

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 Street (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

I. PROCEDURAL HISTORY

1. An application filed by the Applicant for a Comprehensive Permit pursuant to G. L. c. 40B, §§20-23 was received by the Town of Arlington Zoning Board of Appeals (“Board”) on or about August 31, 2016 (“Application”). As originally designed, the Application proposed the development of twelve (12) home ownership units in six (6) duplex-style structures, and two hundred and seven (207) rental units in a single four-story multifamily 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 26, 2016. On October 6, 2016 the Board submitted a notification to the Applicant pursuant to 760 CMR 56.03(8) that it had determined that the Town 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”). After a *de novo* hearing, on October 15, 2019 the HAC issued a ~~its Decision on Interlocutory Appeal Regarding Applicability Regarding Safe Harbor, ruling that the Town was not entitled to a safe harbor pursuant to Chapter 40B under the 1.5% general land area~~ decision upholding the determination of the DHCD, and remanding the matter

- back to the Board. ~~The matter was thereafter remanded to the Board.~~ At the request of the Applicant, the Board's hearing was resumed on December 10, 2019. At the December 10, 2019 hearing, the Applicant requested a further continuance of public hearings until April 14, 2020 to present updated plans in advance thereof.
3. On or about March 19, 2020, the Applicant provided updated preliminary site plans prepared by BSC Group and an updated set of preliminary architectural plans prepared by GreenStaxx. However, due to the onset of the COVID-19 pandemic, the Board did not resume the public hearing until August 25, 2020, at which time all further sessions of the public hearing were conducted remotely pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, which allows for persons to attend and participate via Zoom. 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, April 8, 2021, May 13, 2021, June 10, 2021, June 29, 2021, August 3, September 9, 2021 and October 5, 2021. The public hearing was closed on October __, 2021.
 4. The Project site consists of a 17.7-acre parcel of land off Dorothy Road, and is located between Concord Turnpike (Route 2) to the south and west and residential neighborhoods to the north and east of the Property, ~~off Dorothy Road and Parker Street~~. The Property is bordered to the east by Burch Street and the Town of Arlington Thorndike Park. ~~The Property is located within the Planned Unit Development (PUD) Zoning District.~~
 5. The Property is located within the Planned Unit Development (PUD) Zoning District. The abutting residential properties are zoned primarily as within the R-2 zoning district, with the exception of the residential properties on the western side of Littlejohn Road, which are within the R-1 zoning district. Nearby uses consist of residential uses along Dorothy Road and Parker Street, Salem Street, and Thorndike Park, located to the ~~west-east~~ of the Property.
 6. Of the total Project site, approximately 13.7 acres are within regulatory floodplain. ~~11.5 acres consist of floodplains, while 5.6 acres consist of buildable upland.~~ The portion of the Property to be developed as the Project is approximately a 5.6 acre parcel, along the northern/central area of the Property, with limited areas of floodplain along the southern and eastern portions of the designated area of development .
 7. The Applicant provided various materials, reports, studies, and revised plans throughout the course of the public hearing on the Application including without limitation those plans and materials described herein and referenced in Appendix

- A. While the design has been revised within the public hearing process, the Approved Project includes 6 duplex/12 ownership units along Dorothy Road, with a 124-unit, four-floor senior living rental building behind the screening of the duplex units, together with accessory parking, landscaping and access drives (the "Project"). The Approved Project is depicted on the BSC plan set, titled "Thorndike Place Comprehensive Permit, Dorothy Road, Arlington Massachusetts," dated March 13, 2020, revised through August 27, 2021, and consisting of fourteen (14) sheets and the architectural plans prepared by Bruce Royanne Hamilton Architects and GreenStaxx, titled "Thorndike Place, Arlington, Massachusetts", dated September 2, 2021, consisting of sixteen (16) sheets, collectively referred to as the "Approved Plans."
8. During the public hearing, the Applicant was assisted primarily by its authorized representatives Gwen Noyes and Arthur Klipfel of Oaktree Development/GreenStaxx; its counsel Stephanie Kiefer of Smolak and Vaughan, LLP; its civil engineers John Hession, P.E., and the BSC Group; its traffic engineer Scott Thornton, P.E., of Vanasse and Associates, Inc. ("VAI"); its architect Scott Vlasik, of Bruce Ronanyne Hamilton Architects; and its housing consultant, Robert Engler of S.E.B. The Applicant also was represented within the public hearings by Ambrose J. Donovan, P.E., LSP of McPhail Associates LLC and senior housing management consultant, Alan Zimlicki, of ASZ Associates.
9. The Board utilized the services of its review engineers BETA Group, Inc., with Marta Nover, Julia Stearns, Todd Undzis, P.E., and William McGrath, P.E. handling civil engineering and wetlands peer review, and Greg Lucas, P.E., PTOE and Tyler de Ruiter, P.E., PTOE, 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.
10. Within the public hearing, during Fall 2020, the Applicant submitted revisions to the Project's originally-proposed layout responsive to comments made by the Board's peer review consultants at ~~The~~ BETA Group and the Arlington Conservation Commission representatives, seeking to reduce impacts within wetland resource areas and buffer thereto.
11. Thereafter, the Applicant submitted a revised set of plans and supplemental materials to the Board on November 3, 2020, regarding the revised project design, including: BSC's Report on Existing Conditions; updated Architectural Plans (3D perspective view, floor plans (4 sheets), exterior elevations (3 sheets), and

courtyard section); updated Site Plans; Stormwater Report; Wildlife and Habitat Evaluation report; updated Waiver List; Statement of Compliance with Arlington's Master Plan, Housing Production Plan and Open Space and Recreation Plan. The revised project reduced the total number of units in the Project from 219 units to 176 units. This revision also eliminated the six (6) duplex structures originally proposed by the Applicant, in favor of an all-rental development in a single structure, which was moved northerly on the Property toward Dorothy Road.

~~10.~~

~~12.~~

~~13.~~ On January 21, 2021, Applicant's engineers submitted supplemental plans and documentation to the ZBA, including a fiscal analysis; BSC Response to BETA Group and the Town Engineer's stormwater comments; an updated stormwater report; revised Site Plan Sheets C-100, C-101, C-105, C-200, C2-03; a revised Wetland Delineation Memorandum and responses to BETA's traffic peer review. Subsequent to the Board's January 26, 2021 public hearing, the Applicant proposed further adjustments to the architecture of the building.

~~14.11.~~

~~15.12.~~ Subsequent to the February 16, 2021 public hearing and upon notice by the Applicant to MassHousing, the subsidizing agency confirmed in writing, by notice dated March 23, 2021, that Applicant's revisions were not a substantial change and confirmed that the project continued to meet the project eligibility requirements under 760 CMR 56.04(1).

~~16.13.~~ In Spring 2021, the Board requested the Applicant to consider reintroduction of the ownership duplex units within the proposed development. Thereafter, the Applicant responded to the Board's request, such that the building layout remained within the plan's perimeter access path, but the rental building was reduced in size to allow reintroduction of the six (6) duplex buildings, consisting of twelve (12) ownership units. Within this revised concept, the Applicant modified the rental building to decrease the size of the same and to decrease the number of units such that the building was designed to accommodate 124 age-restricted housing units, consisting of a mix of studio, one- and two-bedroom units together with ancillary common spaces associated with an independent living residence for seniors.

~~17.14.~~ Between July and September 2021, the Applicant provided additional detail and assessment of the revised concept project plans, including VAI's updated traffic impact assessment report submitted on August 3, 2021, BSC updated civil plan set as revised through August 27, 2021, a full set of updated architectural plans submitted on September 2, 2021, updated stormwater management report dated

August 31, 2021, updated waiver list through September 2, 2021 and written responses to BETA peer review comments (traffic, civil and wetlands), Conservation Commission comments and Town Department/Staff comments.

15. During the extensive public hearing process, there was significant public input, including strong local opposition. 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 Arlington Redevelopment Board, 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. Additionally, the Board received correspondence from the Town's State House delegation.

~~18.~~16. The Board finds the Approved Project to represent a notable improvement to the prior project design, most specifically with reductions in impact on floodplain and wetland resource areas/buffers thereto, reduction in traffic generation and parking, reduction in impervious surfaces and a more climate change responsive design, inclusive of providing all first-floor elevations above projected 2070 storm surge elevations.

Comment [TdR1]: The Applicant wrote this. Recommend the Board decide whether they concur, otherwise remove.

II. JURISDICTIONAL FINDINGS

~~19.~~17. 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. The Board subsequently contacted MassHousing regarding the changes to the proposed development, asking for a determination pursuant to 760 CMR 56.04(5). MassHousing submitted a written determination dated March 23, 2021 determining that the changes to the development, including the removal of the duplex development, would not constitute a substantial change pursuant to 760 CMR 56.04(5). The Board

reserves all of its rights regarding this determination.

- 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.

~~20~~18. 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 [REDACTED]. 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 that 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,

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Comment [SK2]: If the ZBA intends to assert safe harbor as a basis to deny the Application, it should state in the decision so Applicant knows whether to appeal from a denial.

Comment [PH3]: The safe harbor claim does not require a denial of the comprehensive permit. The Board may grant a comprehensive permit irrespective of whether a safe harbor claim has been successfully asserted.

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

19. The Project is located on a low-lying, undeveloped 17.7 acre parcel of land located between Concord Turnpike (Route 2) to the south and west and single and two-family residential neighborhoods to the north and east of the Property. The Property is bordered on the north by Dorothy Road and on the east by Burch Street and Thorndike Park. The northwest corner of the Property along Dorothy Road is at the intersection with Littlejohn Street.

20. The Property is located within the Planned Unit Development (PUD) Zoning District. In the PUD District, duplex homes are allowed as of right and multifamily housing is conditionally allowed. The maximum building height in the PUD district is 85 feet and residential housing is limited to five (5) floors. The height of Applicant's senior rental building, which is four (4) floors, and the three-floor duplex structures adhere to the zoning height limits.

21. While the Property is approximately 0.7 miles (a 13-minute walk) from the Alewife MBTA station, there is no direct access to the station or the transit-oriented development around it. Vehicular access to the neighborhood in which the Property is located is via Lake Street, one of the most congested thoroughfares in Arlington, and within the local road network consisting of narrow, 25-foot wide local roads. The local road network is stressed even in the absence of the Project by the cut-through pressure exerted by the congestion on Lake Street. There is no direct automobile access from the Property to Route 2.

22.

23. The location of the Project presents several major problems that make reconciling and balancing local needs, including the local need for affordable housing, uniquely difficult. These problems include repeated and severe flooding that will certainly be exacerbated in the future by rapid climate change; the presence of extensive wetlands and related resource areas on the majority of the site; decades of neglect that have resulted in serious degradation of the Property; the Project's isolation from the transit-oriented development in the immediate vicinity of the Alewife MBTA Station; the location of the Project in a uniform, long-established residential neighborhood that is much smaller in scale; and the poor performance of Lake Street and the surrounding network of local roads from both a traffic and safety point of view. If the Property were larger, or the Project smaller, it would have been easier, though not necessarily easy, to resolve the conflict among local needs brought about by these difficulties. As it is, the Project is uniquely challenging.

24. In response to the site challenges, the Applicant addressed the Board's concerns, resulting in a final project design that is notably reduced from the original project iterations, maintains a compact design away from protected vegetated wetland resource areas, has been engineered to account for climate change concerns and incorporates traffic mitigation measures targeted to decrease individual vehicular trips to and from the Project site.

Wetlands and Flooding

~~23.~~24. The Property is located in a neighborhood that has been historically subject to flooding. Much of the Property, notably its southern portion closest to Route 2 is bordering vegetated wetland, with a pocket of isolated vegetated wetland to the east of the proposed development envelope proposed on the Property. The southern and eastern portions of the property are largely within the regulatory floodplain. The site has provided flood storage capacity over the years. A memorandum prepared by Weston & Sampson on behalf of the Arlington Land Trust noted that "there is concern that developing on the wetland will exacerbate an area that has already experienced extreme flooding events in recent decades." The Weston & Sampson report evaluated the prior project design of a 176 multifamily unit project, and not the current project, which has revised the building footprints and has also elevated the first floor elevation of all buildings above the 2070 projected flood elevations.

25. During the hearing process, the Board expressed concerns that climate change will aggravate the historical flooding problem of the area and that climate change will strengthen storms and create more severe precipitation events. Recent data already show heavier rainfall than older data, and the situation will inevitably get

worse. Addressing flooding in the era of climate change requires designing, not for the past, or even the present, but for the future. Resiliency is a key local concern.

26. Current Massachusetts legislation requires that buildings be designed to the 100-year base flood elevation (BFE), which is currently 6.8 feet NAVD88 and the 500-year flood elevation is at 10.75 feet NAVD88.

24. Applicant's revised project design, as approved by this Decision, has included climate resiliency measures, including, *inter alia*, raising the building elevations. The elevation of the first floor of the senior living rental building is at Elevation 16 and the first floors of the duplexes along Dorothy Road are at Elevation 12, both above the existing 100 and 500-year base flood elevation and also above the elevations associated with projected sea level rise (SLR) and storm surge (SS) effects under the current standards as well as the 100 year flood under projected 2070 flood elevation modeling.

27. _____

28. The Cambridge Climate Change Vulnerability Assessment and Cambridge Flood Viewer were also considered by the Board with respect to projected 2070 SLR/SS and precipitation flooding at the Property. Per the Cambridge Flood Viewer, the anticipated 2070 100-year SLR/SS flood elevation is 22.5 Cambridge City Datum, which datum is 11.65 above NAVD88, making the equivalent 2070 100-year flood elevation to be Elevation 10.85. The first floor of each the duplexes (with FFE at Elevation 12) and the senior rental building (FFE at Elevation 16) are designed above the projected 2070 flood elevations.

25. The Weston & Sampson memorandum includes several impressive images of such floods. While those photographs picture nearby locations, and not the Property itself, no one disputes the occurrence of severe flooding on the Property also. Abutters have informed the Board that they have witnessed such flooding. It is important to note that the Project, while on the highest part of the Property, is also susceptible to flooding, necessitating compensatory flood storage.
26. _____

27-29. The neighborhood north and west of the Property is also subject to periodic flooding during or after storm events. Neighbors are deeply concerned that development of the Property will exacerbate the flooding that they already experience.

28-30. _____

Sea level rise and storm surge present additional dangers. There is a substantial possibility that the Amelia Earhart Dam in Somerville and Everett will be flanked or overtopped in the next thirty to forty years. This could lead to reversed flows on the Mystic River and its tributaries and severe flooding upstream. The risk of

this regional catastrophe may not be much influenced by this Project. Here the key issue is whether the project design is sufficient to protect the persons and property of residents of the proposed apartments as well as neighbors. This is an additional aspect of the challenge of resiliency.

As important as flood storage is, the wetlands on the site serve other important values as well, as neighbors have pointed out. In recognition of the strong local interest in protecting wetlands as an environmental resource, The Approved Project has been designed, as confirmed by BETA peer review, to provide compensatory flood storage at a ratio of 2:1.

~~29-31~~ The Project will involve limited work within the buffer zone and within floodplain as defined by M.G.L. c.131, §40 and its regulations at 310 CMR 10.00, the Project will be required to obtain an Order of Conditions under the State Wetlands Protection Act. The Project’s applicability under the Arlington Wetlands Bylaw, which is more restrictive than the state Wetlands Protection Act in a number of aspects, including protecting additional resource areas and requiring 2:1 compensation for disturbed areas, ~~local~~ was extensively evaluated within the public hearing and such considerations are subsumed within this Comprehensive Permit, which is a master permit of all local approvals.

~~30-32~~ The Project includes **xx** square feet of temporary disturbance in the locally protected Adjacent Upland Resource Area (“AURA”) associated with site grading and compensatory storage creation and approximately **xx** square feet of pervious walkway within the outer portions of the AURA, together with **xx** square feet of disturbance of the outer 25 feet of AURA associated with a portion of the back wall on the first floor/garage of the senior living building.

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~~31-33~~ The Project is designed to provide for 2:1 compensatory flood storage, as confirmed by the Board’s peer reviewer, and as required by the Arlington Wetlands bylaw. Likewise, in its review letter of August 18, 2021, the Conservation Commission confirmed to the Board that “[t]he ACC is satisfied that the proposed Compensatory Flood Storage Area is appropriate for the 2:1 compensatory flood storage[.]”

~~32-34~~ The Project does not directly alter either the bordering vegetated wetland or isolated vegetated wetland delineated on the Property. There are some impacts to portions of the 100-foot AURA associated with the Approved Project, mainly associated with site grading, compensatory storage, a pervious walking path/fire truck path to the rear of the senior living building as well as a small portion along the southwestern end of the senior living building, which is within the outermost 25 feet of the 100 foot buffer. The Board finds this work within the buffer to be

limited in scope and consistent with the local wetlands bylaw, subject to the conditioning herein.

Existing Conditions and Open Space

35. Application of the local bylaw has been complicated in some instances by practical difficulties in determining the location of some jurisdictional wetlands. While undeveloped at present, it is important to note the Property as it currently exists is not in pristine condition. After prior unsuccessful attempts over the past decades to develop the land, it has been neglected for many years. In that time, construction and other debris has been deposited in many areas of the site. Invasive vegetative species have taken root. Historic wetlands have been filled and further obscured by overgrowth. More recently, an encampment of -homeless people has been established on the Property, which has resulted in sanitation and other issues.

35. The Town and the owner have taken action to rehouse/relocate this population within the recent past, but left unmanaged, the possibility of return encampments is likely.

The portion of the Property to be developed as housing units is limited to a 5.6 acre portion of the site, closest to Dorothy Road, and on the predominantly upland portion of the Property. The balance of the Property, approximately 12 acres, is proposed to be restricted against future development and retained as open space. This proposed open space area While portion of the site that is not proposed for development (the "Conservation Area") has a great deal of potential for passive recreation, environmental education, a connection to the Minuteman Trail and morerestoration, a substantial investment will be required to remediate past neglect before that potential can be realized. Unfortunately, even after months of public hearings, the condition of Conservation Area has never been adequately researched or determined.

36. _____

A Special Challenge: Neighborhood Compatibility/Transportation

33-37.

34-38. While other parts of the Property are closer, the area proposed for development on the Property is about a 0.7-miles walk from the entrance to the Alewife MBTA station. The Project is transit-oriented in the sense that many residents will be attracted to living there by the relative proximity to the MBTA station and/or the Minuteman bikeway.

Comment [PH4]: We are going to need language addressing the open space parcel. This should include a finding that remediation of the open space area is necessary.

- | ~~35-39.~~ The six (6) duplex structures along Dorothy Road are compatible with the size and scale of adjacent duplex and town house units along Dorothy Road and throughout the neighborhood. These structures also provide a visual buffer on the street level from the four-story senior living residential building located behind the duplexes.
- | ~~36-40.~~ To reduce vehicular trips ~~to-for~~ the residents and staff of the senior living building, the Applicant's project includes a jitney service, which would provide transportation to the MBTA as well as other local destinations, for the convenience of its residents and staff who may not otherwise desire to walk to/from the MBTA station.
- | ~~37-41.~~ The Project is also in close proximity, but does not directly connect to, to the Minuteman bikeway.
- | ~~38-42.~~ The Project's senior living amenities related to transportation also include enclosed, locked bicycle storage for up to 28 bicycles, with the capability to expand storage for up to eight (8) additional bicycles. Two (2) exterior bike racks, holding up to twelve (12) bicycles are adjacent to the main entrance and provide short term parking.

When we look more closely at land-use patterns, however, the picture is more complicated. The conventional image of a transit-oriented development would have relatively high-density housing and other uses near the transit station tapering off to lower densities at the edges. There would be a transition to other uses, including lower density residential uses, just beyond. We would expect a high degree of integration within the transit area: transportation connections, retail outlets, services, restaurants, park and recreation areas, and more. The area on the Cambridge side of Route 2 does show a pattern of this sort. The Arlington side of Route 2 does not.

In effect, Route 2 acts as a wall between the transit-oriented development south of the Property and the relatively low-density residential neighborhoods of Arlington. The Project is hard to see as a logical extension of the Alewife transit area. It is cut off by the freeway and by the Conservation Area. To neighbors, the Project sets an incongruous urban building down in the middle of a radically different suburban neighborhood. Many residents have described the proposed apartment building as an "invader" in their neighborhood. While conflicts over the density of proposed developments under Chapter 40B are not unusual, this Project presents this conflict in a particularly intense form. If compatibility with the existing neighborhood is a significant consideration, it surely must be so in this case.

1. The peculiar geography in the Alewife area makes the problem of compatibility with the surrounding neighborhood extremely difficult. Managing the transition from an isolated, massive apartment building to a neighborhood of single- and two-family houses of modest scale is a daunting design challenge.
2. This design challenge is made much more difficult by the fact that the arguably

Comment [TdR5]: The proposed site plan does not meet the context of TOD as defined in this section. Clarify whether the Applicant has asserted that the Project serves as TOD and if not, the section can likely be removed.
Is the intention of the Board to utilize this parcel as TOD? Resident comment suggests they are not in favor of large scale TOD as described.

developable part of the site is small compared to the Conservation Area and is located in the existing neighborhood. Better solutions might be found if the developable Property were larger or the proposed Project smaller. As it is, however, there is a sharp conflict between preserving wetlands and preventing flooding, on the one hand, and compatibility with the surrounding neighborhood, on the other.

The Transportation Network

39-43. We would usually expect access to a project of the size proposed by the Applicant to be available via multiple connections. That is not the case here. All automobile traffic accessing the Project site must travel on Lake Street, one of the most congested streets in Arlington. From Lake Street one must ~~then go through~~ utilize narrow residential side streets to the entrance to the proposed apartment building, located at the corner of Littlejohn Street and Dorothy Road. At present, local regulations prohibits ~~right hand~~ turns from Lake Street onto Wilson Road, Littlejohn Street or Homestead Road between 7-9 a.m. and 4-7 p.m., Monday-Friday.

40-44. The access drive to the senior residential building is located near the Littlejohn Street/Dorothy Road intersection. Access to the duplexes is from Dorothy Road, with a series of five (5) shared driveways along Dorothy Road.

41-45. Lake Street is a major commuting route between Route 2 and Massachusetts Avenue. It also provides access to the Hardy School, a K-5 grammar school serving residents of East Arlington, and to Thorndike Field, a heavily used field for sports teams and recreation activities. The use of Thorndike Field overlaps with the evening commute.

42-46.

43-47. Due to the coronavirus pandemic, it is ~~impossible to measure the traffic situation~~ difficult to account for “typical” vehicle traffic volumes on Lake Street to support a robust analysis of the traffic impacts that may come from the ~~development directly~~ development directly. Both the Board’s traffic peer review at BETA and the ~~Town’s Traffic-Transportation Advisory Committee~~ agreed upon the methodology utilized by VAI to adjust the traffic data to account for the traffic decrease associated with the coronavirus pandemic. Historical traffic data shows that Lake Street has had extensive traffic back-ups during morning and evening rush hours, and that condition is likely to return during the post-Covid period. ~~Thus~~ ~~For example,~~ The Revised Traffic Impact Assessment found all five of the unsignalized Lake Street intersections studied within the study area in these hearings are expected to operate at Level of Service E or F under a no build scenario ~~even in~~ (the absence of any significant new Site development). Delays at these intersections are noted as exceeding 50 seconds, the ~~longest delay time~~

Comment [SK6]: These proposed findings related to a 170+ unit MF housing development. The current project, which is approximately 40 dwelling units smaller, remains accessible to MBTA and the bike path, but also recognizes limited mobility of certain of its proposed residents to walk to the MBTA, and provides jitney service to such public transit as well as other area locations.

Comment [DA7]: Besides not mentioning any of the other aspects of the transportation network like sidewalks and the Minuteman Bikeway (and not even Alewife), this section does not make reference to the mode split data that VAI used to reduce the estimated number of trips from the development.

Also I don’t really understand how this section and the previous section (“Neighborhood Compatibility/Transportation”) are meant to be different, or why some transportation information is in the previous section and some are in this section.

Comment [TDR8]: See BETA’s comment related to #52

measurement threshold for Level of Service F conditions, and as such any additional Site traffic will further increase delays beyond this threshold.

48.

~~44-49.~~ The congestion on Lake Street affects the surrounding neighborhood streets as well. Signs are already posted to prevent Lake Street traffic from turning into the neighborhood during rush hour to try and bypass the delays on Lake Street. Additional burdens on the already over-burdened Lake Street are bound to cause additional problems. These problems will affect families of students at Hardy School, contestants at the Thorndike athletic fields, commuters both by auto and by transit, residents on the streets surrounding the Project, and residents of the project as well.

~~45.~~ Signs are already posted to prevent Lake Street traffic from turning into neighborhood during rush hour to try and bypass the delays on Lake Street. Additional burdens on the already over-burdened Lake Street are bound to cause additional problems. These problems will affect families of students at Hardy School, contestants at the Thorndike athletic fields, commuters both by auto and by transit, residents on the streets surrounding the Project, and residents of the project as well.

~~46.~~ These problems also make it difficult to integrate the Project into the Alewife transit station neighborhood. The overload of the Lake Street transportation system exacerbates the isolation of the Project from the Cambridge transit development area nearer to Alewife Station. It may be difficult, for example, for local shuttle service to reach the proposed project because of the difficulty of access in morning and evening rush hours. In effect, congestion on Lake Street may serve as a continuation of the wall that isolates the Project from the transit development area of which it should logically be a part.

~~47-50.~~ All of these factors – flooding and wetlands, acute neighborhood compatibility issues, and nonfunctional transportation infrastructure – when combined with a limited amount of land and a commitment to a large Project, makes for a daunting problem of design. The Applicant’s challenge is to put together a Project that solves that problem in a pragmatic way, so that the Board can decide whether the Project, with appropriate conditions, meets local needs.

48-51.

~~49-52.~~ In an attempt to address these challenges, VAI’s updated Revised traffic Traffic impact Impact assessment Assessment of the Project demonstrates that traffic projections for the mixed duplex/senior living apartment proposal are reduced from the prior proposal of a 176-unit multifamily project. Peak hour evening trips

Comment [DA9]: Duplicative to the above paragraph

Comment [TdR10]: Recommend delete this as it applies more to a general apartment building than Senior Residences. It may make sense to rephrase to say that the existing Congestion may reduce response times for Emergency Vehicles or delay the proposed Jitney Service trips to/from local businesses, the MBTA, and medical facilities.

Comment [DA11]: This does not make sense here, in the “Transportation Network” section

associated with the Project are projected to be a reduction of 15% of the prior proposal. The Board's peer reviewers at BETA have confirmed the same. Further, while the VAI traffic projections based traffic counts on ITE Land Use Code 252 (senior ~~living~~adult housing - attached) for the four-story building, the Board's peer review traffic engineers suggested that ITC Land Use Code 253 (congregate care) would appear to be more applicable, noting that the Applicant has used conservative assumptions for trip generation rates.

Civil Engineering/Site Design

53. Within the public hearing, the Board engaged in review of potential civil engineering, site design, traffic, stormwater and floodplain impacts of the Project, having received comment from BETA, the Conservation Commission and the Town departments and staff.

50-54. At the Board's request, upon input from the Arlington Conservation Commission, the stormwater system has been designed to NOAA 14+ rainfall data. Overall post development peak run-off rates for the site are mitigated to be equal to or lower than predevelopment peak run-off rates.

51-55. The Project will connect to the Arlington municipal water and sewer systems.

52-56. ~~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. The Applicant's final project design provides 95 parking spaces, 84 garage parking spaces and 11 surface parking spaces, for the senior living building. The parking garage will include 10 EV charging stations, with an additional 10 EV-ready parking spaces, as shown on the Project Plans. The parking garage will provide for eight (8) handicap parking spaces as well as two (2) surface parking spaces designated for handicap parking, as shown on the Approved Plans. The Project's duplex units will have tandem parking to accommodate two vehicles per unit, with the exception of the eastern end unit, which will have a single parking space.~~

53-57. ~~The Applicant did not originally propose bicycle parking. With the original reduction in the number of units, the Applicant revised the number of proposed bicycle spaces to 176 interior spaces with an additional 16 exterior spaces. The Applicant also proposed a 23 dock Blue Bike Station to be located _____.~~
The Applicant's final project design includes 28 covered, secured bicycle parking spaces together with an additional possible expansion for eight (8) additional

Comment [TdR12]: Is an additional bullet required to state the estimated trip generation for the Project? The Review process revealed a disagreement between the Applicant and the Reviewer w/r/t Mode Split. I would expect that's why it's not included.

Comment [DA13]: There is sort of a weird back and forth within this decision about whether this is a TOD project or not.

Comment [TdR14]: This seems to be related to the old Apartment use not Senior Living. Recommend remove or revise to note the change in Project Plan.

Comment [TdR15]: This is related to the original apartment land use. Recommend remove or revise to state the change in Project Plan.

Comment [DA16]: This was to be located at the west end of the project near Littlejohn Street but I'm pretty sure that is off the table now.

Comment [PH17]: Is the blue-bike station still part of the proposal?

Comment [TdR18]: Not that I am aware of. Recommend remove as Blue Bikes likely don't make sense for Senior Living.

bicycle parking spaces for the senior residential building. Outside the main entrance of the senior living building, the Applicant will provide an additional two bike racks, capable of securing six (6) bikes ~~a piece to each~~ per rack.

Comment [DA19]: Would like to see these conform to the bike parking guidelines although I know they don't have to. Without further guidance however they will end up purchasing two crappy wave racks that don't actually serve six bikes each.

§4.58. On-site, exterior Project amenities include *inter alia*, onsite bicycle parking, a walking path around the senior residential building, gardens and courtyard space with benches along the western side of the development area and woodland restoration area to the south of the senior residential building, as shown on the Project Plans.

§5.59. Approximately _____% ~~31.9%~~ of the 5.66 acre development site will consist of impervious surface with the remainder consisting of pervious surface. The Board finds that the total amount of impervious area ~~is within the 5.66 acre development site~~ is _____, _____ 78,628 square feet.

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Comment [PH20]: Still need this information.

Comment [BM21]: These are based on the latest plans and stormwater report from August 2021. Suggest that the impervious area be related to the 5.6 acre development site rather than the entire parcel.

4.3. Based on the submitted plans, the floor area of the proposed subterranean parking garage is approximately 70,920 square feet. In the event of a basement flood, every 15" of water represents 660,000 gallons of water, the volume of an Olympic-sized swimming pool. To prevent this occurrence, the Applicant has proposed temporary flood barriers to be installed at the driveway entrance to the garage.

Comment [PH22]: Why would this be deleted? Has the size of the parking garage changed? Does the proposal still include the flood barriers at the entrance of the garage?

Comment [BM23]: The current garage parking area is approximately 33,150 SF or 310,000 gal/15" of depth. The garage floor has been raised to EL 6.0. Applicant should confirm flood barriers.

2.4. 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:

Comment [PH24]: This section needs to be moved into the conditions.

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.

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.

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.

Existing species list.

Replacement species list.

Rational for Removal,

Maintenance Plan.

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.

~~§6-60.~~ 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.

Comment [SK25]: This section is misleading. The majority of the site work is outside of both the AURA and floodplain; therefore, even if the waiver under Sec. 24 were not granted, the requirements listed in the draft would not be applicable to the majority of the development area.

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 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.

With at least a 3-year monitoring schedule with a 100% survival rate.

Only native non-cultivar species shall be planted on the site.

Plants shall be installed and maintained in accordance with standards of the American Association of Nurserymen (AAN).

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.

Comment [PH26]: Why is this proposed to be deleted? Has the flood storage mitigation plan already been submitted?

~~§3-5.~~ 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.

~~§7-61.~~ The Board finds that the Project, as shown on the Approved Plans avoids alteration of the 25-foot No Disturb Zone to Isolated and Bordering Vegetated Wetlands on the Site.

Comment [PH27]: Confirm this is accurate.

General

~~§8-62.~~ The Project, as conditioned herein, will address the lack of affordable rental units in the Town. The Approved Project consists of 12 duplex units housed in six (6)

structures, of which 25% of the units (3 units) will be designated as affordable units and subject to a deed rider as required by the Subsidizing Agency, together with 124 age-restricted (62+) senior residential units in a single, four-floor building, of which 25% of the units (31 units) will be made available for lease to low and moderate income persons.

- ~~59-63.~~ The creation of 124 units of senior rental housing, with 25% of such units made affordable to low and moderate income residents, is responsive to the concerns raised in the Arlington Master Plan and its determination that “[c]hanging demographics will result in a growing number of Arlington residents over the age of 65 in coming years. The Town may not be able to accommodate all of its older residents on fixed incomes in the coming years.” Master Plan, p.88.
- ~~60-64.~~ 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.
- ~~61-65.~~ 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.
- ~~62-66.~~ 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.
- ~~63-67.~~ The Board finds that the construction of the Project, as conditioned, will be consistent with local needs.
- ~~64-68.~~ The Applicant has proposed that the portion of the Property outside of the development area, shown on the plans as containing approximately 12 acres will be either placed under a conservation restriction or deeded to an entity to hold the 12-acre parcel as open space. Through the terms of a Memorandum of Understanding with the Town of Arlington, the Applicant intends to establish a proposed funding schedule to advance certain conservation and/or restoration

efforts for the undeveloped 12-acre portion of the site to be retained as open space. 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.

Comment [PH28]: Has this proposal been superseded? If not, why delete?

4.6. The Town has expressed significant concern regarding the existing condition of the proposed Open Space parcel, which will require extensive clean-up relating to years of illegal dumping, and which will require a site assessment pursuant to G. L. c. 21E before any action may be taken.

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 Street, shown on a plan entitled “Thorndike Place Comprehensive Permit, Dorothy Road, Arlington, Massachusetts” prepared by BSC Group, dated March 13, 2020, with revisions through August 27, 2021. 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. It is understood that the areas on the interior of the senior residential building designated for Common Area spaces have not been fully designed for the intended uses, e.g., dining rooms, kitchen, reading nooks/library/meeting rooms/etc., and that the layout and designation of those spaces shall be depicted on the Final Plans (the provision of such additional detail shall not constitute a change in the Approved Plans so long as the number of units, unit sizes and the number of bedrooms is not changed) are deemed immaterial changes for the purpose of this Comprehensive Permit, except to the extent that such common areas would be proposed for use as additional dwelling units. If the Director of Planning and Community Development determines that any the proposed changes do not conform to the requirements of this

Decision on Application for Comprehensive Permit
Arlington Land Realty, LLC
Off Dorothy Road, Arlington, MA
_____, 2021

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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 the BSC Group, Inc.:

“Thorndike Place Comprehensive Permit, Dorothy Road, Arlington, Massachusetts” dated March 13, 2020, with revisions through August 27, 2021, and consisting of the following sheets:

G-100	Title Sheet
G-101	General Notes & 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	Grading and Drainage Plan
C-105	Utility Plan
L-100	Planting Plan
C-200-203	Civil & Landscape Details

Architectural details contained in the plans entitled Thorndike Place, Arlington Massachusetts, dated September 2, 2021, prepared by Bruce Ronayne Hamilton Architects/GreenStaxx, and consisting of the following sheets:

Sheet 1	Garage Plan
Sheet 2	Ground Floor Plan
Sheet 43	Second Floor Plan
Sheet 4	Third Floor Plan
Sheet 5	Fourth Floor Plan
Sheet 6	Duplex “A” Floor Plans
Sheet 7	Duplex “B” Floor Plans
Sheet 8	Duplex “A” Elevations
Sheet 9	Duplex “B” Elevations
Sheet 10	North Elevation – Dorothy Road
Sheet 11	West Elevation
Sheet 12	North Elevation – 4-Story Building
Sheet 813	East Elevation
Sheet 14	South Elevation
Sheet 15	Site Section at West End-Dorothy Road
Sheet 16	Site Section at East End – Dorothy Road

{00206500;v1}

- 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 twelve (12) duplex ownership units, contained within six (6) duplex structures together with 124-unit senior living residential apartment units located within a single residential structure, ~~and~~ and other related residential amenities, all as shown on the Approved Plans. The Project shall consist of no more than twelve (12) four-bedroom duplex ownership units and a 124 unit apartment building, consisting of 58 studio apartments, 23 one-bedroom units and 43 two-bedroom units, with the total number of bedrooms associated with the senior living building to be 167 bedrooms.
- A.5 There shall be ninety-five (95) vehicle parking spaces (inclusive of required handicap spaces) for the senior living apartment building. The duplex units will have driveway parking for 2 vehicles per dwelling unit, with the exception of the end units, with one parking space to the side/rear of the duplex unit.
- 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 forty-five 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, [provided that the Regulatory Agreement with the Subsidizing Agency has not otherwise expired.](#)
- A.10 The sidewalks, driveways, roads, utilities, drainage systems, and all other on-site infrastructure shown on the Approved Plans (excepting the existing storm drain and sewer lines) 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. It is recognized that the storm drain/storm drain easement running under the site and existing sewer easement are the legal obligation of the Town to maintain, repair or replace. The proposed access drive 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

Comment [PH29]: So long as the affordability requirement remains in place this should be fine. The limited dividend requirements are within the Subsidizing Agency’s exclusive jurisdiction.

Comment [DA30]: Uh, what about the sidewalks on Dorothy Road? They would be on a public way.

Comment [TdR31]: Sidewalks along the Dorothy Road frontage would be within the Town ROW. As such, it is perceived the Town would be in control of the sidewalks. This bullet covers any on-site sidewalks. Defer to DPW/Town whether property owners are required to snow clear sidewalks along their frontage or if the DPW clears these.

- 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 three (3) of the ownership duplex condominium units and ~~thirty-one~~ (31) units of the rental apartments shall be reserved for income-eligible households, meaning that they shall be sold and/or rented, as applicable 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”). This condition is not intended to create or impose conditions with respect to such affordable units, which is the purview of the Subsidizing Agency, but rather to reiterate the requirements of Chapter 40B. As determined by the Subsidizing Agency, the Affordable Units (rental) shall generally 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. It is presumed that the Subsidizing Agency will require the Applicant to be responsible for maintaining records sufficient to comply with its the Subsidizing Agency guidelines for the location of Affordable Units in the Project and occupancy of such Affordable Units by income-eligible households. The Applicant shall provide the Board with a copy of such records at the Board’s request. 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 sale (as to duplex units) or rental (as to age-restricted senior apartment units) 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 marketing and sale of affordable ownership units or rental of affordable apartment units, and shall ensure that the Project complies with the Subsidizing Agency’s Fair Housing requirements.

Comment [SK32]: MassHousing is charged with programmatic aspects of project; additional conditioning may inadvertently be viewed as overstepping role of ZBA by SA.

- 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 xxseventy percent (70xx %) 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. Per the DHCD Guidelines, the Town “must provide the Developer” within 3 months of the final issuance of the Comprehensive Permit the documentation required to support a local preference; further, per the DHCD Guidelines, the failure of a Town to comply with the requirement “shall be deemed to demonstrate that there is not a need” for a local preference. 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.~~

Comment [SK33]: Exceeds DHCD guideline requirements. Local preference/support is a programmatic issue and not one which the ZBA can alter or create additional requirements.

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 with the Town Treasurer 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. Such outside review shall be limited only to those circumstances where Town staff is unqualified to undertake such review.

- 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 herein and requirements not otherwise waived by this decision 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 in substantial conformance with the Planting Plan included in the Approved Plans, signed and sealed by a Registered Landscape Architect or Civil Engineer, depicting the following:
 - i. Overall planting plan that includes a demarcation of clearing and the limits of work;
 - ii. Planting plans for the access drive showing shade trees and lighting fixture locations, as applicable;

Comment [PH34]: The purpose of this provision is to ensure that the Final Plans are indeed final. If the Conservation Commission requires changes to the plans as part of the WPA process, those changes have to be included on the Final Plans.

- iii. Plans of walkways in open space and recreation areas, if any;
- iv. Prototype planting plans for each building that include shade trees (~~minimum caliper 3"~~), ornamental trees (~~minimum caliper 3"~~), shrubs, and groundcovers, as may be applicable;

~~v. Prototype screening plans for dumpsters, depicting plantings and fencing;~~

Comment [PH35]: Is there no screening proposed for dumpsters?

~~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, if any; and

x. ~~Construction details~~Specifications for site amenities such as benches, trash cans, lighting fixtures.

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.

- a. 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:
 - b. 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.
 - c. With at least a 3-year monitoring schedule with a 100% survival rate.
 - d. Only native non-cultivar species shall be planted on the site.

- e. Plants shall be installed and maintained in accordance with standards of the American Association of Nurserymen (AAN).
- f. 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.
- 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 Final Plans shall be in substantial compliance with the Approved Plans.
- g. The Final Plans shall include final design and details for the proposed roof stormwater storage system. 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 show designated snow storage areas, consistent with the area shown on the Approved Plans
- i. 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. The Final Plans shall provide for the relocation of an existing utility pole, presently located in the area of the proposed driveway for duplex units 3 and 4. Applicant shall also coordinate with the utility company to relocate such pole.

Comment [SK36]: First sentence appears duplicative, the Construction Mgt. Plan is described in E.2

Comment [SK37]: The BSC complete plan set submitted end of August includes all such changes to the units, parking, stormwater, garage, etc.

Comment [PH38]: This should be sufficient, I agree with this deletion.

Comment [PH39]: Why is this proposed to be deleted? Has this structure been removed?

Comment [BM40]: The outlet control structure noted in this comment is from the previous design and is no longer applicable.

~~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.~~

- j. 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 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 (MassHousing), 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 MassHousing 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 the senior rental building. 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. Notwithstanding the following, the Applicant shall not be responsible for any infiltration and inflow (“I/I”) fees or other municipal fees that were not set forth in a published rule, regulation or bylaw in existence at the time of the Comprehensive Permit Application filing.
- 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. Notwithstanding the following, the Applicant shall not be responsible for any infiltration and inflow (“I/I”) fees or other municipal fees that were not set forth in a published rule, regulation or bylaw in existence at the time of the Comprehensive Permit Application filing.
- j.
- k. Submit to the Board a revised Stormwater Report documenting any changes in design that have occurred during the preparation of Final Plans, if any, that were not included in the Stormwater Report dated August 2021..
- l. The Applicant shall perform additional test pits at the proposed stormwater basins to confirm groundwater elevations during seasonal high groundwater conditions as confirmed by monitoring nearby USGS wells. These test pits shall be witnessed by the Town and/or its agent. Should revisions to the infiltration system design be required based on additional groundwater investigations, revised plans and stormwater calculations will be provided to the Planning and Community Development for review prior to building permits.
- m. ~~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. The site shall be graded to ensure that no increase in peak runoff rate or volume is directed toward Dorothy Road consistent with the analysis provided in the Stormwater Report dated~~

Comment [PH41]: This is consistent with applicable decisional law.

Comment [PH42]: See above.

Comment [SK43]: Not applicable to current design.

August 2021 (revised).

D. Construction Completion/Certificate of Occupancy (Note: Make Section E)

- 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.

Comment [PH44]: Need confirmation on this.

Comment [BM45]: Correct...this is not applicable to the current design. However, I would suggest adding the following: "site shall be graded to ensure that no increase in peak runoff rate or volume is directed toward Dorothy Road consistent with the calculations provided in the Stormwater Report dated August 2021 (revised)."

Comment [SK46]: Sections D and E should be reversed.

- b. For the senior residential building, 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 (NOTE: Make Section D)

- 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.
 - 6. Coordination with Town to provide construction updates on Project’s website and website posting on municipal site.

- E.23 The Applicant shall permit authorized 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. Such duly authorized representatives shall adhere to safety precautions imposed by the contractor or the Applicant, inclusive of wearing protective headgear, protective glasses or footwear. Such authorized representatives must acknowledge that they are entering an active construction site and assume the risk thereof.

Comment [PH47]: What constitutes an authorized representative? Is this decided by the Board or the Applicant?

- E.34 The proposed construction shall be in accordance with applicable Federal and State laws, rules and regulations.
- E.45 All site retaining walls four (4) feet or greater in height shall be designed by a Massachusetts Professional Structural Engineer.
- E.6 Prior to construction, a CCTV sewer pipe inspection will be performed along the 14/18' sewer main from the existing manhole located to the west of the proposed resident outdoor/garden area to the manhole located adjacent to the southwest lot corner of 56 Dorothy Road. To the extent the pre-construction CCTV inspection demonstrates that repair is needed, such repair is the responsibility of the Town. Upon completion of the construction, a post-construction CCTV sewer pipe inspection will be performed through this same pipe. Based on the outcome of the post-construction inspection, if it is determined that Project construction caused damage and/or disturbance to the sewer pipe, the pipe shall be repaired/replaced at the expense of Applicant's site contractor.
- E.57 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.
- E.8 The Applicant shall not drive piles in the construction of the building and shall use the least intrusive reasonable alternatives from the point of view of vibration, noise, and inconvenience to the neighborhood. The Applicant shall specify any methods involving subsurface compaction as part of the construction management plan. The Applicant shall keep all portions of any public way used as access/egress to the Project reasonably free of soil, mud or debris deposited due to use by construction vehicles associated with the Project.
- E.69 Appropriate signage shall be shown on the Final Plans, consistent with the sign information shown on the Approved Plans and descriptions provided within the hearing. Signage to include and entry sign at the main access drive, with such additional wayfinding signage to direct residents or guests to parking garage and main entrance and canopy sign above senior residence building, as to be depicted on Final 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

Comment [PH48]: Have the details of these signs been provided? The Board should not approve signs it has not reviewed.

Comment [TdR49]: BETA has not seen or revised any such signage.

operations. The sign must be legible and able to be read from Dorothy Road.

- | E.710 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.811 The Applicant has proposed to use all electric for the Project. ~~If any gas service is to be used, gas service locations shall be included on Final Plans.~~
- | E.912 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.4013 Utilities, including but not limited to telephone, electric, and cable, shall be located underground. 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.414 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.42—15 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.4316 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.4417 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.4518 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.4619 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.4720 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.4821 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.4922 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. ~~2023~~ The Applicant is responsible for the sweeping, removal of snow and sanding of the internal roadways, ~~and~~ driveways, ~~and~~ sidewalks 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.

Comment [DA50]: What about sidewalks?

Comment [TdR51]: Interpreted this section to discuss conditions during Construction. Concur, add sidewalks.

E. ~~2424~~ 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. ~~2225~~ The Applicant shall comply with DPW requirements regarding curb-cut permits.

E. ~~2326~~ 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. ~~2427~~ 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. ~~2528~~ All catch-basins shall have oil/water separators as shown on the Approved Plans.

E. ~~2629~~ 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. ~~2730~~ 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 applicable to the Project, including but not limited to building permits, inspections, water and sewer connections, and curb cuts, but not including any I/I fees if such fees were adopted after the filing of the comprehensive permit application.

F. Traffic/Traffic Safety Conditions / Sidewalks

F.1 Access and egress to the Project shall be via Dorothy Road ~~and/or Littlejohn Street~~, consistent with the Approved Plans.

Comment [DA52]:and Littlejohn Street, since it's right at that intersection

Comment [TdR53]: Concur.

- F.2 ~~The operator of the senior living building is required to include within its vendor contracts requirements that vendors coming to the Property as well as scheduled deliveries to the Property use smaller delivery vehicles. The operator shall also use all reasonable efforts to schedule vendor deliveries during off-peak hours. The Applicant shall implement an annual Transportation Demand Management monitoring program in consultation with the Department of Planning and Community Development.~~
- F.3 The senior living residence will own or lease a van to provide complimentary jitney service to the senior living residents and staff, available seven days a week to provide access to and from Alewife MBTA station and other local destinations ~~in the Town of Arlington. 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 28 long-term bicycle parking spaces that are covered and secure, together with an additional expansion area within the garage capable of providing long-term bicycle parking for up to eight (8) additional bikes.
- F.6 The Applicant shall provide two (2) ~~_____~~ outdoor short-term bicycle parking racks, each capable of parking up to six (6) bicycles each. These parking racks shall be in the proximate area as shown on the Approved Plans, near the main entrance of the senior residence building.
- 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~~8~~ The Applicant shall provide 95 total parking spaces for the senior residence building, inclusive of 84 garage parking spaces and eleven (11) surface parking spaces, for a ratio of 0.76 spaces per unit. The parking shall include 8 garage level handicap parking spaces and two surface handicap parking spaces.
- F.10~~9~~ ~~With the exception of designated affordable housing units, parking.~~ Parking for senior residence apartment units shall be subject to an additional monthly fee, separate from rent, in order to discourage motor vehicle ownership in the Project.

Comment [DA54]: I don't think they agreed to this for this updated version of the project...

Comment [PH55]: Why would we delete the requirement for a transportation demand monitoring program?

Comment [Tdr56]: Clarify with DPCD. A TDM is likely not necessary/effective for Senior Living given differences in trip patterns and types when compared to general apartments. A TDM was not referenced at all in Revised Traffic Impact Assessment for the Revised Site Plan (Senior Housing).

Comment [DA57]:but not just in Arlington, if they are going to Alewife, which is in Cambridge. Perhaps it should be within a certain few mile's radius, or determined at a later date.

Comment [DA58]: It would actually be very helpful to have this but I didn't see it as part of the final site plans. And isn't mentioned elsewhere.

It should go with the bike parking stuff if anywhere.

Comment [PH59]: Are we ok deleting this provision?

Comment [Tdr60]: Defer to Board.

Comment [DA61]: Again, suggest that they are compatible with our design guidelines. And same for the long-term spaces.

Comment [PH62]: Is this proposed to be deleted because the Project will be age-restricted?

Comment [Tdr63]: That is BETA's interpretation. The Property Manager will likely have alternative measures to disseminate similar information.

Comment [PH64]: Can the affordable units be charged a separate monthly fee for parking? Wouldn't that impact the amount they can be charged for rent?

Comment [Tdr65]: Defer to Board/Counsel

Comment [DA66]: This is a fair question and I'm not sure what the answer is.

~~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.10~~5~~ The Applicant shall provide electric vehicle charging stations for 10 garage parking spaces and shall provide wiring and amperage as needed to allow for an expansion of up to 10 additional garage parking spaces available for future use as vehicle charging stations should the need subsequently arise for more vehicle charging 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.~~

Comment [PH67]: I presume these paragraphs are proposed to be deleted as no longer necessary with the change to an age-restricted development.

Comment [TdR68]: Agree. Senior Housing (as explained) would likely not benefit from these TMA Offerings.

Comment [TdR69]: OK to remove. It's unlikely Senior Housing will use Blue Bikes, especially if they are providing on-site bicycle storage spaces.

Defer to the Board w/t the other two Conditions. If Seniors are indeed to utilize the Minuteman Bikeway, they may need ADA Compliant facilities more than 20-30 somethings. Off-site mitigation was not discussed or proposed as part of the Project's Revised Traffic documentation or Site Plans.

Comment [PH70]: Again, I presume this deletion is proposed to reflect the change to an age-restricted development.

F.1~~19~~ The Applicant shall provide tenants information regarding the existing weekday peak hour ~~right hand~~ turn restrictions from Lake Street onto Wilson Avenue, Littlejohn Street and Homestead Road.

Comment [TdR71]: Keep generic. Some of the roads just have a DO NOT ENTER sign, not a "NO RIGHT TURN" sign.

Note that these kinds of Existing Turn Restrictions typically do not apply to Local Traffic or Residents, whom would be residing or working at the Facility. Unclear if that is different for these roadways per Local Bylaws.

G. Police, Fire, and Emergency Medical Conditions

G.1 The Applicant shall provide professional property senior housing operator/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 four-story 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 sufficient to comply with applicable State Building Code and/or Fire Code requirements to enable access to all four sides of each residential structure at all times.

Comment [PH72]: I don't believe the state building code requires access to all four sides of a structure. This should be reviewed by the Fire Department.

Comment [BM73]: Agreed. If building has a fire suppression (sprinkler) system then full access to all four sides may not be required. Fire Chief should confirm.

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.~~

Comment [PH74]: Is this no longer proposed?

Comment [TdR75]: Would assume with Senior Housing all residents and staff are entering the front door or garage which makes this unnecessary.

G.98 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.409 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 in accordance with the Approved Plans.
- 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 senior residential building. The Town of Arlington shall not have any responsibility for trash, recycling, compost, and/or yard waste pickup associated with the senior residential building. Applicant shall provide a copy of Arlington's trash and recycling policies and guidelines to all purchasers of the duplex units, which will be serviced by municipal trash and recycling.

Comment [SK76]: This has not been discussed.

Comment [PH77]: I'm not sure what water main, hydrants and gate valves would be required to be replaced by this condition.

Comment [BM78]: Per Wayne Chouinard's comments, as forwarded by Kelly Lynema on 10/1/2021, Section H4 as amended is acceptable.

H.8 Fire hydrants on the Property shall remain private, and shall be maintained by the Applicant.

H.9 The Applicant shall design and provide a temporary(?) 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.

Comment [SK79]: This language implies that the Town is seeking to do work within the easement? The Town should provide information/details regarding its plans so the Applicant may review. This language is not agreed upon by Applicant without further information and discussion.

Comment [PH80]: The Applicant should discuss this with the water/sewer department to confirm what is needed.

Comment [PH81]: This deletion is appropriate, as the Town may not charge fees that were not in place at the time of the comprehensive permit application.

I. Wetlands/Floodplain/Environmental Conditions

I.1 Prior to commencement of construction, erosion control measures shall be installed consistent with the Approved Plans.

I.2 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.3 No uncovered stockpiling of materials shall be permitted within the 100-foot Wetland Buffer Zone (also referenced locally as Adjacent Upland Resource Areas ("AURA")) or other resource areas.

I.4 No heavy equipment may be stored overnight within fifty feet (50') of bordering or isolated vegetated wetland resource areas and no refueling or maintenance of machinery shall be allowed within the one hundred foot (100') Buffer Zone, AURA, or within any bordering or isolated vegetated wetland resource area or floodplain

I.5 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.6 While no dewatering is anticipated by Applicant, 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.7 The Applicant shall hire a qualified environmental monitor to be on-site as project construction advances. The environmental monitor shall submit an electronic report to the Board weekly during ~~construction~~ preparation work within the 100-foot buffer zone to vegetated wetlands, including an update on the progress and relation to resource areas, functionality and condition of the erosion control measures, until such time that the site is stabilized. The Applicant shall provide the Board with the name(s), address(es) and telephone number(s) of the Environmental Monitor prior to the start of work.

Comment [PH82]: Board should discuss.

I.8. While active construction work is underway within the 100-foot buffer zone, the Environmental Monitor shall provide monthly status reports to the Board to confirm that all activities are substantially in compliance with the Comprehensive Permit. The ZBA may reduce the frequency of inspections or reports as deemed appropriate. 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.

Comment [PH83]: Board should discuss.

I.79 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.~~

Comment [PH84]: Discuss.

I.810 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.911 There shall be no sedimentation into wetlands or water bodies from discharge pipes or surface runoff leaving the Property.

~~I.110 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.~~

Comment [PH85]: I don't see why this should be deleted.

I.412 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 ~~fourteen~~ **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.

Comment [PH86]: If the cure period is extended to 14 days, I don't think the language “or longer as may be applicable” should be included.

~~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.~~

Comment [PH87]: Why is this proposed to be deleted?

I.4713 Prior to any work commencing on-site, the applicant shall submit to the Board proof that a NPDES Stormwater Permit is active for the project.

I.4814 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 Board via electronic copy.

I.1915 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.~~

Comment [SK88]: Condition already addressed above in Condition C.2.1. Also, Frimpter method is not required by regulation and/or on other residential projects in Arlington.

~~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.~~

Comment [PH89]: Has this condition been addressed through the project change, or basins 1 and 3 still be impacted in the 100-year storm?

Comment [BM90]: This has been addressed through the new project's revised stormwater system. Comment is not longer applicable.

I.22.16 The Applicant shall retain a ~~qualified stormwater monitor~~ civil professional 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 pavement within the Property).

I.2317 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, with the exception of the initial planting year.

Comment [PH91]: Is the Commission ok with fertilizer being used during the summer months in the initial planting year?

I.2418 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.2519 No snow storage or sand/salt is allowed within one hundred feet (100') of resource areas.

Comment [SK92]: Should consider whether sand is useful around access path around rear of senior building.

I.2620 The Applicant shall protect all adjacent catch basins using silt socks during construction.

I.2721 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.~~

Comment [SK93]: 2:1 Compensatory storage is already a condition at C.1

Comment [PH94]: Ok.

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. Revegetation of the compensatory flood storage area is recommended with dense shrub or pollinator plant species.

Comment [PH95]: Is this consistent with the Commission's recommendations?

I.3022 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.3123 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.3224 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.3325 No work shall be allowed within twenty-five feet (25') of any bordering or isolated vegetated wetland resource area. Work within the AURA that is beyond the 25' no disturb zone is approved in accordance as shown on the Approved Plans.
- I.34 No disturbance shall be allowed within fifty feet (50') of any resource area, except as shown on the Approved Plans.
- 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.2636 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.3727 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.
- I.38 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.
- I.39 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.
- I.40 Any building or site dewatering operations shall conform to the following:
- (a) The Applicant shall notify the Conservation Commission that dewatering is required prior to commencing any dewatering operations.
 - (b) Any catch basins, drains, and outfalls to be used in dewatering operations shall be cleaned out before operations begin.

Comment [PH96]: I presume that this is proposed to be deleted because the plans show work within 50' of a resource area. I suggest instead of deleting this, that it be modified as proposed.

Comment [PH97]: Do the Approved Plans show work within the 25' no-disturb area?

(c) 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. Filtering is essential to remove any automotive pollutants from the water prior to discharge.

(d) Measures shall be taken to ensure that no erosion or scouring shall occur on public or private property, or on the banks or bottoms of water bodies, as a result of dewatering operations.

(e) Dewatering shall not take place in any manner that leads to water being discharged or allowed to flow onto property not under the control of the Applicant without the expressed consent of that property owner.

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.

Comment [PH98]: This should not be deleted, however it may be changed to specify that the Town has no responsibilities regarding the recreational areas for the Project. Obviously the responsibilities regarding the open space parcel still need to be addressed.

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.

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RECORD OF VOTE

Decision on Application for Comprehensive Permit
Arlington Land Realty, LLC
Off Dorothy Road, Arlington, MA
_____, 2021

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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.

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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

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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: [Waiver Granted.](#)

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: [Waiver Granted.](#)

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

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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.

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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 Front Yard and Side Yard Setback under Section 6.28, requiring 25 foot setback for each. The front yard setback proposed for the townhomes on Dorothy Road is 20 feet and the southwest corner of the senior residential building rear yard setback is 18.7 feet from the lot line, due to the odd

configuration of the property lines; no adjacent buildable property is impacted by the rear year setback waiver. ~~Maximum Floor Area Ratio of .80 to allow a Floor Area Ratio of .87 (for the developed portion of the Site).~~

Comment [PH99]: Is the FAR waiver being withdrawn?

Board Action: Waivers Granted.

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: Waiver Granted. The Applicant has agreed to set aside 12 of the 17.7 acres as open space, in lieu of strict adherence to the 10% usable open space requirement, as that term may narrowly be construed under the Bylaw.

Comment [PH100]: I’m not sure that the restriction of the 12 acres is offered in lieu of the open space requirements of the bylaw. I have no concerns about granting this waiver, but I would eliminate the second sentence.

21. Arlington Zoning Bylaws, Article 7, Section 7.06, 7.073 Signs Permitted in any B, I or PUD District: This section allows for one sign for each street or parking lot frontage. No more than 2 permanent signs for any one business or industrial establishment. Allows for one directory sign of occupants/tenants. The Applicant requests a waiver to allow for entry sign at main access drive on Dorothy Road, with additional internal signage to direct residents/guests to main entrance (freestanding); direct to parking garage (freestanding); and a canopy sign above entrance to Independent Living building.

Comment [PH101]: Do the plans show these signs? I don’t recommend granting waivers for things not shown on the plans.

Board Action: Waiver Granted.

Comment [PH102]: BETA should speak to this last comment.

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, 1.15 per single bedroom and 1-5 spaces per two-bedroom unit and 2 spaces per three-bedroom unit) to allow for a parking ratio of no less than 0.76 spaces per unit associated with the senior residential building. The amount of parking proposed by Applicant was deemed appropriate by the peer reviewer.

Comment [TDR103]: Recommend Discussion with Board. The Zoning By-Law for Assisted Living Residence requires 0.40 spaces per dwelling unit. The parking ratios outlined in this bullet are related to Apartment Building, which is likely related to the old Project Plan. If “Assisted Living” applies to this site, no waiver is required.

In BETA’s Review, both the Institute of Transportation Engineers’ and the Zoning Bylaw were reviewed. The Proposed Site Plan accommodates parking that is larger than both sources.

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 approximately 25% of the parking spaces to be compact spaces.

Comment [TdR104]: Defer to the Board. Compact spaces are not recommended, though the Applicant has attempted to maximize parking space and aisle dimensions while also maximizing parking supply within the garage.

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.

Decision on Application for Comprehensive Permit
Arlington Land Realty, LLC
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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 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; substantive compliance with the Application/Documentation was received by the Board during the course of the public hearing.

Board Action: [Waiver Granted.](#)

END OF DECISION

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