and shall be accomplished in accordance with the Town bylaws.
4. All exterior trash and storage areas on the property shall be properly and continuously screened and maintained in accordance with the Bylaws of the Town of Arlington.
5. Trash shall be picked up only on weekdays and only between the hours of 7:00 am and 6:00 pm, Monday through Friday.
6. No final or permanent Certificate of Occupancy shall issue on this project until the project is completed in its final form and approved by the Redevelopment Board as being in compliance with the final plans and specifications, including the landscape plan, except as provided in special condition 22. If the improvements referenced in Special Conditions 3, 4, 5 and 6 remain incomplete as provided in special condition 22 below, a temporary certificate of occupancy shall be issued for this project.
7. The Building Inspector is hereby notified that he is to monitor the site and should proceed with appropriate enforcement procedures at any time he determines that violations are present. The Inspector of Buildings shall proceed under Section 10.09 of the Zoning Bylaw, pursuant to the provisions of Massachusetts General Laws, Chapter 40A Section 21D, and institute non-criminal complaints. If necessary, the Inspector of Buildings may institute appropriate criminal action also in accordance with Section 10.09.
8. Subsequent to the end of all applicable appeal periods and prior to the issuance of a Building Permit, the Applicant shall record this Decision in the Middlesex County South District Registry of Deeds and shall provide the Board, and the Building Inspector with a copy of this Decision endorsed with the applicable recording information.
9. The Board maintains continuing jurisdiction over this permit, and may, after a duly advertised public hearing, attach other conditions, including but not limited to, reasonably restricting the retail opening hours, or it may modify these conditions as it deems reasonably appropriate to protect the public interest and welfare.

Special Conditions

1. The required number of parking spaces is 142. The total number of spaces is limited to 173, and 12 spaces shall be dedicated to the retail/office building. This Decision grants approval for up to 23 spaces to be leased to the owners of 22 Mill Street for their exclusive use by employees, provided that the owners of 22 Mill Street agree to (1) remove the two paved-over spaces at the northwest corner of the 22 Mill Street parking deck and install or restore the landscaping shown on the approved final plan for the 22 Mill Street Special Permit, (2) restore its on-site loading space and (3) shield or move its dumpsters. The spaces are to be marked or assigned for use only by employees of 22 Mill Street.

2. Not more than one parking space shall be included with the rent for any single unit.
3. The access driveway on Mill Street shall be one-way egress only, with Do Not Enter and One-Way signs, with additional visual and audible warnings for pedestrians that are in compliance with the Americans with Disabilities Act. Not more than two signs shall be erected instructing motorists not to block the intersections of Mill Street and the driveway, and Mill Street and Mill Brook Drive. Wording and location of all signage and devices shall be subject to approval by the Redevelopment Board, Transportation Advisory Committee and the Board of Selectmen.
4. Subject to approval by the Board of Selectmen, and any other agency with jurisdiction over the bikeway, flashing beacons shall be installed at both Bikeway approaches (flashing red) and Mill Street approaches (flashing yellow) mounted on poles, one for each direction. The flashing beacons shall be activated by detection equipment only when a Bikeway user (pedestrian or cyclist) approaches Mill Street. The detection equipment shall be provided on both Bikeway approaches, subject to a design that is approved in sequence by the TAC, DPW, the Redevelopment Board, and Board of Selectmen, and shall minimize false detection calls. The system shall be installed and shown to operate satisfactorily for a minimum of one calendar year with an escrow fund of \$10,000 established by the Developer for any necessary operational improvements to the beacon warning system.
5. The TAC and DPW shall design, subject to approval by the Board of Selectmen, one dedicated left turn lane and one shared through-right turn lane on the southbound Mill Street approach to the Massachusetts Avenue intersection. Developer shall provide not more than two signs indicating the lane restrictions in support of this.
6. Subject to the approval of the Board of Selectmen, the developer shall provide an “Opticom” emergency vehicle detection system at the traffic signal at Summer and Mill Streets, for installation by the Town, to allow emergency vehicles to control the signal, to be maintained by the Town.
7. Developer shall implement Transportation Demand Management practices in accordance August 2010 Transportation Demand Management plan filed with the approved plan.
8. The proponent shall provide the Town with analysis results (hard copy and electronic) and computer simulated models known as “Synchro” files, showing the improved signal timing and phasing at Massachusetts Avenue/Mill Street/Jason Street/Summer Street. Further, the proponent will detail the recommended signal timing and phasing improvements at Massachusetts Avenue/Mill Street/Jason Street signal and the Mill Street/Summer Street signal for the Town to implement.
9. The Project shall comply with the requirements of Section 11.08 – Affordable Housing Requirements of the Zoning Bylaw dated April, 2010, the requirements of the Local Initiative Program, as set forth at 310 CMR 45.00 and the conditions set forth below. In the event of a conflict between the requirements of the conditions set forth below and the Local Initiative Program (LIP) regulations, the LIP regulations shall govern.

The Affordable Units in this Project shall include a minimum of three (3) studio units, five (5) one-bedroom units and nine (9) two-bedroom units.

At least sixty (60) days prior to the issuance of a building permit, the Applicant shall provide an Affordable Housing Plan locating the affordable units that, at a minimum, demonstrates compliance with the Arlington Zoning Bylaw Subsection 11.08(d)(4)(c). The plan is subject to review and approval by the Arlington Director of Housing.

At least sixty (60) days prior to issuance of a Certificate of Occupancy, the Applicant shall submit a marketing plan, as required by Subsection 11.08(f)(4), and a resident selection plan for review and approval by the Director of Housing.

To the extent allowed by law, preference for up to seventy percent (70%) of the Affordable Units shall be given to local residents for as long as the units exist.

At least sixty (60) days prior to issuance of a building permit the Applicant shall submit a draft affordable housing restriction and any additional documents required by the Local Initiative Program for review and approval by the Director of Housing.

The Affordable Units shall be affordable in perpetuity or the maximum time allowed by law but no less than ninety-nine (99) years.

In the event all or part of the Project is converted to a condominium form of ownership, conditions numbered 1-7 continue to apply and the items listed below shall be required:

At least sixty (60) days prior to conversion, submission of the condominium documents and the documents required by the LIP Program for review and approval by the Director of Housing.

- a. The condominium documents shall provide for one vote per unit unless otherwise required by M.G.L. c. 183A.
- b. The condominium documents shall provide that each unit owner's beneficial interest in the condominium shall be based on the owner's percentage beneficial ownership interest as provided by M.G.L. c. 183A.

10. The developer designed the project to acknowledge, complement and incorporate the bikepath and bikepath users in the development. To this end, the developer and the Board agree that both the kiosk and the retail/office building will reflect this intentional association with the bikepath to distinguish it from other places. Personal consumer uses permitted under paragraphs 6.08, 6.16, 6.17 and 6.20 of Article 5, Section 5.04 of the Bylaw, which are not specifically excluded hereinbelow, shall be permitted, including without limitation, retail store, coffee/ice cream shop, medical or professional office, sandwich shop, home or garden goods, bicycle service and ATM, provided that the ATM is an accessory use by a commercial/retail tenant for convenience of its customers and not a separate stand-alone use.. Uses that shall not be permitted at the site shall include: convenience store, fast-food, pizza shop, bank, ATM, fast-food style national chain store, laundromat and/or nail salon. If the applicant seeks to incorporate a use specifically excluded herein, it shall submit a request to reopen the special permit.

11. Unless and until this decision is amended by the Board, public access shall be allowed in perpetuity from the pavilion park across the site to the Town-owned pocket park by the applicant and its successors in interest. The publically-accessible path from the pavilion park to the site shall be illuminated at night for safety.

12. Upon installation of landscaping materials and other site improvements on the premises, the developer shall remain responsible for such materials and improvements, and shall replace and repair such as necessary, to remain in compliance with the approved site plan.
13. The developer shall replace two benches and up to a maximum of six light heads in the Town-owned pocket park along the Mill Brook adjacent to the 30-50 Mill Street property on the southwestern edge of the development at developer's expense. The Town will be responsible for maintenance of these improvements after installation.
14. The developer, provided the Town assents, shall remove asphalt pavement in the Town-owned pocket park along the Mill Brook at developer's expense and restore with native soil and plant material. The Town thereafter shall maintain the pocket park.
15. No pipes or other equipment shall protrude above the roof of the retail building except for ordinary ventilation pipes.
16. All exterior site and building lighting shall employ full cut-off, fully shielded fixtures to prevent light spillover, glare and sky glow.
17. The developer shall return to the Board for review at the 50% design stage for the design of the kiosk.
18. No vending machines, product advertisement, or off-site advertising are allowed at the pavilion park or associated with the exterior of the retail/office building or kiosk.
19. Signage other than traffic mitigation shall be presented for approval by the Board by amending the Special Permit following a duly advertised and noticed public hearing.
20. At the time of demolition, all existing Brigham's and other defunct signs and supporting structures, excluding the retaining wall, shall be removed.
21. The developer shall make cosmetic improvements to the culvert bridge, including lighting, paving, railings and signage, as proposed in the plans.
22. The developer shall enter into an agreement with the unit owners association of 22 Mill Street Condominium for the long-term maintenance and repair of the culvert bridge providing access to the site.
23. The applicant shall provide the requisite information to the Board, Transportation Advisory Committee and Board of Selectmen for the signage, warning devices and opticom system referenced in Special Conditions 3, 4, 5, and 6. Installation of the signage and warning devices and delivery of the opticom system may be delayed due to the approval process. The certificate of occupancy for the project shall not be withheld due to the delay in installation resulting from obtaining the requisite approvals or any delay in delivery of the systems for installation. Accordingly, a temporary certificate of occupancy may be issued by the building inspector in the event special conditions 3, 4, 5 and 6 are not completed at the time the residential and commercial buildings are ready for occupancy.

24. In the discretion of the building inspector, a temporary certificate of occupancy may be issued in general accordance with the phasing plan on file with the Board to accommodate the fit-out of the interior of the building. All residential construction shall be completed within 150 days of the issuance of the temporary certificate of occupancy. The building inspector may also issue a temporary certificate of occupancy for the retail plaza space.

25. In accordance with Standard EDR-5, the applicant is required to post a bond in the amount of \$1,500 as security that the storm drain system will be maintained in good working order. The Board may use the funds to conduct cleaning and maintenance of the system if the applicant fails to do so. Town personnel, or the Town's agents, may enter upon the property to perform such cleaning and maintenance.