



**Town of Arlington, Massachusetts**  
Department of Planning & Community Development  
730 Massachusetts Avenue, Arlington, Massachusetts 02476

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## **Public Hearing Memorandum**

*The purpose of this memorandum is to provide the Arlington Redevelopment Board and public with technical information and a planning analysis to assist with the regulatory decision-making process.*

**To:** Arlington Redevelopment Board

**From:** Jennifer Raitt, Secretary Ex Officio

**Subject:** Environmental Design Review, 23 Broadway, Arlington, MA  
Docket #2717, as amended by Docket #2905

**Date:** September 30, 2020

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### **I. Docket Summary**

This is an application by Michael Aldi and Michael Hunnewell for Eskar Arlington, LLC to establish a marijuana retailer at 23 Broadway within the B2A Major Business District. The Special Permit is to allow the Board to review and approve the proposed project, under Section 3.4, Environmental Design Review, and Section 8.3, Standards for Marijuana Uses.

The Town of Arlington adopted zoning amendments to address the sale of marijuana products to adults during Special Town Meeting on December 5, 2018. The zoning amendments created new definitions, new use categories, and standards. The standards include the buffers that are required from kindergarten through grade twelve public and private schools, public libraries, and town-owned playgrounds and recreational facilities. Additionally, the standards required a 2,000-foot distance between other recreational or medical facilities. Finally, the standards limited the number of marijuana retailers within Arlington to three.

In May 2019, the Select Board opened a process through which the Board would determine which operators would be awarded a Host Community Agreement. Eskar applied with the intent to open marijuana retail establishment at 23 Broadway. The site was deemed compliant with the Zoning Bylaw. The Town awarded Eskar a Host

Community Agreement. In addition to seeking the EDR Special Permit from the ARB, Eskar will need to apply for an Operating Permit from the Arlington Board of Health.

Materials submitted for consideration of this application:

- Application for EDR Special Permit,
- Existing Conditions dates August 19, 2020
- Site Plan dated August 19, 2020;
- First Floor Construction Plan dated June 16, 2020;
- Broadway Elevation Wall Sign dated June 16, 2020;
- Traffic Impact Analysis dated July 17, 2020;
- Eskar Security Policies and Procedures;
- Eskar Parking Exhibit dated August 19, 2020;
- Eskar Parking Agreement dated June 24, 2020; and,
- Memo on LEED practices and checklist dated June 19, 2020.

## II. Application of Special Permit Criteria (Arlington Zoning Bylaw, Section 3.3)

### 1. Section 3.3.3.A.

**The use requested is listed as a Special Permit in the use regulations for the applicable district or is so designated elsewhere in this Bylaw.**

The Applicant proposes a marijuana retail establishment. Within the B2A Major Business District, marijuana uses require a Special Permit. The type of use specifically triggers the Environmental Design Review Special Permit from the Redevelopment Board per Section 3.4.2. The Board can find that this condition is met.

### 2. Section 3.3.3.B.

**The requested use is essential or desirable to the public convenience or welfare.**

Arlington, voted “yes” on the 2016 ballot question related to adult-use marijuana meaning the community supported adult-use marijuana. Although the ballot question passed statewide in 2016, the state had only established a process for reviewing and licensing medical marijuana treatment centers but not for how to process and administer new recreational facilities. While Massachusetts municipalities awaited regulations from the state, Arlington adopted a temporary moratorium in order to plan for future zoning amendments. Once regulations were issued, Arlington formed a Marijuana Study Group to help draft zoning amendments for a Special Town Meeting in December 2018. Town Meeting adopted zoning regulations that would regulate retail marijuana establishments and medical marijuana treatment centers.

Following the desire of the community, the zoning amendments allowed both recreational and medical establishments along major corridors, in commercial centers, and accessible by public transportation. The zoning amendments placed

appropriate buffers from certain land uses and schools on the use and limited the density of this type of use within the community.

The location of this marijuana retailer meets the requirements of the zoning amendments and acts on the majority vote of Arlington in 2016 regarding recreational use of marijuana. The Board can find this condition met.

**3. Section 3.3.3.C.**

**The requested use will not create undue traffic congestion or unduly impair pedestrian safety.**

The Traffic Impact Analysis provided by the Applicant seems to consider the likely demand for a well-situated marijuana retailer. Further detailed discussion is provided under the Environmental Design Review criterion 4.

The analysis suggests that the available on-site parking and on-street parking can accommodate potential customer demand. However, without a better analysis of how to best utilize the project site to handle parking and customer queueing, the proposed use may create traffic congestion and impair pedestrian safety and accessibility both on site and on adjacent roadways.

The Applicant should provide a Parking and Queue Management Plan that clearly indicates how the property will be utilized and how all traffic will be managed. This also requires consultation and regular meetings with the Arlington Police Department (APD) and codified in a Memorandum of Understanding between the retailer and the APD.

**4. Section 3.3.3.D.**

**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.**

With proper security and management as provided, the proposed use should not unduly subject the immediate area to hazards affecting health, safety, or the general welfare of the immediate area. Because no cultivation or processing will be taking place onsite, this establishment will not demand more water or sewer usage than any other business. On site changes do not indicate any changes or impact on existing drainage systems. The Board can find this condition met.

**5. Section 3.3.3.E.**

**Any special regulations for the use as may be provided in the Bylaw are fulfilled.**

Section 8.3, Standards for Marijuana Uses, applies to this use. The project site is outside of any required buffers from certain land uses and is beyond 2,000 feet from

any other marijuana retailer or medical marijuana treatment center. The Board can find that this condition is met.

**6. Section 3.3.3.F.**

**The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or welfare.**

The December 2018 Special Town Meeting adopted regulations for marijuana establishments including allowing the use to be established in the B2A Village Business District. The proposed location at 23 Broadway is located outside of any buffers around land uses as adopted by the Special Town Meeting as well. The Cannabis Control Commission has stringent requirements regarding the operation of marijuana establishments including modest signage and prohibiting the visibility of product from outside of the establishment and on-site consumption of product. The Board can find that this condition is met.

**7. Section 3.3.3.G.**

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

The use will not be in excess or detrimental to the character of the neighborhood. Additionally, should this establishment be approved by this Board and other local permitting authorities and the Cannabis Control Commission, the Zoning Bylaw applies a 2,000-foot density buffer around this property. Therefore, future marijuana retailers or medical marijuana treatment centers will not be able to cluster within East Arlington business districts. Apothca has just opened in the Heights, and beyond Arlington, the nearest operating retail establishments in Newton and Brookline. (There are medical dispensaries in Cambridge and Somerville.) The Board can find that this condition is met.

**III. Environmental Design Review Standards (Arlington Zoning Bylaw, Section 3.4)**

**1. 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 existing site condition is primarily impervious. There is an elevated landscaped buffer between the parking lot and the adjacent Lahey Health parking lot. There is some internal landscaping as well. The landscaped buffer between the two properties will remain in place, but some small but established shrubs adjacent to the building will be removed to install bicycle racks.

There appears to be limited opportunities to install additional landscaping on the site. The Board can find this condition met.

**2. 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 R0, R1 or R2 district or on public open space.**

The proposed marijuana retailer will be established in an existing East Arlington building. There are no additions proposed to the existing building, although a new exit will be installed on the Sunnyside Avenue side and a delivery access point will be installed in the alcove off the drive aisle where a remote teller previously existed for the bank. The Board can find that this condition is met.

**3. 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.**

The landscaped open space requirement is 10% for this permitted use. There is no usable open space requirement for a non-residential use. The proposal will not increase the amount of landscaped open space on the site. The amount of landscaped open space appears to have been unchanged since the building was constructed. The Board can find that this condition is met.

**4. 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 6.1.12 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.**

Eskar will lease access to 12 of the 16 parking spaces on site from the building owner, which is one more than is required by the Zoning Bylaw:

<b>Parking Requirement</b>			
<b>Use</b>	<b><u>Square Footage</u></b>	<b><u>Zoning Requirement</u></b>	<b><u>Total Parking Required</u></b>
<b>Retail</b>	<b>3,238 sf</b>	<b>1/300 sf*</b>	<b>11 spaces</b>
<b>Total Parking Available to Eskar</b>			<b>12</b>

There is on-street parking on Broadway; the spaces are unmarked. The applicant has also suggested formalizing three taxi/rideshare spaces in front of the building on Broadway. The 87 bus is available on Broadway, and more connections are available in Somerville on the opposite side of Alewife Brook Parkway. Broadway is also a short walk from Mass Ave where connections to multiple bus routes and T locations are available.

The Traffic Impact Analysis provided by the Applicant shows an increase in trips to the property in comparison to the existing use, which has not been in operation as a bank for a number of years. The trip generation analysis found that there will be 66 total weekday peak p.m. trips with an average of 760 weekday trips. The analysis also found that there will be 109 total Saturday mid-day peak trips with an average of 778 Saturday trips. In general, the analysis found that the daily increase of trips on Broadway would have a minimal impact on area intersections studied.

The Traffic Impact Analysis does describe that the first month of operation will be appointment only in order to reduce peak traffic issues, and during the initial six to twelve months, staff will monitor lines as concierge/security to maintain order. Appointment based visits to the establishment will by its nature control any queuing, but the application materials still lack a clear description of how customer queuing and parking will be controlled at this establishment. Although Arlington has already seen one adult-use establishment open in the Heights, this location in Arlington may attract a larger customer base from Somerville and Cambridge, where recreational dispensaries have been slow to open.

The project location has the benefit of capacity in the on-street parking spaces on Broadway. Although the application materials do not estimate the average length of visits, it does appear that the availability of on-site, off-street parking and on-street parking can accommodate the flow of customers. However, once the appointment-based system transitions to a non-appointment system, it appears that there is not enough queuing space in the floor plan, and the applicant should consider how queuing will happen outside within the parking lot without impeding building access.

The Applicant should provide a more critical analysis of parking and queue demands:

1. The Applicant should consider providing off-site parking for employees in order to fully utilize the on-site parking for customers. It should also be noted that the sight lines for vehicles exiting the property onto Sunnyside Avenue are extremely

limited, so frequent departures from the parking lot may cause conflicts between pedestrians and exiting vehicles.

2. Conversely, the Applicant could consider not using the on-site, off-street parking for customers due to the availability of on-street parking and use the rear parking lot for employee parking and queue management.
3. There may be a need to identify off-site parking for employees regardless of how the on-site parking is utilized. The Applicant should investigate options for long-term employee parking.
4. Related to bicycle parking, in Section 6.1.12(H), it appears that the applicant is requested that the long-term bicycle parking be converted to short-term bicycle parking. Six bicycle parking spaces will be provided in an area where small shrubs are currently located against the building. The style of bike rack proposed is one that is discouraged in the Bicycle Parking Guidelines and should be rethought. The application materials did indicate that the employees would be allowed to bring their bicycles into the building

The Applicant should be required to develop a Parking and Queue Management Plan that outlines how the facility will address parking and queue management once the above questions are answered. This Plan should be developed in coordination with the Arlington Police Department and the Department of Planning and Community Development. In addition to developing the Plan, there should be regular meetings to assess how parking and queueing is being handled.

5. **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 catch basins. 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 3.3.4., 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.**

It does not appear that there are any existing drainage systems on the site. The application materials indicate that no stormwater management will be added to the site. There may be an opportunity for the Applicant to incorporate low-impact development techniques to contribute to the on-site infiltration of stormwater.

**6. 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.**

There will be no cultivation or processing of marijuana at this proposed facility. Existing utility systems will be reused. Solid waste of non-marijuana material will be disposed of through a private contract. Any solid waste will be stored inside. Solid waste containing marijuana material must be disposed of properly in compliance with the Cannabis Control Commission's regulations. The application materials do not indicate how Eskar plans to handle solid waste pickup or solid waste containing marijuana material.

**7. 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 application materials include a proposed wall sign that measures approximately 19.5 square feet. The application materials indicate that the sign will be individual stainless steel letters anchored to the wall. The individual letters will be halo illuminated. A wall sign of this size and design is in compliance with the sign regulations in this District. The Board can find this condition met.

**8. 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.**

There are no such special features proposed for the site. The Board may want additional information regarding deliveries and the storage of non-marijuana solid waste. To reduce noise from deliveries or from solid waste removal, the Board may request information on anti-idling measures and time of day restrictions to ensure that these services do not impact the surrounding residential properties.

**9. 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.**

As noted in the application materials, security is important to Eskar, and surveillance cameras will be installed within the building and on the site per the requirements of the Cannabis Control Commission. Existing light fixtures in the parking lot will be upgraded to be full cut off LED fixtures to provide illumination. The Board can find this condition met.

**10. 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 existing structure is not listed on the *Inventory of Historically or Architecturally Significant Properties in the Town of Arlington* nor is it under the jurisdiction of the Arlington Historical Commission. As such, the site contains no historic, traditional or significant uses, structures or architectural elements. The Board can find that this condition is met.

**11. 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.**

There are no proposed changes that will impact the microclimate. The Board can find that this condition is met.

**12. 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 application materials include a LEED Checklist for Retail. The proposed project does not score highly on the LEED Checklist, but notes that public transportation will

be encouraged, bicycle racks will be available, interior and exterior LED light fixtures will be installed, low-emitting materials will be used in the renovation. These are reasonable measures for an existing building where no changes to the exterior and limited changes to the interior by a building tenant are proposed. The Board can find that this condition is met.

#### IV. Conditions

##### **General**

1. The final design, sign, exterior material, landscaping, and lighting plans shall be subject to the approval of the Arlington Redevelopment Board at the time when future operators are identified. Any substantial or material deviation during construction from the approved plans and specifications is subject to the written approval of the Arlington Redevelopment Board
2. Any substantial or material deviation during construction from the approved plans and specifications is subject to the written approval of the Arlington Redevelopment Board.
3. The Board maintains continuing jurisdiction over this permit and may, after a duly advertised public hearing, attach other conditions or modify these conditions as it deems appropriate in order to protect the public interest and welfare.
4. Snow removal from all parts of the site, as well as from any abutting public sidewalks, shall be the responsibility of the owner and shall be accomplished in accordance with Town Bylaws.
5. Trash shall be picked up only on Monday through Friday between the hours of 7:00 am and 6:00 pm. All exterior trash and storage areas on the property, if any, shall be properly screened and maintained in accordance with the Town Bylaws.
6. Upon the issuance of the building permit the Applicant shall file with the Inspectional Services Department and the Police Department the names and telephone numbers of contact personnel who may be reached 24 hours each day during the construction period.

##### **Special Conditions**

1. The Applicant shall work with the Arlington Police Department and Town Counsel to execute a Memorandum of Understanding (MOU) to coordinate efforts with a goal of minimizing and eliminating impacts on the neighborhood surrounding the facility at 23 Broadway. Consultation with the Department of Planning and

Community Development shall occur to ensure that the MOU is responsive to any decision.

2. The Applicant shall be responsible for the cost of any police details provided by the Arlington Police Department to oversee circulation of vehicles and pedestrians.
3. Queueing shall be prohibited in any public right-of-way on Sunnyside Avenue and Broadway.
4. As part of the Annual Sales Report provided to the Town of Arlington, the Applicant shall report how customers and patients arrive at the establishment.