

# TOWN OF ARLINGTON

## Zoning Board of Appeals

730 Massachusetts Avenue

Arlington, MA 02476

### DECISION ON APPLICATION FOR COMPREHENSIVE PERMIT

G.L. c. 40B, §§ 20-23

APPLICANT: ARLINGTON LAND REALTY, LLC (“Applicant”)

PROPERTY: Off Dorothy Road and Parker Road (the “Property”)

ASSESSORS’ MAP: Assessors Parcels 17-6-6A, 16-8-8, 16-8-2, 16-8-3, 16-8-4, 16-8-5, 16-8-6, 16-8-7A, 13-12-5A, 14-2-8 and 14-2-5

DEVELOPMENT NAME: Thorndike Place

DATE: \_\_\_\_\_, 2021

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#### I. PROCEDURAL HISTORY

1. An application for a Comprehensive Permit was received by the Town of Arlington Zoning Board of Appeals (“Board”) on or about August 31, 2016 (“Application”). The Application proposes the development of twelve (12) home ownership units in six (6) townhouse-style structures, and two hundred and seven (207) rental units in a single four-story structure for a total of two hundred and nineteen (219) units located at the Property (the “Project”).
2. The Board’s public hearing on the Application was duly opened on September \_\_, 2016. On October 6, 2016 the Board submitted a notification to the Applicant pursuant to 760 CMR 56.03(8) that it met the 1.5% Land Area Minimum Safe Harbor. On October 21, 2016 the Applicant appealed the Board’s determination to the Department of Housing and Community Development (“DHCD”). On November 17, 2016 the DHCD issued a decision ruling that the Board’s Safe Harbor notification was in error, and determining that no such safe harbor was applicable. The Board timely appealed this decision to the Housing Appeals Committee (the “HAC”). On October 15, 2019 the HAC issued a decision upholding the determination of the DHCD, and remanding the matter back to the Board. At the request of the Applicant, the hearing was resumed on December 10, 2019. At the December 10, 2019 hearing, the Applicant requested a further delay of public hearings until April 14, 2020. Due to the onset of the COVID-19 pandemic, the hearing did not actually resume until August 25, 2020. Subsequent

sessions of the public hearing were held on October 13, 2020, November 24, 2020, December 8, 2020, December 22, 2020, January 26, 2021, February 16, 2021, March 11, 2021 and \_\_\_\_\_, 2021. The public hearing was closed on \_\_\_\_\_, 2021.

3. The Project is located on the Property, which is located off Dorothy Road and Parker Road, Arlington, Massachusetts.
4. The Property is located in the Planned Unit Development (PUD) Zoning District. Nearby uses consist of residential uses along Dorothy Road and Parker Road, Salem Street, and Thorndike Field, located to the west of the Property.
5. The Property consists of approximately 17.7 +/- acres, of which 11.5 acres consist of floodplains, while 5.6 acres consist of buildable upland.
6. The Applicant provided various materials, reports, studies, and revised plans throughout the course of the public hearing on the Application.
7. The Applicant submitted revised plans on November 3, 2020 reducing the number of units in the Project to one hundred and seventy-six (176) units. This revision also eliminated the six (6) two-family townhouse structures originally proposed by the Applicant, in favor of an all-rental development in a single structure.
8. The Applicant submitted revised architectural plans dated February 16, 2021, revising the proposed rental structure to step-back above the first two floors of the structure along Dorothy Road near abutting single-family residences.
9. During the public hearing, the Applicant was assisted primarily by its principals Gwen Noyes, Arthur Klipfel, its counsel Stephanie Kiefer of Smolak and Vaughan, LLP, its civil engineer John Hession, P.E., of BSC Group, and its traffic engineer Scott Thornton, P.E., of Vanasse and Associates, Inc.
10. The Board utilized the services of its review engineers BETA Group, Inc., with Marta Nover, P.E., Todd Undzis, P.E., and William McGrath, P.E. handling civil engineering and wetlands peer review, and Greg Lucas, P.E. for traffic. The Board also utilized the services of Town Counsel Douglas Heim, Esq., Planning Director Jenny Raitt, and other town staff. The Board was also represented during the course of the hearing by Special Town Counsel Jonathan Witten, Esq. of KP Law, and Paul Haverty, Esq., of Blatman, Bobrowski & Haverty, LLC as its Chapter 40B technical consultant through a grant from the Massachusetts Housing Partnership.

11. During the public hearing, there was significant public input. The Board heard input from abutters and other interested persons throughout the hearing process. The Board also heard significant input from town departments, including the Conservation Commission, the Department of Planning and Community Development, the Transportation Advisory Committee, Select Board, and Engineering Division. The Board also received significant input from the Arlington Land Trust and the Mystic River Watershed Association, both independent local non-profits.

## II. JURISDICTIONAL FINDINGS

12. The Applicant has demonstrated its eligibility to submit an application for a Comprehensive Permit to the Board, and the development fulfills the minimum project eligibility requirements set forth in 760 CMR 56.04(1) as follows:
  - a. The Applicant is a limited liability company, and has indicated in its application that it will conform to the limited dividend requirements of G. L. 40B, §§ 20-23, thus establishing it is a limited dividend entity. The Applicant has a principal address of 222 Berkley Street, Boston, MA 02116.
  - b. The Applicant has received a written determination of Project Eligibility from MassHousing dated December 4, 2015 under the New England Fund Program, a copy of which was provided to the Board with the original application.
  - c. The Applicant provided deeds dated September 8, 2015, recorded in the Middlesex South in Book 1479, at Page 27. Thus, the Applicant has shown evidence of site control sufficient to qualify as an applicant for a Comprehensive Permit.
  - d. The Applicant has agreed to execute a Regulatory Agreement that limits its annual distributions in accordance with G. L. c. 40B and the regulations (760 CMR 56.00 et seq.) and guidelines adopted thereunder by DHCD.
13. The Town of Arlington (“Town”) did not meet the statutory minima set forth in G. L. c. 40B, § 20 or 760 CMR 56.03(3) to 56.03(7) at the time the original application was filed, except as noted below:
  - a. At the time of the filing of the Application, the number of low or moderate income housing units in the Town constituted 5.64% of the total year-round housing units in the Town, based on the most recent publicly

available copy of the DHCD Subsidized Housing Inventory, dated \_\_\_\_\_ . Thus, the Town does not meet the ten percent (10%) statutory minimum.

- b. The Board has asserted a claim that there are existing affordable housing units that are on sites that comprise more than one and one half percent (1.5%) of the total land area of the Town that is zoned for residential, commercial or industrial use (excluding land owned by the United States, the Commonwealth of Massachusetts, or any political subdivision thereof). The Board timely asserted this claim pursuant to 760 CMR 56.03(8). The Applicant appealed this claim to the Department of Housing and Community Development, which issued a decision dated November 17, 2016, reversing the Board's Safe Harbor determination. The Board appealed this decision to the Housing Appeals Committee. On October 15, 2019, the Housing Appeals Committee upheld the decision of the Department of Housing and Community Development. Because this decision was not a final decision, the Board was not able to pursue an appeal pursuant to G. L. c. 30A, § 14 at this time. The Board reserves its rights regarding this Safe Harbor claim.
- c. The granting of this Comprehensive Permit will not result in the commencement of construction of low or moderate income housing units on a site comprising more than three tenths of one percent of land area in the Town or ten acres, whichever is larger, zoned for residential, commercial or industrial uses (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof) in any one calendar year.
- d. The Town has an approved Housing Production Plan pursuant to 760 CMR 56.03(4), but is not currently within (or eligible for) certification.
- e. The Town has not achieved recent progress toward its housing unit minimum pursuant to 760 CMR 56.03(5).
- f. The Project as originally submitted does not constitute a Large Project pursuant to 760 CMR 56.03(6).
- g. The Applicant's Comprehensive Permit Application does not constitute a Related Application pursuant to 760 CMR 56.03(7).

### III. FACTUAL FINDINGS

#### Location of Project

14. The Project is located on a 17.7 acre parcel of land located between Concord Turnpike (Route 2) to the south and residential neighborhoods to the north and east of the Property, off Dorothy Road and Parker Road. The Property is bordered to the east by Burch Street and the Arlington Thorndike playing fields. The Property is located within the Planned Unit Development (PUD) Zoning District.

Civil Engineering, Site Design, and Stormwater Impact

15. The Board engaged in review of potential civil engineering, site design, traffic, stormwater and floodplain impacts of the Project.
16. The Project will connect to the Arlington municipal water and sewer system.
17. The Applicant originally proposed 315 parking spaces for the Project, a ratio of 1.44 parking spaces per unit. The Applicant subsequently reduced the parking ratio to 193 spaces, or approximately 1.12 spaces per unit. The Arlington Transportation Advisory Committee recommended that, as a Transit Oriented Development, the Project should not have more than one (1) parking space per unit.
18. The Applicant did not originally propose bicycle parking. With the reduction in the number of units, the Applicant revised the number of proposed bicycle spaces to 176 interior spaces with additional exterior spaces.
19. On-site amenities will include recreational areas and structures as shown on the Approved Plans, referenced below.
20. Approximately \_\_\_\_% of the site will consist of impervious surface with the remainder consisting of pervious surface. The Board finds that the total amount of impervious area is \_\_\_\_\_.
21. The Board finds that the tree planting and landscaping details proposed by the Applicant, and as conditioned by this decision, is insufficient in light of the site disturbance that the Project will entail. Given the extent of vegetation proposed to be removed within a resource area (BLSF) and AURA, the Applicant must provide a Landscape Plan as described in Section 24 and should include the elements described in the guidance provided in Section 24 E as follows:
  - a. Narrative describing existing conditions, proposed plantings, list of existing and proposed species, size of existing species and proposed species, quantity plants before and after revegetation and the rational the

- removal and maintenance plan.
  - b. Affirmation of the Revegetation Activities, all plans must be accompanied by written testimony and scale diagram from a certified arborist or wetland scientist or landscape architect. The document must include at a minimum the necessity of vegetation removal, surface area to be removed, quantity of individual plants by species.
  - c. Planting Plan – drawn to scale, properly identified resource area and buffer zone and the project site, location of replacement species, comply with (AAN), erosion controls, estimated tree canopies after 15 years of growth, name, sizes and locations of trees to be planted, and total area of SF of the area shaded by the canopies.
  - d. Existing species list.
  - e. Replacement species list,
  - f. Rational for Removal,
  - g. Maintenance Plan.
  - h. The Plan shall include monitoring reports submitted annually in June for a three-year monitoring period. The reports shall include photo documentation, the health of new plantings and any mitigation. This report can be combined and submitted with the ISMP report.
22. Stormwater management has been designed in compliance with the Mass Stormwater management standards in accordance with 310 CMR 10.05(6)(k) through (q) and defined in detail in the MassDEP Stormwater Management Handbook. The system incorporates best management practices (BMP's) to facilitate total suspended solids (TSS) removal, infiltration and detention of stormwater flows.
23. The Board finds that the Applicant must provide a Compensatory Flood Storage Mitigation Plan for the proposed compensatory flood storage area to mitigate the negative environmental impacts associated with vegetation removal and grading to create this new flood storage area. Said Plan shall provide the following:
- a. A minimum ratio of 2:1 cubic feet of compensatory flood storage of a volume not previously used for flood storage and shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project.
  - b. With at least a 3-year monitoring schedule with a 100% survival rate.
  - c. Only native non-cultivar species shall be planted on the site.
  - d. Plants shall be installed and maintained in accordance with standards of the American Association of Nurserymen (AAN).
  - e. A monitoring report shall be submitted annually in June for the three-year monitoring period. The report shall include the health of the new plantings

and the success of the invasive plant management. The report shall include photo documentation and yearly recommendations for future success.

24. The Board finds that the Applicant must provide adequate quantity of vegetation and that said vegetation shall be maintained to provide the resource area values protected by the Bylaw. Further, the Applicant shall submit an Invasive Species Management Plan for work in the AURA and other resource areas which identifies the location of invasive species management, species and quantities of invasive plants to be managed, and methods of removal and control of each species.
25. The Board finds that the Applicant must abide by the requirement that no work activities are authorized nor shall occur within the 25-foot No Disturb Zone of Isolated or Bordering Vegetated Wetlands on the Site.
26. The Project, as conditioned herein, will address the lack of affordable rental units in the Town.
27. The Board heard testimony from the Applicant and the Board's peer review traffic consultant, including the Applicant's Traffic Impact Study prepared by Vanesse Associates, Inc., that the Project is expected to result in approximately thirty-one (31) vehicle trips during the weekday morning peak hour and approximately thirty-eight (38) vehicle trips during the weekday afternoon peak hour. There will be an estimated four hundred, eighty-six (486) total vehicle trips on an average weekday. These figures are based upon the proposal for one hundred, seventy-six (176) units.
28. During the course of the hearing, the Applicant submitted a plan showing a reduction in the number of rental units to one hundred and seventy-six (176) units. The Applicant introduced further modifications to its design during the hearing process which further reduced the number of units to one hundred and seventy-two (172) units.
29. The Board finds that the conditions imposed in Section IV of this Decision are necessary in order to address Local Concerns. The Board finds that such conditions will not render the project uneconomic. To the extent that such conditions may render the project uneconomic (as defined in 760 CMR 56.02), the Board finds that the Local Concerns outweigh the potential benefits of the proposed affordable units.
30. The Board finds that granting certain waivers from local by-laws and regulations is acceptable even though granting waivers may have an adverse impact on Local Concerns.

31. The Board acknowledges concerns raised by abutters and other interested parties about the Project's potential incompatibility with abutting residential uses, particularly relating to stormwater and floodplain impacts, as well as traffic and parking impacts. The Board has addressed these concerns by the imposition of appropriate conditions. The Board further finds that conditions detailed below appropriately address these matters of local concern in a manner that outweighs the regional need for affordable housing. The Board finds that the conditions imposed below address local and regional housing needs while properly protecting valid issues of local concern.
32. The Board finds that the construction of the Project, as conditioned, will be consistent with local needs.
33. The Applicant has proposed that the portion of the Property outside of the development area, shown on the plans as containing approximately \_\_\_\_ acres will be either placed under a conservation restriction or deeded to the Town. The Applicant has proposed a one-time payment of \$100,000, plus annual payments of \$25,000 for a period of ten (10) years for cleaning up the existing debris and invasive species on this portion of the Property.

#### IV. CONDITIONS

##### A. **General**

- A.1 The holder of this Comprehensive Permit is Arlington Land Realty, LLC. The Property is defined as the property located between Concord Turnpike (Route 2) to the south and residential neighborhoods to the north and east of the Property, off Dorothy Road and Parker Road, shown on a plan entitled "Thorndike Place Comprehensive Permit, Dorothy Road, Arlington, Massachusetts" prepared by BSC Group, dated March 13, 2020, with revisions through November 3, 2020. The Project is defined as all features shown on the plans listed below in Condition A.2 or as otherwise required by this Comprehensive Permit.
- A.2 Except as may be provided for in the following Conditions or in the Final Plans referenced below, the Project shall be constructed substantially in conformance with the plans and drawings listed below in this Condition A.2, which for purposes of this Comprehensive Permit shall be considered the Approved Plans for the Project ("Approved Plans"). Minor changes to the Approved Plans (e.g., changes that do not materially affect the location of, or increase the height or massing of the structures, or increase the number of units contained in the residential buildings) shall be submitted to the Director of Planning and Community Development who shall have the authority to approve such changes

as immaterial changes. If the Director of Planning and Community Development determines that the proposed changes do not conform to the requirements of this Comprehensive Permit, they shall so notify the Applicant and the Applicant shall either bring the plans into conformance with this Decision or seek modification in accordance with 760 CMR 56.05(11). The Approved Plans consist of the following plan set from Millennium Engineering, Inc.:

“Thorndike Place Comprehensive Permit, Dorothy Road, Arlington, Massachusetts” dated March 13, 2020, with revisions through February 16, 2021, and consisting of the following sheets:

G-100	Title Sheet
G-101	General Notes and Legend
V-100	Existing Conditions Plan
C-100	Existing Environmental Resources Plan
C-101	Site Preparation Plan
C-102	Overall Site Plan
C-103	Layout and Materials Plan
C-104	Garage Level Plan
C-105	Grading and Drainage Plan
C-106	Utility Plan
L-100	Planting Plan
C-200-203	Civil and Landscape Details

Architectural details contained in the plans entitled Thorndike Apartments, 3D Visualization, Dorothy Road Looking West, Dated November 3, 2020, with revisions through February 16, 2021, prepared by Bruce, Ronayne, Hamilton Architects, and consisting of the following sheets:

Sheet 1	Cover Sheet
Sheet 2	Garage Plan
Sheet 3	Ground Floor Plan
Sheet 4	Typical Floor Plan
Sheet 5	Fourth Floor Plan
Sheet 6	East/West Elevation
Sheet 7	North Elevation
Sheet 8	South Elevation
Sheet 9	Schematic Building Section

- A.3 The Applicant shall be a Limited Dividend Entity as required by Chapter 40B and its successors and assigns shall comply with the limited dividend and other applicable requirements of Chapter 40B and the regulations adopted thereunder.

- A.4 The Project shall consist of not more than \_\_\_\_\_ ( ) rental apartment units, located in a single residential structure, and other related residential amenities, all as shown on the Approved Plans. The Project shall consist of no more than \_\_\_\_\_ ( ) bedrooms.
- A.5 There shall be \_\_\_\_\_ ( ) vehicle parking spaces (inclusive of required handicap spaces).
- A.6 Pursuant to the revised Waiver List submitted to the Board and attached hereto as Exhibit A, the Applicant has requested, and the Board has granted, those waivers from the Arlington Zoning Bylaw and other local by-laws and regulations as specified therein. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§ 20-23. No waiver of permit or inspection fees has been granted. Any subsequent revision to the Approved Plans, including but not limited to revisions in the Final Plans, referenced below, that requires additional or more expansive waivers of any local by-laws or regulations, must be approved by the Board in accordance with 760 CMR 56.05(11).
- A.7 Except as otherwise specifically provided herein, where this Decision provides for the submission of plans or other documents for approval by the Director of Planning and Community Development or other Town Departments, the Director of Planning and Community Development or applicable Department Head will use reasonable efforts to review and provide a written response within forty-five (45) days following submission. For submissions that require assistance from an outside consultant, as determined by the Director of Planning and Community Development or applicable Department Head, the thirty-day time period shall not begin until the consultant's fee has been fully funded by the Applicant. Should forty-five (45) days elapse without a response as aforesaid, said plans or documents shall be deemed approved.
- A.8 This Comprehensive Permit may be subsequently assigned or transferred pursuant to 760 CMR 56.05(12)(b). The pledging of the Property as security under any conventional loan financing terms as set forth in the financing entity's Loan Documents or any foreclosure sale pursuant to the same shall not constitute an assignment or transfer under this paragraph.
- A.9 The provisions of this Comprehensive Permit Decision and Conditions shall be binding upon the successors and assigns of the Applicant, and the obligations shall run with the land. In the event that the Applicant sells, transfers, or assigns its interest in the development, this Comprehensive Permit shall be binding upon the purchaser, transferee, or assignee and any successor purchasers, transferees or assignees. The applicable limited dividend restrictions shall apply to the owner of the project regardless of sale, transfer, or assignment of the project.

A.10 The sidewalks, driveways, roads, utilities, drainage systems, and all other on-site infrastructure shown on the Approved Plans as serving the Project shall remain private in perpetuity, and the Town shall not have, now or in the future, any legal responsibility for the operation or maintenance of the infrastructure, including but not limited to snow removal, landscape maintenance, and hydrant maintenance. In this regard, the proposed site access road within the Project shall not be dedicated to or accepted by the Town.

A.11 Unless otherwise indicated herein, the Board may designate an agent to review and approve matters on the Board's behalf subsequent to this Decision.

**B. Affordability**

B.1 Except as may otherwise be allowed by the Subsidizing Agency MassHousing or other Subsidizing Agency, pursuant to the applicable subsidy program, a minimum of twenty-five percent (25%) or \_\_\_\_\_ ( ) units of the rental units shall be reserved for income-eligible households, meaning that they shall be rented to and occupied by households, as proposed by the Applicant, whose income (adjusted for household size) is not more than eighty percent (80%) of the Area Median Income ("AMI"), as determined by the United States Department of Housing and Urban Development ("HUD") and the Subsidizing Agency (the "Affordable Units"). Affordable Units shall, upon initial designation, be dispersed throughout the Project in accordance with the guidelines of the Subsidizing Agency, except for fluctuations based on changes of household eligibility income allowed by the Regulatory Agreement. The Applicant shall be responsible for maintaining records sufficient to comply with the Subsidizing Agency guidelines for the location of Affordable Units in the Project and occupancy of such Affordable Units by income-eligible households. As will be set forth more fully in the Regulatory Agreement, the location of the affordable units may change in the event that the income of a household occupying an affordable unit increases beyond allowable program limits. The Board acknowledges that affordable unit location is an issue within the exclusive jurisdiction of the Subsidizing Agency.

B.2 All of the Project's Affordable Units shall be restricted for rental to households earning no more than the maximum allowable household income, adjusted for household size, as determined by MassHousing or any substitute Subsidizing Agency. The Affordable Units shall be maintained as affordable in perpetuity, which for the purposes of this Decision shall mean for so long as the Property does not comply with applicable zoning requirements without the benefit of this Comprehensive Permit.

- B.3 The Applicant shall obtain approval by the Subsidizing Agency of an Affirmative Fair Housing Marketing Plan (“AFHMP”) prior to the rental of any Affordable Units, and shall ensure that the Project complies with the Subsidizing Agency’s Fair Housing requirements.
- B.4 For the initial rent-up of the Project, the maximum number of Affordable Units allowed by law and the applicable subsidy program, but not more than seventy percent (70%) of the Affordable Units, shall be reserved for households that qualify under a local preference definition which must be approved by the Subsidizing Agency prior to any marketing efforts as part of the AFHMP. A lottery shall be established in a form approved by the Subsidizing Agency and/or the Project’s Monitoring Agent to effectuate this local preference, with an approved secondary lottery for all other Applicants. The Applicant shall assist the Department of Planning and Community Development in the submittal of any evidence required by the Subsidizing Agency to support this local preference requirement. The Board acknowledges that it will be required to provide evidence satisfactory to the Subsidizing Agency of the need for the foregoing local preference and to obtain approval of the categories of persons qualifying for the same, and in no event shall the Applicant be in violation of the terms of this Comprehensive Permit to the extent the Subsidizing Agency disapproves the local preference requirement or any aspect thereof. The Applicant shall provide reasonable and timely assistance to the Department of Planning and Community Development in providing this evidence. If the Board or its designee does not provide such information within sixty (60) days of a written request by the Applicant, its Lottery Agent, the Subsidizing Agency, then this condition shall be void unless the Applicant has failed to provide reasonable and timely assistance as described above.

**C. Submission Requirements**

- C.1 Prior to any construction or site development activities (including site clearing, tree removal, grading, etc.) on the Property, whether or not pursuant to a building permit (except as allowed by the Director of Planning and Community Development, as noted below), the Applicant shall:
- a. Deliver to the Board a check in a reasonable amount determined by the Director of Planning and Community Development to be used for staff to retain outside experts, if necessary, for technical reviews and inspections required under these conditions but at inception shall not exceed \$6,500 unless an alternate amount has been agreed upon by the Board and the Applicant. Said funds shall be deposited by the Board in an account pursuant to G. L. c. 44, § 53G and shall only be used for technical reviews and inspections associated with this Project. Any unspent funds shall be

returned to the Applicant with accrued interest at the completion of the project. If at any time the Board reasonably determines that there are insufficient funds to cover the costs of technical reviews, it shall inform the Applicant and the Applicant shall forthwith deliver additional funds as specified by the Board in a reasonable amount as may be determined by the Board. Said funds may be used by the Board to hire civil engineering, traffic engineering, and/or other professionals that the Board deems reasonably necessary to ensure compliance with the conditions hereof.

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

- iv. Prototype planting plans for each building that include shade trees (minimum caliper 3”), ornamental trees (minimum caliper 3”), shrubs, and groundcovers;
- v. Prototype screening plans for dumpsters, depicting plantings and fencing;
- vi. Planting details for coniferous and deciduous shade trees (minimum caliper 3”), ornamental trees (minimum caliper 3”), and shrubs;
- vii. Planting schedules listing the quantity, size, height, caliper, species, variety, and form of trees, shrubs, and groundcovers;
- viii. Tree protection and preservation plans
- ix. Construction fencing along abutting property lines; and
- x. Construction details.

All plantings shall consist of native, non-invasive, drought-tolerant species. Plantings installed along drives and walkways shall also be salt-tolerant. The final landscaping plans shall preserve the existing perimeter tree cover to the greatest extent practicable. Twelve (12) months after completion of plantings, the Applicant shall remove and replace any dead or diseased plantings and trees serving as screening. The contract with the Management Company shall address ongoing maintenance of landscaping features.

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

- f. The Applicant shall include on the Final Plans all of the various changes that have occurred during the hearing process. These plans should reflect the changes to number of units, site plan changes including but not limited to surface parking, proposed grading, stormwater systems, garage elevation, location of tot lot, and other relevant site features.
  - g. The Final Plans shall include final design and details for the proposed roof stormwater storage system. This is to include impacts from potential changes to the roofline along Dorothy Road and Littlejohn Street. The limits of rooftop storage shall be delineated and the outlet control for the rooftop storage is to be detailed.
  - h. The Final Plans shall have labeled the dimensions of the proposed rip-rap and provide a detail. The rip-rap dimensions shall be provided in calculations submitted as part of the Stormwater Report dated January, 2021.
  - i. The Final Plans shall show designated snow storage areas. The Applicant has indicated in their February 16, 2021 response letter that snow storage will be to the west of the surface parking and within the landscape areas at the courtyard entrance and adjacent to the courtyard entrance.
  - j. The Final Plans shall include the detail of the Outlet Control Structure shown on Sheet C-203 to be revised to more accurately depict that the invert of the 12” outlet pipe is at the top of the 30” inlet and to show the installation of the proposed backflow preventer.
  - k. Provide a Compensatory Flood Storage Mitigation Plan for the proposed compensatory flood storage areas, to mitigate the environmental impacts associated with vegetation removal and grading to create the new flood storage area.
  - l. The Applicant must provide notification to the Arlington Assessor’s Office for address and unit numbering.
- C.2 Prior to the issuance of any building permits, the Applicant shall:
- a. Record this Comprehensive Permit and the Subdivision Plan endorsed by the Board with the Middlesex South Registry of Deeds, at the Applicant’s expense, and provide proof of such recording with the Board.
  - b. Submit to the Board and the Director of Planning and Community Development evidence of Final Approval from the Subsidizing Agency

(DHCD), as required by the Project Eligibility letter and the Chapter 40B regulations.

- c. Submit to the Board a copy of the Regulatory Agreement and Monitoring Services Agreement for the Project. Execution and recording of such Regulatory Agreement with DHCD shall be complete prior to the issuance of any building permit. It is understood and agreed that Monitoring provisions may be included with the Regulatory Agreement, in lieu of a separate Monitoring Services Agreement.
- d. Submit to the Building Commissioner final Architectural Plans prepared, signed and sealed by an architect with a valid registration in the Commonwealth of Massachusetts (“Architectural Plans”). The Architectural Plans shall be submitted in such form as the Building Commissioner may request pursuant to the State Building Code.
- e. An automatic sprinkler system conforming with NFPA 13 and a fire alarm system conforming to NFPA 72 shall be required in all residential buildings. Both systems shall be monitored by a UL approved central station monitoring service.
- f. Obtain and file with the Building Commissioner a copy of all required Federal, State, and local permits and approvals required to begin construction of the Project.
- g. Obtain all necessary building, electrical, plumbing, and associated permits required to begin construction of the Project required by state law.
- h. The Applicant will be responsible for all applicable sewer permit, capacity impacts and privilege fees, as applicable.
- i. The Applicant will be responsible for all applicable water and sewer system fees as per officially promulgated fee schedules uniformly applicable to all other Town of Arlington projects.
- j. Submit to the Board a revised Stormwater Report documenting the various changes in design that have occurred during the hearing process.
- k. The Applicant shall perform additional test pits at the proposed stormwater basins to confirm groundwater elevations. These test pits shall be done during seasonal high groundwater conditions and shall be witnessed by the Town and/or its agent.

1. The Applicant shall provide calculations to confirm that the proposed trench drain gate at the drop-off area at the front of the proposed residential structure (Subcatchment 4S) has the capacity to capture all runoff without bypass to Dorothy Road. The stormwater design for the trench drain assumes that no runoff bypasses the drain and enters Dorothy Road. However, the calculated runoff for the 100-year storm is 1.3 cfs. If the Applicant is unable to provide calculations confirming that Subcatchment 4S does not have the capacity to capture all runoff without bypass to Dorothy Road, the Applicant shall revise the driveway grading so that it does not flow to Dorothy Road.

**D. Construction Completion/Certificate of Occupancy**

- D.1 Prior to issuance of a certificate of occupancy for any structure in the Project, the Applicant shall:
  - a. Submit engineer's interim certification of compliance with utilities plan and profiles for such Phase (as applicable) to the Building Commissioner.
  - b. Provide a letter to the Board, signed by the Applicant's civil engineer, certifying that the structure and supporting infrastructure has been constructed in compliance with the Final Plans in all material respects.
  - c. Obtain acceptance from the Arlington Fire Department of testing of all fire protection systems, fire alarm systems, fire sprinkler systems, and local smoke alarms within the dwelling units of the structure.
  - d. Obtain a sewer connection sign-off from the Arlington Department of Public Works for the structure.
- D.2 Prior to issuance of the certificate of occupancy for the Project, the Applicant shall:

- a. Submit to the Board, in digital file format and full-size paper copies, a final as-built plan including profiles, showing actual-in ground installation of all applicable utilities, rim and invert elevations, roadway, sidewalk and associated construction. The file format shall be in AutoCAD file delivery shall be in full model view and individual sheet views. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered in the Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet.
- b. The Applicant shall provide to the Board evidence of a property management plan (if property management will be done in-house), or shall provide a copy of a contract with a Management Company if property management will be conducted by a third-party. The Applicant shall submit to the Board all information relating to the issues of building security, public access, pet policy, staffing, trash removal, and smoking policies, and other issues addressed in the conditions herein.

**E. Project Design and Construction**

- E.1 Prior to the commencement of any work on the Property, the Applicant and the site general contractor shall attend a preconstruction conference with representatives from the Arlington Fire Department, the Department of Public Works (Arlington Water and Sewer Division and Engineering Division), Planning and Community Development and other Town staff and consultants as may be determined. The Applicant and the site general contractor shall host a meeting open to all members of the public to review the construction schedule, hours, policies, procedures, and other neighborhood impacts at least fourteen (14) days prior to the start of construction.
- E.2 Prior to the pre-construction conference, the Applicant shall submit a Construction Management Plan (“CMP”) for administrative approval by the Board. The CMP shall provide documentation of various construction related activities, including:
  1. A Project Description and outline of primary construction tasks,
  2. A Project Schedule including hours of operation, duration of primary construction tasks and estimated completion date,
  3. Project logistics, including staging areas, truck routes, laydown areas, contractor parking, and construction traffic management,
  4. Site Management including noise mitigation, dust control and security,

5. Public Safety and Coordination, including contact information and site inspections.
- E.2 The Applicant shall permit representatives of the Board to observe and inspect the Property and construction progress until such time as the Project has been completed and the final occupancy permit issued.
- E.3 The proposed construction shall be in accordance with applicable Federal and State laws, rules and regulations.
- E.4 All site retaining walls four (4) feet or greater in height shall be designed by a Massachusetts Professional Structural Engineer.
- E.5 During construction, the Applicant shall conform to all local, State, and Federal laws and provide advance notice to abutters per the Town's Residential Construction Control Agreement regarding noise, vibration, dust, and blocking of Town roads in order to accommodate delivery of materials to the site or for other construction staging purposes. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Adequate provisions shall be made by the Applicant to control and minimize dust on the site during construction in accordance with the construction mitigation plan. The Applicant shall keep all portions of any public way used as access/egress to the Project free of soil, mud or debris deposited due to use by construction vehicles associated with the Project.
- E.6 Appropriate signage shall be shown on the Final Plans, consistent with the sign information shown on the Approved Plans. A temporary sign including the name and address of the project and contact information for the Applicant, general contractor, engineers, architect, and other relevant parties shall be posted on site for the duration of construction operations. The sign must be legible and able to be read from Dorothy Road.
- E.7 The location of all utilities, including but not limited to electric, telephone, and cable, shall be shown on the Final Plans. All transformers and other electric and telecommunication system components shall be included on the Final Plans.
- E.8 The Applicant shall use natural gas for the Project, if reasonably available at the time of the submission of Final Plans. Gas service locations shall be included on the Final Plans.

- E.9 The Applicant shall install lighting on the site that conforms to the Town of Arlington's Zoning Bylaw and Town Bylaw. Lighting shall be down-lit/shielded to prevent light spillover onto surrounding properties and comply with dark sky requirements. Management of outdoor lighting shall be the responsibility of the Applicant.
- E.10 Utilities, including but not limited to telephone, electric, and cable, shall be located underground. The contract with the Property Management Company shall note that no satellite dishes shall be allowed. The general contractor shall be responsible for coordinating all subsurface work with Dig Safe prior to the commencement of any excavation.
- E.11 Soil material used as backfill for pipes, access drives, or structures shall be certified by the Geotechnical Engineer to the Building Commissioner as meeting design specifications, as applicable.
- E.12 The Applicant shall test the soil during construction to confirm soil types in the areas of the infiltration system. Such testing shall be witnessed by the Board's designee. All unsuitable material, if any, discovered in excavation for the infiltration system shall be removed and disposed of in accordance with State and local regulations.
- E.13 Construction activities shall be conducted between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday and between the hours of 9:00 a.m. and 5:00 p.m. on Saturdays, Sundays, or legal holidays. For purposes of this condition, construction activities shall be defined as: start-up of equipment or machinery, delivery of building materials and supplies; delivery or removal of equipment or machinery; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; removal of stumps and debris; loading of construction dumpsters and erection of new structures. All off-site utility work shall be coordinated and approved by the Building Department and shall not be subject to the timing restrictions set forth above. Parking of all vehicles and equipment must be on the Property during construction.
- E.14 Burning or burial of construction or demolition debris on the site is strictly prohibited. All such materials are to be removed from the site in accordance with applicable law. During construction, the site shall be secured against unauthorized entry or vandalism by fencing, or other appropriate means, and all construction materials shall be stored or stockpiled in a safe manner. Any floodlights used during the construction period shall be located and directed so as to prevent spillover or illumination onto adjacent properties. All construction activities are to be conducted in a workmanlike manner.

- E.15 No building areas shall be left in an open, unstabilized condition longer than sixty (60) days. Temporary stabilization shall be accomplished by hay bales, hay coverings or matting. Final stabilization shall be accomplished by loaming and seeding exposed areas.
- E.16 All dumpsters serving the Project shall be enclosed and covered (with the exception of construction dumpsters used during construction). The Board shall review the dumpster location as part of the approval of the Final Plans if different from what has been shown on the Approved Plans.
- E.17 All retaining walls visible from a public way or direct abutters, as determined by the Building Commissioner based upon the time of year when such walls would be most visible, shall be constructed in an aesthetic manner. Specifically, retaining walls shall avoid the use of exposed concrete to the greatest extent practicable.
- E.18 Snow shall be stored within the areas of the Property designated on the Approved Plans. To the extent snowfall exceeds the capacity of the designated snow storage areas, the Applicant shall truck the excess snow off-site. Snow may not be placed in or adjacent to resource areas.
- E.19 The Applicant shall comply with all applicable local, state and federal requirements relating to noise from construction activities, including the regulations contained at 310 CMR 7.10 and the DEP's Noise Policy contained in DAQC Policy 90-001 as well as the Arlington Noise Abatement Bylaw contained at Title V, Section 12. The Applicant shall also implement all necessary controls to ensure that vibration from construction activities does not constitute a nuisance or hazard beyond the Property. Upon notification from appropriate municipal officials, the Applicant shall cease all construction activities creating noise in excess of state and federal standards, and shall implement such mitigation measures as is necessary to ensure the construction activity will comply with applicable State and Federal requirements.
- E.20 The Applicant is responsible for the sweeping, removal of snow and sanding of the internal roadways and driveways providing access to both the residents of the Project and emergency vehicles. Neither snow nor sand may be placed in or adjacent to resource areas.
- E.21 The Applicant shall maintain all portions of any public road, whether state or local roads, used for access to the Property by construction vehicles, free from soil, mud or debris deposited due to such use during the duration of construction.

- E.22 The Applicant shall comply with DPW requirements regarding curb-cut permits.
- E.23 To the extent earth removal is necessary, the Applicant shall prepare an earth removal plan, showing all necessary cuts and fills, and describing the number of truck trips necessary for the earth removal.
- E.24 Prior to commencing earth removal, the Applicant shall provide the Board with the results of a Phase I Site Assessment pursuant to G. L. c. 21E.
- E.25 All catch-basins shall have oil/water separators as shown on the Approved Plans.
- E. 26 Project sidewalks and pathways/walkways shall be compliant with the requirements of the Americans with Disabilities Act (“ADA”) and the requirements of the Massachusetts Architectural Access Board (“AAB”).
- E. 27 This Comprehensive Permit shall be a master permit which is issued in lieu of all other local permits or approvals that would otherwise be required, except for the issuance of Building Permits and Certificates of Occupancy by the Building Department under the State Building Code; provided, however, the Applicant shall pay all local fees for such permits or approvals as published in the Town regulations or bylaws, including but not limited to building permits, inspections, water and sewer connections, and curb cuts.

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

- F.1 Access and egress to the Project shall be via Dorothy Road, consistent with the Approved Plans.
- F.2 The Applicant shall implement an annual Transportation Demand Management monitoring program in consultation with the Department of Planning and Community Development.
- F.3 The Applicant shall provide bicycle repair stations with repair stands and air pumps in the bicycle storage area.
- F.4 The Applicant shall ensure that emergency vehicles can adequately maneuver through the site. The Arlington Fire Department shall review the Final Plans to ensure compliance with this condition.
- F.5 The Applicant shall provide \_\_\_\_ long-term bicycle parking spaces that are covered and secure.

- F.6 The Applicant shall provide \_\_\_\_ outdoor short-term bicycle parking spaces. These spaces shall be near a location of public building access, such as the courtyard area.
- F.7 The Applicant shall provide new residents with transportation information packets with information on getting around Arlington sustainably.
- F.8 The Applicant shall provide Transitscreen installation in the building lobby which depicts accurate real-time information for public transit, car sharing, and ride sharing services within one (1) mile of the site.
- F.9 The Applicant shall provide \_\_\_\_ parking spaces, for a ratio of 1.12 spaces per unit.
- F.10 With the exception of designated affordable housing units, parking for units shall be subject to an additional monthly fee, separate from rent, in order to discourage motor vehicle ownership in the Project.
- F.11 The Board shall review and administratively approve the parking fee structure. Any changes in the parking fee structure must be approved by the Board prior to fees becoming effective.
- F.12 The Applicant's property management team shall investigate paying for membership either with the 128 Business Council or the Alewife TMA, in order to provide ride matching opportunities for residents of the Project to regional transportation connections and places of employment in the region.
- F.13 The Applicant shall provide a one-month Charlie Card with an unlimited bus/subway service to each adult member of a unit, up to two per household.
- F.14 The Applicant or Property Management Company shall designate an on-site employee as the site's Transportation Coordinator to oversee marking and promoting of transportation options and monitoring and management of all related Transportation Demand Management requirements at the Property.
- F.15 The Applicant shall provide electric vehicle charging stations at 5% of the parking spaces in the garage. The Applicant shall provide for the expansion of the number of charging stations in accordance with tenant demand.

- F.16 The Applicant shall provide an annual update to the Arlington Department of Planning and Community Development. Such annual report shall include the number of leased/occupied units, the number of leased/occupied parking spaces, annual unit turnover, a summary of the parking fee structure, and any proposed changes to the parking fee structure.
- F.17 The Applicant shall provide for the installation of at least two (2) Bluebike stations, including purchase of the docks and installation costs pursuant to the Town's existing Bluebikes contract. Such Bluebikes stations shall be located in an area accessible to the public as well as to tenants of the Project.
- F.18 The Applicant shall design ADA-complaint sidewalk and curb ramp improvements along the primary route(s) expected to be used by pedestrians to access the Alewife T station. This shall include Dorothy Road and Margaret Street to the entrance of Thorndike Park. Plans shall be submitted to the Departments of Planning and Community Development and Public Works for review and administrative approval. Improvements shall be completed and fully funded by the Applicant.
- F.19 The Applicant shall provide tenants information regarding the existing weekday peak hour turn restrictions from Lake Street onto Wilson Avenue, Littlejohn Street and Homestead Road.

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

- G.1 The Applicant shall provide professional property management and maintenance personnel on the premises during typical business hours and an emergency contact name and number for tenants and the Arlington Police Department and Fire Department.
- G.2 Stairwells and garages must be two-hour fire rated. Residential units must be one-hour fire rated.
- G.3 The residential structures shall be fully sprinklered to NFPA regulations.
- G.4 Compliance with all State Building Code and NFPA requirements relating to fire access and safety shall be met.
- G.5 All elevators must have emergency generator backup.
- G.6 The Project shall maintain fire access to all four sides of each residential structure at all times.

- G.7 The Project shall provide adequate external lighting to ensure safety of the residents of the Project. External lighting shall conform to the requirements of the local Regulation of Outdoor Lighting [Title V, Section 14].
- G.8 As proposed by the Applicant, the Project shall have a card access system with time stamps and shall have a superintendent on-site to address security concerns with the Police Department.
- G.9 During times of construction, the Project, including all structures shall be accessible to Fire Department and other emergency vehicles. Additionally, all hydrants shall be operational during construction in accordance with NFPA requirements. Standpipes shall be operational on each floor during construction, as required by the Building Code and the Fire Department.
- G.10 The Applicant shall consult with the Fire Department prior to the commencement of construction to provide an on-site emergency plan, which shall be updated as necessary throughout the construction process.

**H. Water, Sewer and Utilities**

- H.1 The Applicant shall be responsible for the design and installation of the utilities servicing the Project.
- H.2 All water and sewer infrastructure shall be installed in conformance with the Arlington Water and Sewer Division's technical requirements. The Applicant shall provide the Arlington Water and Sewer Division with calculations to ensure the distribution system for the area has the necessary capacity to meet system demand required prior to the commencement of construction.
- H.3 Fire hydrants shall be placed as shown on the Approved Plans in locations approved by the Arlington Fire Department. If the Arlington Fire Department approves different hydrant locations, such modification shall be accepted administratively as an insubstantial change pursuant to 760 CMR 56.05(11).
- H.4 The service size for the domestic water service should be verified by the Arlington Water and Sewer Division and information on the fire service size and requirements should be verified by the Arlington Fire Department. The Applicant shall submit information regarding the size of both the domestic and fire services as part of Final Plans, after consultation with the Arlington Water and Sewer Division. The Applicant shall replace the water main, hydrants and gate valves. Any connections to the Town water main shall be triple-gated and a tee connection.

- H.5 The water and sewer utilities servicing the buildings in the Project shall be installed and tested in accordance with applicable Town requirements and protocols, except as may be waived herein.
- H.6 Utilities shall be installed underground by the Applicant using methods standard to those installations. Utilities shall be defined as electric service lines, telephone lines, water service lines, CATV lines, municipal conduit and the like. The Applicant shall request a Grant of Location from the Select Board for any installation of new utility poles or underground conduit in the public right of way as needed.
- H.7 The Applicant shall be responsible for all trash and recycling removal from the Property. The Town of Arlington shall not have any responsibility for trash, recycling, compost, and/or yard waste pickup at the Property.
- H.8 Fire hydrants shall remain private, and shall be maintained by the Applicant.
- H.9 The Applicant shall design and provide a wider sewer easement beyond 10ft. to provide suitable room to perform all necessary work within the easement. The Applicant shall provide the Arlington Water and Sewer Division with up-gradient sewer flow, with peaking factor, and suitable capacity for proposed additional flow into the sewer system. Contingent upon the system suitability and capacity, the Application may be required to pay an Inflow/Infiltration (I/I) mitigation fee to reduce I/I of the Town sewer system in the amount equal to four (4) times the design flow of the Project. All sewer services should utilize 8” service lines and shall discharge into a sewer manhole when entering the Town sewer collection system. Upon completion of construction, the Applicant shall notify the Arlington Water and Sewer Division to conduct a post- construction evaluation of the sewer main.

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

- I.1 The Applicant proposes work within the one hundred foot buffer zone to a bordering vegetated wetland. The Applicant will be required to obtain an Order of Conditions from the Arlington Conservation Commission, or a Superseding Order of Conditions from the Department of Environmental Protection.
- I.2 No uncovered stockpiling of materials shall be permitted within the 100 foot Wetland Buffer Zone or Adjacent Upland Resource Areas (“AURA”) or other resource areas.

- I.3 No heavy equipment may be stored overnight within fifty feet (50') of resource areas and no refueling or maintenance of machinery shall be allowed within the one hundred foot (100') Buffer Zone, AURA, or within any Resource Area.
- I.4 There shall be no dumping of leaves, grass clippings, brush, or other debris into a wetland resource area or associated buffer zones. Dumping of snow into wetland resource areas is also prohibited.
- I.5 Any water discharged as part of any dewatering operation shall be passed through filters, on-site settling basins, settling tank trucks, or other devices to ensure that no observable sediments or pollutants are carried into any Resource Area, street drain, or adjacent property. Any catch-basins drains and outfalls to be used in dewatering operations shall be cleaned out before operations begin.
- I.6 The Applicant shall hire a qualified environmental monitor to be on-site during project construction. The environmental monitor shall submit an electronic report to the Board weekly during construction progress and relation to resource areas. During the duration of construction and mitigation plantings or other activities permitted, the qualified environmental monitor shall also submit an electronic report after every rain event exceeding .5 inches of rain in a 24-hour period to the Board regarding the condition of the Property during and after the rain event. Such report shall also include the status of erosion control measures and any additional measures to address stormwater management caused by said rain event.
- I.7 All work shall be conducted in accordance with the approved erosion and sedimentation control plan. Within one week of final grading, weather permitting, all disturbed areas located within wetland resource areas and buffer zones shall be stabilized against erosion. This shall be done either by sodding or by loaming, seeding and mulching according to Soil Conservation Service Standards and the Approved Plans. Stabilization will be completed when the surface shows complete vegetative cover. Temporary stabilization measures approved by the Board's inspectional engineer will be required should work be interrupted for more than ten (10) days.
- I.8 The applicant, successor or assigns shall ensure the cleanliness of all catch basins and roadway affected by the project related activity. All catch basins will be protected by a "Silt Bag Inlet Protection" device or equal during the project work period. The applicant shall inspect and clean as necessary, all catch basins and sweep the roadway at least weekly during construction. It may be required more frequently during rain events.
- I.9 There shall be no sedimentation into wetlands or water bodies from discharge pipes or surface runoff leaving the Property.

- I.10 The Board or its agent (which may be the Conservation Commission agent acting on behalf of the Board) shall have the right to enter the Property for inspections and to evaluate compliance with the wetlands conditions contained herein upon reasonable notice of not less than twenty-four (24) hours. Access shall be allowed without the need for advanced notice in emergency situations when necessary to prevent imminent harm to wetlands resource areas.
- I.11 Prior to the commencement of work within any resource areas, the Applicant shall, in addition to any other security or surety required by this Decision, provide the Town security in the amount of \$10,000 (via bond, passbook, cash or tripartite agreement) in order to provide security for the work and erosion control measures in or adjacent to resource areas. In the event that said work or erosion control measures have been deemed to have failed or require maintenance, the Applicant shall be given written notice of such deficiency, along with an opportunity to cure the same within seven (7) days, or longer as may be applicable. In the event that the Applicant does not timely cure the deficiency, said security may be accessed by the Board to pay expenses for replacement, repair or maintenance of erosion controls if the Applicant refuses to repair, replace or maintain such erosion control measures in a timely manner upon written notification from the Board or its agent. To the extent that Board is required to access and use this security, as aforesaid, the Applicant shall replenish said security to return it to \$10,000.
- I.16 Prior to any work commencing on-site, the applicant shall submit to the Board for review, proof that a Self-Verification Notification Form has been submitted to the US Army Corps of Engineers, if necessary.
- I.17 Prior to any work commencing on-site, the applicant shall submit to the Board review, proof that a NPDES Stormwater Permit is active for the project.
- I.18 Copies of all information and all required reports regarding a US EPA NPDES permit and Stormwater Pollution Prevention Plan (SWPPP) shall be forwarded to the Commission as both a paper and electronic copy.
- I.19 The Applicant shall submit for review and administrative approval to the Town Engineer design details confirming that the rooftop detention system will conform to the runoff assumptions and calculations in the Applicant's Stormwater Analysis. Any change to the rooftop detention system design will require the approval of the Board.

- I.20 The Applicant shall provide thorough documentation establishing seasonal high groundwater elevations at the Property to ensure that there is a minimum of a two-foot separation between the bottom of the stormwater management infiltration chambers and the seasonal high groundwater table. Such data shall be conducted in March or April. The Applicant shall provide the proposed locations and number of test pits and wells to the Board for review and administrative approval. After the site specific field data has been collected, the Frimpter Method or other methodology acceptable to the Board shall be used.
- I.21 The Board has retained BETA Group to conduct a review of the stormwater management system utilizing the rainfall totals using the NOAA Atlas 14+ data. This analysis shows that both Infiltration Basin 1 and Infiltration Basin 3 experience higher water surface elevations during the 100-year storm event, which may result in negative impacts to the site drainage. The Applicant shall revise both Infiltration Basin 1 and Infiltration Basin 3 to accommodate the increased flows using the NOAA Atlas 14+ data.
- I.22 The Applicant shall retain a qualified stormwater monitor civil engineer to oversee the installation of the stormwater system. A stormwater mitigation report shall be submitted to the Board within ten (10) days of the completion of the installation of the stormwater management system. Such stormwater mitigation report shall include as-built plans, photographs from installation, and a written summary of the installation of the stormwater management system, as well as stormwater best management practices (porous pavement, rain gardens, and porous paths and walkways throughout the Property).
- I.23 The Applicant shall only treat planted areas within resource areas with slow release nitrogen fertilizer. Application of this fertilizer is not permitted to occur during the summer months or after storm events. Lawn fertilizer may only be applied twice per year, once in the Spring and once in the Fall.
- I.24 The application of plant nutrients shall comply with 330 CMR 31.00. No other herbicides or treatment methods may be utilized on the Property. No pesticides or rodenticides shall be used to treat pest management issues within resource areas.
- I.25 No snow storage or sand/salt is allowed within one hundred feet (100') of resource areas.
- I.26 The Applicant shall protect all adjacent catch basins using silt socks during construction.
- I.27 The Applicant shall conduct catch basin sump cleanings at the end of construction of the Project.

- I.28 The Applicant shall provide compensatory flood storage at a minimum ratio of 2:1. Compensatory storage shall mean a volume not previously used for flood storage and shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation which would be displaced by the Project. Compensatory flood storage areas shall not be allowed within fifty feet (50') of any resource area.
- I.29 The Applicant shall submit for review and administrative approval by the Board a restoration plan for the proposed compensatory flood storage area(s) of the Site to mitigate for the negative environmental impacts of the vegetation removal and grading to create the compensatory flood storage area.
- I.30 The Applicant shall submit for review and administrative approval by the Board an invasive management plan for work within the AURA and other resource areas outlining all locations for invasive management, the species and quantities of invasive plants to be managed, and the method of management.
- I.31 All mitigation plantings and all plantings with resource areas shall be native, and shall be installed and maintained according to the standards of the American Association of Nurserymen (AAN). No cultivars of native plantings shall be allowed.
- I.32 All plantings planted and invasive species removed through the Project shall be monitored for three years. A survival rate of one hundred percent (100%) must be maintained for the approved plantings at the end of the third year of monitoring. If the survival rate is less than one hundred percent (100%) after the end of the third year, the Applicant must submit proposed recommendations for replacement to the Board for its review and administrative approval. A monitoring report shall be submitted annually in June for each of the years in the three-year monitoring period, reporting on the health of the new plantings and the success of the invasive plant management.
- I.33 No work shall be allowed within twenty-five feet (25') of any resource area.
- I.34 No disturbance shall be allowed within fifty feet (50') of any resource area.
- I.35 Limited activity only is allowed within fifty feet (50') to seventy-five feet (75') of any resource area. Mitigation must be provided for any work between fifty feet (50') to one hundred feet (100') of any resource area. Definitions of "work", "disturbance", "limited activity" and "mitigation" shall be as defined in the Arlington Regulations for Wetlands Protection (2015), Section 4 and 25.

- I.36 The Applicant shall revise the Long-Term Pollution Prevention & Operations and Maintenance Plan to include requirements for inspection and cleaning of trench drains and the roof stormwater outlet to ensure these are functional prior to significant rain events.
- I.37 The Applicant shall revise the Long-Term Pollution Prevention & Operations and Maintenance Plan to include provisions for maintenance and cleaning of compensatory flood storage areas to ensure these remain functional.

**J. Other General Conditions**

- J.1 This Decision will be deemed to be final upon the expiration of the appeal period with no appeal having been filed or upon the final judicial decision following the filing of any appeal, whichever is later, as per 760 CMR 56.05(12)(a). In accordance with 760 CMR 56.05(12)(c), this Comprehensive Permit shall expire three (3) years from the date that the permit becomes final, unless (i) prior to that time construction authorized by the Comprehensive Permit has commenced or (ii) the time period is otherwise tolled in accordance with law. The Applicant may timely apply to the Board for extensions to the Comprehensive Permit as permitted by law.
- J.2 The Applicant shall comply with all local regulations of the Town and its boards, commissions, and departments unless specifically waived herein or as otherwise addressed in these conditions.
- J.3 The Applicant shall copy the Board on all correspondence between the Applicant and any federal, state, or Town official, board, or commission concerning the conditions set forth in this Decision, including but not limited to all testing results, official filings, environmental approvals, and other permits issued for the Project.
- J.4 This Decision prohibits the parking or storage of any unregistered vehicle on the site, and likewise prohibits the service of any vehicles on the site, except during construction. Overnight parking of vehicles on public ways is prohibited in the Town of Arlington.

- J.5 In the event that the Applicant (or its Management Company) fails to maintain the stormwater management system for the Project in accordance with its operation and maintenance plan, within fourteen (14) days of notification by the Town to the Applicant/Management Company, the Town may conduct emergency maintenance and/or repair, as it deems necessary, and the Applicant shall, prior to the issuance of any certificates of occupancy, convey such easement or other rights in a form mutually acceptable to the Town and the Applicant as may be reasonably necessary to complete such repair and/or maintenance. In the event the Town opts to perform such maintenance in accordance with this paragraph, the Applicant shall reimburse the Town within forty-five (45) days for all of its reasonable expenses related to such work.
- J.6 The Project entrance way and interior roads, and drainage systems associated therewith shall remain private, and the Town shall not have any legal responsibility for the operation and maintenance of such. The Town shall also have no obligations relating to the proposed recreational areas on the Property, the construction and operation of which shall be the sole responsibility of the Applicant. The Applicant is required to maintain the sidewalk along Dorothy Road clear of snow per local ordinance.
- J.7 If any default, violation or breach of these conditions by the Applicant is not cured within thirty (30) days after notice thereof (or such longer period of time as is reasonably necessary to cure such a default so long as the Applicant is diligently and continuously prosecuting such a cure), then the Town may take one or more of the following steps: (a) enforcement by the Zoning Enforcement Officer pursuant to G. L. c. 40A, § 7; (b) by mandamus or other suit, action or other proceeding at law or in equity, require the Applicant to perform its obligations under these conditions; or (c) take such other action at law or in equity as may appear necessary or desirable to enforce these conditions. If the Town brings any claim to enforce these conditions, and the Town finally prevails in such claim, the Applicant shall reimburse the Town for its reasonable attorneys' fees and expenses incurred in connection with such claim.

### **DECISION**

In consideration of all of the foregoing, including the plans, documents and testimony given during the public hearing, the Board hereby grants the Applicant a comprehensive permit for the construction of \_\_\_\_\_ rental apartment units pursuant to Chapter 40B, §§ 20-23, for the development described above.

### **RECORD OF VOTE**

Decision on Application for Comprehensive Permit  
Arlington Land Realty, LLC  
Off Dorothy Road, Arlington, MA  
\_\_\_\_\_, 2021  
Page 33 of 40

The Board of Appeals voted \_\_\_\_\_, at its public meeting on March \_\_, 2021, to grant a Comprehensive Permit subject to the above-stated Conditions, with this Decision as attested by the signatures below.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_, 2021

Filed with the Town Clerk on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Town Clerk

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

## DECISION ON WAIVERS

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

1. Town of Arlington Bylaws, Title III, Article I, Sections 1 and 2 “Use of Streets for Construction or Demolition Materials”: This section requires a permit from the Board of Public Works or Town Engineer, and included bond requirements, for work adjacent to public ways and for the use of public ways to place building materials and/or rubbish. The Applicant requests a waiver except from the bonding requirements.

**Board Action: Waiver Denied. The Applicant has requested a waiver of the procedural requirements of this section, a waiver that is unnecessary for a comprehensive permit application, as all other local approval processes are subsumed into the comprehensive permit application. The Applicant has not set forth any substantive waiver requests of this section, therefore no such waivers are granted.**

2. Town of Arlington Bylaws, Title V, Article 8, and Town Wetland Protection Regulations “Wetland Protection Bylaw” and “Wetland Regulations of the Town of Arlington Conservation Commission dated June 4, 2015): The Applicant requests a waiver of the procedures, jurisdictional requirements, applications, fees, costs, regulations, policies, and enforcement, consultant fees of the Wetlands Bylaws and Regulations.

**Board Action: Waiver Denied. To the extent that this waiver request constitutes a request for a waiver of the procedural requirements under the Wetlands Bylaw and Wetlands Regulations, this request is denied as unnecessary, as the procedural requirements of other local permitting processes are subsumed into the comprehensive permit process. To the extent that this waiver request seeks substantive waivers (such as jurisdictional requirements, policies, etc.), this waiver request is overly-broad and is therefore denied.**

3. Wetlands Protection Bylaw, Section 2, and Wetlands Regulation Sections 2(A)(5), 4(3) and 4(7), Areas Subject to jurisdiction under local bylaw/definitions of same: The Applicant requests a waiver of these sections to waive the Area Adjacent to Upland Resource Area “AURA” as a resource area, to allow portions of the AURA to be graded, completed as compensatory floodplain storage and/or emergency access areas, as shown on the Approved Plans.

**Board Action: Waiver Granted to allow work within the AURA as shown on the Approved Plans. The request to waive the AURA as a resource area in general is**

**denied.**

4. Town of Arlington Wetlands Regulations, Section 24 “Vegetation Removal and Replacement”: This section requires an application process in which the Applicant must list all species existing and all proposed replacement species within resource area, including specific requirements for deciduous trees, evergreen trees and shrubs. The Applicant requests a waiver to allow for the Applicant to provide a detailed re-vegetation plan of all areas not otherwise permanently altered for emergency access road or those portions of the southerly side of the building within the floodplain, and to allow a re-vegetation plan acceptable with industry standards.

**Board Action:**

5. Town of Arlington Wetlands Regulations, Section 25 “Adjacent Upland Resource Areas”: This section regulates the 100-foot buffer zone to resource areas. The Applicant requests a waiver to allow for grading and compensatory flood storage as shown on the Approved Plans, and for limited permanent impacts to the outer AURA area for emergency access road, and portions of the garage structure. No alteration will occur within 25’ to a state-listed wetland resource area.

**Board Action:**

6. Town of Arlington Bylaws, Title V (Regulations Upon Use of Private Property), Article 8, Section 11 “Bond to Secure Corrections of Flooding Conditions”: This section requires an applicant to post a bond where a structure in excess of 6,000 square feet in area is proposed within two hundred yards of an existing stream or wetland to post a proper bond sufficient in the opinion of the Commission to secure performance of measures necessary to correct any flooding conditions resulting from the construction. The Applicant requests a waiver of this provision.

**Board Action:**

7. Town of Arlington Bylaw, Title V, Section 8 “Wetlands Consultant Fees”: This section allows the Conservation Commission to impose fees upon an applicant to cover the cost of the Commission retaining an outside wetlands consultant to review the applicant’s submittals. The Applicant requests a waiver of this requirement.

**Board Action: Waiver Granted. The Board does not require additional authority to impose a fee for the retaining of an outside wetlands consultant, which it has done for this Application.**

8. Town of Arlington Bylaw, Title v, Article 9 “Placement of Dumpsters”: This section requires a permit to be issued by the Select Board for the placing of dumpsters or

portable storage containers. The Applicant does not request any substantive waivers of this provision, seeking only a waiver of the procedural requirement of obtaining a permit from the Select Board.

**Board Action: Waiver Denied as unnecessary. The comprehensive permit subsumes all other local permitting processes, therefore no specific waiver of this provision is required. The Board acknowledges that approval of the dumpster locations is part of the comprehensive permit.**

9. Town of Arlington Bylaw, Title V, Article 15, Sections 1-5 “Stormwater Mitigation” –

**Board Action:**

10. Town of Arlington Bylaws, Article 16 “Tree Protection and Preservation”: This section requires approval of the Tree Warden prior to commencement of site work. The Applicant requests a waiver of the procedural requirement of obtaining approval of the Tree Warden. The Applicant does not request any substantive waivers of the requirements of this section.

**Board Action: Waiver Denied as unnecessary. Because all local permitting processes are subsumed into the comprehensive permit application, no waiver of this provision is required. The Applicant has agreed to comply with the substantive provisions of this bylaw.**

11. Town of Arlington Bylaw, Title IX, Article 3, Sections 4A and 4B “Town Fees and Charges, Department of Community Safety and Office of Building Inspector”: These sections set forth local fees and charges. The Applicant requests a waiver of 25% of local fees to reflect the 25% affordable housing units for the Project.

**Board Action: Waiver Denied.**

12. Water Connection Fee Regulations “Water Privilege Fee”: This section details the required fees for water connections. The Applicant requests a waiver of 25% of these fees to reflect the 25% affordable housing units in the Project.

**Board Action: Waiver Denied.**

13. Sewer Privilege Fee: This section details the required fees for connection to the municipal sewer system. The Applicant requests a waiver of 25% of these fees to reflect the 25% affordable housing units in the Project.

**Board Action: Waiver Denied.**

14. Arlington Zoning Bylaws, Article 2 “Definitions”: The Applicant requests the waiver of various unspecified definitions in this section.

**Board Action: Waiver Denied. The Applicant has not submitted sufficient information for the Board to make an informed decision on this waiver request, therefore a denial is required.**

15. Arlington Zoning Bylaws, Article 4.02 “Application of Zoning Bylaws”: This section states that the Zoning Bylaws shall apply to the erection, construction, reconstruction, alteration of use of building structures or use of land. The Applicant requests a waiver to allow the erection of a multi-family residential structure, along with the accessory uses thereto, including parking, play area, terraces, landscaping and management office as shown on the Approved Plans.

**Board Action: Waiver Granted.**

16. Arlington Zoning Bylaws, Article 5, Sections 5.03 and 5.04 “Use Regulations”: The Applicant notes in its list of requested waivers that multi-family dwelling structures are allowed in the PUD Zoning District pursuant to the issuance of a special permit. The Applicant also notes that no waiver of special permit requirements are required for a comprehensive permit development. The Applicant has listed no substantive provisions of these sections that require waivers.

**Board Action: Waiver Denied as unnecessary. Because G. L. c. 40B, §§ 20-23 subsumes all other local permitting processes, the Applicant is not required to obtain a special permit for the Project. Since the Applicant has detailed no substantive waivers of these sections that are necessary, the waiver request is denied.**

17. Arlington Zoning Bylaws, Article 6, Section 6.00 “Dimensional and Density Regulations” This section regulations minimum lot size, frontage, maximum floor area, maximum lot coverage, minimum lot area, minimum lot depth (front, side and rear), maximum heights, minimum landscaped areas and useable open space.

**Board Action: Waiver Denied. The Board addresses the more specific waiver requests below.**

18. Arlington Zoning Bylaws Article 6 “Table of Dimensional and Density Regulations”: The Applicant requests a waiver of the Maximum Floor Area Ratio of .80 to allow a Floor Area Ratio of .87 (for the developed portion of the Site).

**Board Action:**

19. Arlington Zoning Bylaws, Article 6, Section 6.07 “Buildings in Floodplains”: This section requires the issuance of a special permit for buildings within floodplains. The Applicant requests a waiver of this special permit requirement. No substantive waivers of this bylaw were requested.

**Board Action: Waiver Denied as unnecessary. Again, an applicant is not required to obtain waivers of special permit requirements, as all other local permits are subsumed into the comprehensive permit.**

20. Arlington Zoning Bylaws, Article 6, Section 6.30 “Open Space Regulations for Planned Unit Developments”: This section sets forth a minimum requirement of 10% landscaped and 10% useable open space for apartments in the PUD Zoning District. The Applicant requests a waiver to allow for less than 10% useable open space.

**Board Action:**

21. Arlington Zoning Bylaws, Article 8, Section 1 “Off-Street Parking Requirements”: The Applicant requests a waiver of the minimum parking requirements (1 space per efficiency unit, 1.5 spaces per two-bedroom unit and 2 spaces per three-bedroom unit) to allow for a parking ratio of 1.12 spaces per unit.

**Board Action: Waiver Granted.**

22. Arlington Zoning Bylaws, Article 8, Section 8.12 “Parking/Loading space standards”: This section limits the number of compact spaces to 20% (via special permit). The Applicant requests a waiver to allow up to 31% of the parking spaces to be compact spaces.

**Board Action: Waiver Granted.**

23. Arlington Zoning Bylaws, Article 10, Section 10.02: This section prohibits permits from being issued for structures that do not comply with the substantive provisions of the Arlington Zoning Bylaws. The Applicant requests a waiver to allow permits to issue for the structures as approved by the comprehensive permit decision.

**Board Action: Waiver Granted to allow construction as shown on the Approved Plans.**

24. Arlington Zoning Bylaws, Article 10.11 “Special Permits”: This section sets forth the special permit review requirements for the Board or the Arlington Redevelopment Board, and limits the duration of special permits to two (2) years. The Applicant requests a waiver of the procedural requirements for special permits, and also requests a waiver of the two (2) year lapse provision.

**Board Action: Waiver Denied as unnecessary. Because a comprehensive permit subsumes all other local permitting processes, a waiver of the special permit process is not required. The Board grants the substantive waiver of the two-year lapse provision contained in Section 10.11, so that the comprehensive permit shall lapse if substantial use has not commenced within three (3) years, as set forth in 760 CMR 56.05(12)(c).**

25. Arlington Zoning Bylaws, Article 10, Section 10.12 “Variances”: This section sets forth the criteria for the grant of variances pursuant to G. L. c. 40A, § 10. The Applicant requests a waiver of the variance process.

**Board Action: Waiver Denied as unnecessary. The Applicant is not required to obtain variances as part of a comprehensive permit application, therefore the provisions of Section 10.12 are not applicable to this application.**

26. Arlington Zoning Bylaws, Article 11, Section 11.04(a-g) “Floodplain District”: This section imposes a special permit requirement upon uses within the Floodplain District. The Applicant requests a waiver of this special permit requirement.

**Board Action: Waiver Granted.**

27. Arlington Zoning Bylaws, Article 11, Section 11.05(b), (d) and (f): This section requires a special permit for specific uses and structures in the Inland Wetland District. The Applicant requests a waiver of this special permit requirement.

**Board Action: Waiver Granted.**

28. Arlington Zoning Bylaws, Article 11, Sections 11.06(b), (d)(1), (4), (5), and (6)(e) and (f) “Environmental Design Review”: This section sets forth a special permit process for projects subject to Environmental Design Review. The Applicant requests a waiver of the special permit process and review standards. The Applicant also requests a substantive waiver of the signage requirements to allow for temporary construction signage as allowed by the Building Inspector.

**Board Action: Waiver denied as unnecessary. The Applicant is not required to obtain waivers of the procedural requirements for special permits pursuant to 760 CMR 56.05(7). The substantive waiver for temporary construction signage is granted.**

29. Arlington Zoning Bylaws, Article 11, Section 11.08 “Affordable Housing Requirements”: This section requires 15% of new residential units be restricted as affordable units. The Applicant requests a waiver to allow compliance with the

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requirements of the Subsidizing Agency.

**Board Action: Waiver Granted.**

30. Zoning Board of Appeals Comprehensive Permit Regulations, Section 3.1 and 3.2 “Application and Documentation”: The Applicant requests a waiver to allow for an application that does not comply with the requirements of Section 3.0.

**Board Action:**

**END OF DECISION**