

To: Arlington Zoning Board of Appeals
Fr: Stephanie A. Kiefer, Esq.
Re: ALR Thorndike Place 40B Comprehensive Permit
Date: October 4, 2021, updated October 5, 2021

The below memorandum was originally submitted to the Zoning Board on October 4, 2021 and has been updated as of October 5, to clarify the intent of the Applicant's offer to permanently protect a portion of its land from future development and certain investigations of the land related to such land protection.

Background

Arlington Land Realty, LLC ("ALR") has offered to negotiate a mutually agreeable Memorandum of Understanding ("MOU") with the Town of Arlington (the "Town") with respect to a portion of ALR's property, approximately 12 acres in size, which would not be further developed for residential, commercial or industrial uses. Such MOU is intended to set forth terms relating to, *inter alia*, the protection, rehabilitation and ongoing maintenance funding for the undeveloped portion of the ALR property and to confirm a cooperative effort on behalf of the Town and ALR. It is anticipated that the primary Town departments with whom ALR will collaborate will include the Department of Planning and Community Development, the Arlington Legal Department, and the Conservation Commission and/or its agent.

To address those aspects of the intended MOU, which relate directly to the Applicant's Thorndike Place 40B project proposal, consisting of a four-story 124-unit independent living building, twelve duplex-style ownership units, together with associated surface and garage parking, access drives and such other project amenities as depicted on the BSC Group plan set, titled "Thorndike Place Comprehensive Permit, Dorothy Road, Arlington Massachusetts," dated March 13, 2020, revised through August 27, 2021 (the "Thorndike Place project"), we provide this description of the open space parcel components thereto.

The Applicant can clarify to the Board that the Thorndike Place project, as presented to the ZBA, includes the following commitments on behalf of ALR, subject to the timely receipt of a final Comprehensive Permit acceptable to the Applicant:

1. *Conservation of a portion of the ALR Property.*

ALR has offered as a component of its proposed Thorndike Place project, to record a perpetual restriction against future development on approximately a 12-acre portion (the "Open Space Parcel") of the entire 17.7 acre ALR property. The area to be conserved is to be consistent with the BSC plan entitled "Proposed Conservation Parcel," as revised through August 27, 2021.

Consistent with the stated goals of the Town, the Open Space Parcel would be preserved and maintained as undeveloped, natural space, and appropriate for conservation and/or passive recreation for the benefit of the community of Arlington. The conservation of the Open Space Parcel likewise is responsive to community concerns about restricting the ability for future development on those lands and attendant impact on local floodplains or environmental resource areas.

2. *Assessment plan and removal of solid waste and invasive species.*

Over the past few months, ALR has proactively contracted for third party services to engage in removal of solid waste and needles/sharps disposed on the property by trespassers, in an amount of approximately \$100,000. Under those commitments, the first steps necessarily involves removal of needles/sharps from the ground. The work on the removal of the sharps began in the latter part of September, and will continue to advance over the coming months together with removal of solid waste/former encampment sites. ALR has also worked together with the Somerville Homeless Coalition and Arlington Police Department to respond to the community issue of housing for homeless persons.

The Applicant recognizes that additional funds will be required to remove additional solid waste/debris and to prepare and implement a prioritized mitigation plan to reduce the invasive species population and provide for a replanting/rehabilitation of the buffer and floodplain within the Open Space parcel, with input from Community Development and/or the Conservation Commission. While the final terms/mechanism to fund the same (e.g., escrow, letter or surety or bond) the same will be worked out in the expected MOU, ALR can confirm that as part of the 40B project, it will set aside/budget an additional \$100,000 toward planning and removal of solid waste/invasive species within the Open Space Parcel area, which would be a total investment of \$200,000 (inclusive of the amount that has already been committed/contracted for) by ALR to plan for removal solid waste and mitigation of invasive species on the Open Space Parcel. To provide assurance to the ZBA, the Applicant would offer that the additional \$100,000 be escrowed or bonded at the time of issuance of building permits for Thorndike Place, with the work generally to be implemented prior to completion of construction.

3. *Ongoing maintenance of the Open Space Parcel.*

ALR continues to commit as part of the Thorndike Place proposal, that it will fund, over the course of a ten-year period, an annual contribution of \$25,000 for continued implementation/maintenance of the Open Space parcel. To provide assurance to the ZBA, the Applicant would offer that it would accept a condition of approval for Thorndike Place to include a \$25,000 annual maintenance budget for ten years upon issuance of the final certificate of occupancy.

4. *Environmental Site Assessment*

While the ZBA draft decision has previously referenced the potential desire for a Phase I site investigation, the Applicant would like to clarify for the Board that within discussions with the Town concerning an MOU as well as in response to the draft conditions of a comprehensive permit, the Applicant agrees that it will retain a qualified Environmental Professional to perform a Phase I Site Assessment (“ESA”) (consistent

with ASTM Standard E1527) on the Open Space Parcel. The ESA would be undertaken prior to issuance of building permits. Should such ESA include findings and recommendations for further environmental assessment, ALR will have such additional assessment work undertaken. If the environmental professional has determined that that a reportable release of oil or hazardous materials, as such term is defined under 310 CMR 40.00 (the Massachusetts Contingency Plan or "MCP") exists on the land, ALR shall comply with the applicable requirements of M.G.L. c.21E and the MCP.