



TOWN OF ARLINGTON
DEPARTMENT OF PLANNING and
COMMUNITY DEVELOPMENT

TOWN HALL, 730 MASSACHUSETTS AVENUE
ARLINGTON, MASSACHUSETTS 02476
TELEPHONE 781-316-3090

MEMORANDUM

To: Arlington Redevelopment Board

From: Jennifer Raitt, Director, Planning and Community Development
Erin Zwirko, Assistant Director, Planning and Community Development

Date: February 27, 2020

RE: Review of Warrant Articles 34, 28, 43, 35, 36 for 2020 Annual Town Meeting

Staff reviewed the following Warrant Articles to provide the Board with information for further consideration as part of the public hearing and review process. There are five articles with public hearings for the evening of March 2nd. This memo provides information about each article being reviewed, including any additional information provided by the petitioner, and additional factors for the Board's consideration.

A Warrant Article to amend the Zoning Bylaw has been submitted by Christopher Loreti and 10 registered voters:

Article 34 **ZONING BYLAW AMENDMENT/ CLARIFICATION OF ZONING BYLAW**
DEFINITION OF MIXED-USE

To see if the Town will vote to amend the definition of Mixed-use in the Zoning Bylaw to clarify that as enacted by Town Meeting, land uses individually prohibited in any particular Zoning District are also prohibited as part of Mixed-use developments in the same Zoning District; or take any action related thereto.

(Inserted at the request of Christopher Loreti and ten registered voters)

Mr. Loreti provides the following amendment:

That the definition of "Mixed-Use" in Section 2 of the Town of Arlington Zoning Bylaw is hereby amended by inserting immediately before the concluding period the words:

"provided that any such distinct land uses are not otherwise prohibited by this bylaw as individual land uses in the same same Zoning District" such that the revised definition reads in its entirety:

Mixed-Use: A combination of two or more distinct land uses, such as commercial, lodging, research, cultural, artistic/creative production, artisanal fabrication, residential in a single multi-story structure to maximize space usage and promote a vibrant, pedestrian-oriented live-work environment provided that any such distinct land uses are not otherwise prohibited by this bylaw as individual land uses in the same Zoning District.

The staff provides the following additional considerations relevant to this article:

- **Predictability of uses** – Requiring that the uses in a mixed-use structure are only those that are allowed in the applicable Zoning District may provide some predictability in any mixed-use proposal. This may be seen as a benefit for developers and abutters. While predictability is fundamentally important as part of any permitting process, this Warrant Article could limit flexibility in creating beneficial and creative projects that also fulfill community goals. Mixed-use projects are reviewed by the Redevelopment Board through a discretionary Special Permit process. Compatibility of proposed uses is considered in relationship to the surrounding neighborhood as part of that process. Further, the Town regulates vacant commercial properties. This Warrant Article could have a negative impact on both filling those spaces and expanding them by creating more use restrictions.
- **Very few instances where uses of underlying districts could potentially be in conflict** – In Arlington, there are nine instances where a neighborhood block of on average 390 linear feet (approximately 4 to 5 buildings) is split by two or more different Business Zoning Districts:
 - Mass Ave between Clark Street and Forest Street (B2 and B4)
 - Mass Ave between Fessenden Road and Quincy Street (B1 and B4);
 - Mass Ave between Quincy Street and Robbins Road (B1 and B4);
 - Both sides of Mass Ave between Pond Lane and Wyman Street (B1 and B2);
 - Mass Ave between Wyman Terrace and Linwood Street (B1, B2A, and B4);
 - Mass Ave between Foster Street and Tufts Street (B1 and B4);
 - Mass Ave at Lafayette Street (B1, B2A, and B4); and
 - Broadway at Sunnyside Avenue (B2A and B4).

These blocks contain multiple lots and are owned by multiple property owners. Assembling parcels for potentially larger-scale development is challenging and not always possible, further limiting the instances of potentially conflict of uses. Note there are instances where neighborhood blocks are split by Residential and Business Districts; mixed-use is not an allowed use in the Residential Districts.

In the instances noted above, B1 differs the most from B4, but B2A allows more uses and the most different uses in comparison to B1 or B4. The most different uses could be considered auto repair shop (allowed by Special Permit in the B4 district) and a funeral home (allowed by-right in the B1 district, allowed by Special Permit in the B2A district, and not allowed in the B4 district). This combination of uses, although not expressly permitted in these districts could be considered mixed-use under the existing Zoning Bylaw. However, because this is always a Special Permit process as noted in the point above, the Board would need to make a determination that would allow such a combination of uses to proceed while staying in compliance with the Special Permit criteria that protects the integrity of character of the Zoning District or neighboring Districts established as part of the Environmental Design Review.

- **Consistency with the Master Plan** – The Master Plan recommends supporting vibrant commercial areas by encouraging mixed-use redevelopment. By limiting the uses that could be considered as part of a mixed-use development, this Warrant Article is not consistent with the goals of the Master Plan. Further limiting development and mixture of uses is not in keeping with the Town's desire to increase its tax base; this Warrant Article could have a deleterious effect on future development in Arlington.

A Warrant Article to amend the Zoning Bylaw has been submitted by John L. Worden III and 10 registered voters:

Article 28 ZONING BYLAW AMENDMENT/ CONVERSION OF COMMERCIAL TO RESIDENTIAL

To see if the Town will vote to amend the Zoning Bylaw in section 5.2.4, by inserting in the last sentence of said section, after the word *footprint*, the words “if allowed by special permit” and by inserting, after the words *residential use*, the words “provided that the addition or expansion is for affordable housing” so that said sentence will read as follows:

In the case of an existing commercial use, the addition or expansion of residential use within the building footprint if allowed by special permit shall not require adherence to setback regulations for residential uses, provided that the addition or expansion is for affordable housing, even if the residential use becomes the principal use of the building; or take any action related thereto.

(Inserted at the request of John L. Worden III and ten registered voters)

Mr. Worden’s proposed amendment is embedded in the Warrant Article. He provided the following commentary with his article submission:

Under the law as it presently stands, a mixed-use building, with its minimal setbacks could be converted entirely into residential uses, by right. Since the only kind of additional housing that Arlington needs is affordable housing, the ability to do that would be limited under this amendment, and subject to public review.

The staff provides the following additional considerations relevant to this article:

- **Chilling effect on property reinvestment** – This Warrant Article mandates the creation of only affordable housing in certain mixed-use developments. Unfortunately, it is unclear how this achieves Arlington’s affordable housing or commercial development goals. Without any incentives, this Warrant Article would appear to deter rather than encourage the creation of affordable housing. This chilling effect is caused by limiting the flexibility property owners currently have in reinvesting in properties in Arlington. If the only option available for residential space is to create affordable housing, a property owner may not be able to balance a pro forma in order to see a return on their investment in their property. It is challenging to create 100% affordable housing, particularly at a smaller scale. Further, the addition of a requirement to seek a Special Permit adds another barrier to property owners reinvesting in buildings in Arlington by creating additional hurdles. Lastly, the seemingly mandatory nature of requiring that one to five units of housing must be affordable in most mixed-use development would be in conflict with the existing Zoning Bylaw’s Inclusionary requirements.
- **Creation of affordable housing** – Private entities create and preserve affordable housing in Arlington. In recent years, inclusionary zoning requirements led to the creation of one new rental housing unit at 483 Summer Street, a mixed-use development. The Housing Corporation of Arlington (HCA) has received Community Preservation Act, Community Development Block Grant, and HOME funds to construct 34 affordable rental units at 19R Park Avenue (Downing Square) and 14 affordable rental units at 117 Broadway, a mixed-use development. HCA previously applied for and received these funds to support the construction of nine affordable rental units at 20 Westminster Avenue, which was granted a Comprehensive Permit by the Zoning Board of Appeals in a R1 District. The Town has a strong commitment to awarding monetary resources to HCA, a mission-driven community development corporation that can

combine resources to create and preserve affordable housing. The Town also has a strong commitment to enforcing the Inclusionary Zoning requirements as projects are permitted.

- **Creation of commercial space** – In the mixed-use projects that received a Special Permit by the ARB, new commercial space has been created. The mixed-use building at 887-889 Massachusetts Avenue replaced an abandoned 1,572 square foot vehicular-oriented structure in the B4 district with 2,477 square feet of modern commercial space and residential homes. The renovation of the mixed-use structure at 925-927 Massachusetts Avenue gained 2 residential units while not losing commercial space. At 117 Broadway, Arlington Eats will move from 1,458 square feet to 2,360 square feet with affordable homes on the upper floors once the new building is constructed. These examples illustrate that mixed-use has created a net gain of commercial space in Arlington while adding needed residential units. This Warrant Article could result in a loss of commercial space and lack of diversity and flexibility of street level uses.
- **Consistency with the Master Plan and Housing Production Plan** – Both the Master Plan and the Housing Production Plan encourage the creation of more affordable housing, which benefits the community and helps achieve goals. However, this Article seems to be at odds with the Master Plan goal of promoting high value mixed-use development through redevelopment incentives. By requiring that all new or expanded housing must be affordable and requiring a Special Permit, the Warrant Article does not appear to be supporting the varied goals of the Master Plan and Housing Production Plan.

- **Consistency with the Master Plan, Arlington Heights Neighborhood Action Plan, and Sustainable Transportation Plan** – The Master Plan indicates that parking requirements that reflect the actual need for parking should be developed as a way to manage parking in commercial areas (Recommendation 5 of Traffic & Circulation, page 68). The Warrant Article is consistent with this goal and reflective of the fact that meeting the requirements of the existing off-street parking regulations is challenging or impossible in dense business districts, particularly for certain business uses that require higher parking ratios per the existing Zoning Bylaw. The Arlington Heights Neighborhood Action Plan indicates that restaurants are highly desired business for that business district, and this Warrant Article helps to further that goal. A goal of the Sustainable Transportation Plan is to create a vision for all aspects of mobility, including walking, bicycling, public transportation, driving, shared mobility, and micro mobility. This Warrant Article may help encourage business owners to identify other more sustainable mobility options for both customers and employees to access their business, including additional TDM measures.

Amend SECTION 6.1.5:

6.1.5. Parking Reduction in Business, Industrial, and Multi-Family Residential Zones

The Board of Appeals or Arlington Redevelopment Board, as applicable, may allow the reduction of the parking space requirements in the R5, R6, R7, Business, and Industrial Zones to 25 percent of that required in the Table of Off-Street Parking Regulations if the proposed parking is deemed adequate and where Transportation Demand Management practices are incorporated, as evidenced by a Transportation Demand Management Plan approved by the Special Permit Granting Authority. Methods to reduce parking on site may include but are not limited to:

- A. Shared Parking: To implement shared on-site parking, the applicant shall demonstrate that proposed uses are non-competing. In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demand for non-competing uses. In these cases, the parking requirement for the largest of the uses (in terms of parking spaces required) shall be sufficient.
- B. Off-site Parking. An applicant may use off-site parking to satisfy their parking requirements as provided in Section 6.1.10. The applicant shall document efforts to promote use of off-site parking by customers, residents, or employees.
- C. Transportation Demand Management (TDM): Any request for parking reduction must include a plan to reduce demand for parking. TDM provides incentives to reduce the use of Single Occupant Vehicles and encourages the use of public transit, bicycling, walking, and ridesharing. All projects requesting a parking reduction must employ at least three TDM methods described below:
 - (1) Charge for parking on-site;
 - (2) Pay a stipend to workers or residents without cars;
 - (3) Provide preferential parking for carpooling vehicles;
 - (4) Provide a guaranteed emergency ride home;
 - (5) Provide transit pass subsidies;
 - (6) Provide covered bicycle parking and storage;
 - (7) Provide bicycle or car sharing on site;
 - (8) Provide showers for business or industrial uses;
 - (9) Other means acceptable to the applicable Special Permit Granting Authority.

When a business in the B3 or B5 District has no ability to create new parking onsite and there is adequate nearby on-street parking or municipal parking, the Board of Appeals or Arlington

Redevelopment Board, as applicable, may, upon the request of an applicant, reduce to less than 25 percent or eliminate the amount of parking required in the Table of Off-Street Parking Regulations. For these situations, the applicable Special Permit Granting Authority may require the applicant to incorporate methods set forth in subparagraphs A., B., and C of this Section.

A Warrant Article to amend the Zoning Bylaw has been submitted by Marvin Lewiton and 10 registered voters:

Article 36

ZONING BYLAW AMENDMENT/ PARKING REGULATIONS

To see if the Town Meeting will vote to amend Section 6.1 of the current zoning bylaw regarding off-street parking to encourage new businesses such as restaurants; or take any action related thereto.

(Inserted at the request of Marvin Lewiton and ten registered voters)

Mr. Lewiton provides the following commentary with his petition:

The proposed amendment would strike the word “restaurant”, and any reference to restaurants in that section to the bylaw, with the revised wording reading as follows:

Indoor Motion Picture Theater, restaurant , gymnasium, auditorium or similar place of public assembly with seating facilities	1 space per 4 seating capacity- Seasonal outdoor seating for restaurants shall not count toward total seating capacity
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The Arlington Heights business district was established when the primary means of transportation was a streetcar line running down Massachusetts Ave., rather than the widespread use of private automobiles. As such, buildings housing commercial establishments were constructed without consideration for off-street parking. As an example, under the current bylaw, it would be virtually impossible for a new restaurant (or any other new business) to meet this requirement if it was to be situated on the north side of the block bordered by Park Avenue on the West, and Davis Rd. on the East. This situation also applies to other areas of the town.

The wide variety of restaurant choices in Arlington has made the town a destination for residents of nearby communities, as well as providing abundant dining opportunities for residents. Restaurants not only bring in customers of their own, but by drawing in people who may not be familiar with other businesses in the town, can offer increased visibility to these other establishments.

The existing bylaw states: “Off-street parking space shall be provided for every new structure, the enlargement of an existing structure, the development of a new land use, or any change in an existing use in accordance with the Table of Off-Street Parking Regulations, and the other requirements contained in this Section 6.1”

A significant number of restaurants in town do not currently have designated off-street parking, and maintaining the existing bylaw as is would serve as a significant impediment to the opportunity for new ones to open.

The Town has repeatedly expressed a strong desire for three vigorous business districts in East Arlington, Arlington Center, and Arlington Heights. In past years, a number of businesses have closed in the Heights business district, and the current parking bylaw makes it challenging at best for new businesses to enter the area. We believe that changing the existing bylaw would aid in encouraging the growth of additional dining establishments, and help to create a vibrant and diverse commercial community in Arlington.

Please note that the following Arlington restaurants do not have designated off-street parking:

Trattoria Nina	Luigi's Italian Kitchen
Thai E-Sarn	Quebrada Baking
Boston Pizza and Curry	Town Tavern
Boston Pizza	Little Q Hot Pot
Classic Café	Olympic Pizza
Szechuan's Dumpling	AdventurePub
Home Taste	Barismo 11
Arlington House of Pizza	Zhu's Garden
Retro Burger	Thrive Juice Café
Blue Ribbon BBQ	Sugo
Jose's Torta Mexicana	Anthony's East Side Deli
Butternut Bakehouse	Za
Sabzi	Arlington Diner

The staff provides the following additional considerations relevant to this article:

- **Scope of article** – Mr. Lewiton provided information to the staff that indicated his intention is to eliminate the off-street parking requirements for restaurants). Elsewhere in this memo, it has been noted that complying with the off-street parking requirements can be difficult or impossible when the average lot size is relatively small and the lot coverage is at or near to 100%. In comparison to the ARB's Warrant Article, this Warrant Article expands the scope of loosening parking requirements, which would benefit Arlington's business community, but also limits the scope by only eliminating parking requirements for restaurants. While the ARB's Warrant Article is limited to two Zoning Districts, it also allows for oversight and case-by-case decision making and does not limit the type of business that could benefit. Should both this Warrant Article and the ARB's Warrant Article receive favorable recommendations, the combination could have a more meaningful effect on supporting the business community throughout Arlington.
- **Consistency with the Master Plan and Arlington Heights Neighborhood Action Plan** – The Master Plan indicates that parking requirements that reflect the actual need for parking should be developed as a way to manage parking in commercial areas (Recommendation 5 of Traffic & Circulation, page 68). The Warrant Article appears to be consistent with this goal and reflective of the fact that meeting the requirements of the off-street parking regulations is difficult in dense business districts. The Arlington Heights Neighborhood Action Plan indicates that restaurants are highly desired business for that business district, and this Warrant Article helps to further that goal.