

DRAFT MINUTES FOR BOARD APPROVAL

**TOWN OF ARLINGTON
BOARD OF SELECTMEN**

Meeting Minutes
Wednesday, August 12, 2015
7:00 PM
Town Hall Auditorium, 1st Floor, Town Hall

Present: Mr. Greeley, Chair, Mrs. Mahon, Vice Chair, Mr. Dunn, Mr. Curro and Mr. Byrne

Also present: Mr. Flanagan, Deputy Town Manager, Ms. Kowalksi, Planning Director, Ms. Beckwith, Conservation Administrator, Mr. Witten, Special Counsel, and Mr. Heim, Town Counsel

SPECIAL MEETING

1. Special Meeting: Discuss and Receive Comments on the application for a Comprehensive Permit Site Approval Letter for a property known as Thorndike Place (The Mugar Property).

7:00-7:30 p.m. Presentation and comments by NBM Realty/ Arlington Land Realty Representatives: SEB LLC and Oaktree Development
7:30-8:00 p.m. Board of Selectmen questions and comments
8:00-9:30 p.m. Public comments
9:00 p.m. Final comments by the Board of Selectmen

Chairman Greeley called the meeting to order at 7:00 p.m. and outlined the purpose, nature, and structure of the meeting's proceedings, beginning with a presentation from Arlington Land Realty representatives. The Selectmen will vote on Monday, August 17, 2015 on comments to be submitted to MassHousing regarding Arlington Land Realty's Application for Site Approval.

Arlington Land Realty Presentation

Senior Vice President of Marketing for Oaktree Development, Gwendolen Noyes, opened on behalf of Arlington Land Realty. Along with her were Mr. Arthur Kilpfel, President and CEO of Oaktree Development, Ms. Chryse Gibson, Executive Vice President of Oaktree, Mr. Robert Engler of SEB, LLC, and Mr. Mark Beaudry, an Engineer from Meridian Associates.

Mr. Engler recited the MassHousing Site Approval process within the larger context of c. 40B Comprehensive Permit projects, noting that to date, a site walk had been conducted at the Mugar property, and that the MassHousing process is, in his interpretation, a very broad brush review examining traffic, marketing, and conditions of the site among other things. Mr. Engler noted that Arlington Land Realty was not required to provide details to MassHousing or the Selectmen

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under such process, because such details will be examined by Arlington's Zoning Board of Appeals ("ZBA") after site approval is granted by MassHousing.

Ms. Noyes then provided a presentation, some of which repeated an earlier presentation to the general public at the Hardy School, but noting that a new civil engineer, Mr. Beaudry has been retained and is present, because their previous engineer, Mr. Albrecht does not have the kind of expertise that the site demands.

Ms. Noyes further presented Arlington Land Realty's plans and positions, asserting that in their Existing Conditions Plan, the project is "above" the FEMA line, and further, that they propose to bring 10 acres of the current parcels into conservation, making certain improvements to increase wildlife access to wetlands on the site. Ms. Noyes stated that community concerns about parking on the development have been heard and that they could reduce the number of parking spaces in discussions with the ZBA at a future date.

Mr. Beaudry then presented information from an engineering perspective, noting that given his recent retention, he has not delved fully into all the details yet. In his overview, Mr. Beaudry noted the parcels in total make up a 17.7 acre area, with Bordering Vegetative Wetlands in a number of places. He then discussed relevant buffer zones for wetlands as well as the 100-year FloodPlain, displaying slides. He asserted that 6 total acres are above the FloodPlain and discussed some of the relevant State regulations with which the project must comply, but contended that c. 40B only requires "preliminary plans." As such, Arlington Land Realty will bring their plan to a higher level than preliminary design at a later date, with goals of improving existing conditions on the site

Ms. Noyes concluded Arlington Land Realty's presentation by asserting that the project is still primarily about housing, and that 25 percent will be earmarked as "affordable."

Board of Selectmen Questions

Chairman Greeley then provided Members of the Board the opportunity for questions to the Arlington Land Realty representatives.

Selectman Dunn inquired as to how aware developers are of the chronic flooding conditions in the area of the site. Ms. Noyes and Mr. Beaudry stated they had seen pictures of flooding in the area on Facebook, and seen water being pumped out of basements in the area recently.

Mr. Dunn, expressed greater concern noting that flooding in the area of the proposed site is much more historic than a recent issue. He asked how the developers would manage run-off from impervious surfaces. Mr. Beaudry replied that onsite stormwater management resources would be added to the base water storage, and that low impact techniques such as bioretention basins, and additional wells could be implemented.

Mr. Dunn followed up, asking if any such measures were evident on current plans. Mr. Beaudry replied that pervious pavement areas are in the current plans.

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Mr. Dunn then inquired about drainage into adjacent neighborhood drainage systems, to which Mr. Beaudry replied that the site area drains towards Route 2 and is serviced by a number of drainage culverts that need to be cleaned.

Mr. Dunn asserted the plans provided to date simply are not complete enough to enable the Selectmen to evaluate the flooding management and noted that the Board's engineering consultants expressed concern that effective flood management cannot be achieved.

Mr. Engler replied that such concerns are a common problem for 40B projects and that the development team could not answer Mr. Dunn's questions as present. He contends that the ZBA and State DEP will scrutinize these issues further.

In response Mr. Dunn noted that the Board can only evaluate what they have in front of them, stated that there appeared to be discrepancies in the Site Application on how many wetlands are on the site, and expressed concern that the application employed the wrong Floodplain Map (from 1982 rather than 2010).

Finally, Mr. Dunn expressed concern over the application's request for a waiver from the Town's Wetlands Bylaw even as the development team acknowledged that they did not provide detail to the Selectmen and would not do so, while simultaneously promising they could and would improve the site. He

Ms. Noyes replied that the waiver request allows for errors even though they believe they will meet the requirements of Arlington's bylaws. Mr. Engler added that until Arlington Land Realty obtain site approval, they want to protect themselves and contend that they will ultimately have the burden to demonstrate the feasibility of their plans.

Chairman Greeley recognized Special Counsel Jonathan Witten, who disputed Mr. Engler's characterization. Attorney Witten stated that if site approval is granted and an application is submitted to the ZBA, the burden will be upon the ZBA, not the Applicant to demonstrate that the plans are not feasible. As such, he asserted that Arlington Land Realty has the burden to present sufficient information to the Board of Selectmen to provide comment on the Site Approval Application to MassHousing

Selectman Curro conveyed how serious and significant traffic concerns are in his view. He contended that the development would only service only a portion of the residents who will utilize the MBTA and questioned whether or the Applicants have read Arlington's Master Plan and its analysis of the relatively small percentage of residents who use public transportation in Arlington. Mr. Curro believes that access to the proposed development thorough Dorothy Road and Littlejohn Street is contrary to the Master Plan, exacerbates traffic issues, and goes against the promises of the Mugar family in years past. As such, he urged Arlington Land Realty to commit to a drastic reduction of parking spots.

Mr. Engler responded that Arlington Land Realty cannot commit to anything at this juncture. Further he believes the proposed 1.25 parking spots per unit is low.

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Mr. Curro stated that the Master Plan calls out the property as a priority for Town or other conservation acquisition, which it has been for many years, noting that a tentative deal with the Mugar family had been in place five years ago and that the Community Preservation Act affords new resources for acquisition. Therefore, he asked why there is not more momentum to negotiate with the Town.

Mr. Engler responded that he does not know the details of past discussions, and believes the Master Plan deficient in addressing the Town's affordable housing needs.

Mr. Curro reminded the development team that the Board of Selectmen is a policy body and Town Meeting has voted three times to support conserving the property rather than development, to which Mr. Engler responded that the Master Plan is not sufficient to address affordable housing in his view, and that in any even housing is a regional issue that goes beyond Arlington's concerns.

Chairman Greeley recognized Planning Director Carol Kowalski, who corrected that the Master Plan recommends updating the Housing Plan and advised that the Planning Dept. is obtaining a grant to do so. She further averred that Arlington supports both density and affordability in its recent projects such as the Symmes development and others, often at greater densities than other Towns will allow.

Selectman Byrne opened by remarking that he does not want an old law (c. 40B) to disrupt Arlington's progressive views of affordable housing and expressed concern that the proposed project is a profit-driven enterprise. Citing the application's budget documents, he stated there was no detail for the Board to examine. He inquired as to what \$2.5 million in "unusual site conditions" represented for the project.

Mr. Engler answered that they could not comment on that at this time.

Mr. Byrne then asked about representations to media outlets that the developers can improve the site even as they admit that details on such improvements will not be presented at this juncture.

Ms. Noyes answered that the development team believes they can clear blockage areas in the wetlands, and therefore prevent pooling that causes flooding in homes.

Mr. Byrne lamented that there is information in the application to support their claims. He hopes they will address their concerns moving forward in the detail that the Board feels the Town needs and deserves.

Vice Chair Mahon asked the development team if they will commit to withdrawing their request for a waiver of wetlands bylaws given that if granted, it would prevent the Arlington Conservation Commission from directing mitigation that could broadly benefit the neighborhood in terms of flooding conditions. She also inquired about 500-year flood events.

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Mr. Beaudry answered that the development's goal is to make the conditions better, but that the regulations only require them to look at 2-year, 10-year, and 100-year flooding events.

Ms. Mahon commended Ms. Noyes for her commitment to many environmental endeavors. However, she repeated her request that the development team commit to withdrawing pursuit of a waiver of wetlands bylaws, given Arlington intimate knowledge of its natural resource areas, .

Ms. Noyes responded that she cannot commit to that, asserting that the development team volunteered to come to this meeting. She reiterated that their goal is to meeting the requirements of Arlington's bylaws, and that they will provide more detailed information in the future. The will do the best they can.

Ms. Mahon noted her frustration in trying to exercise due diligence, but finding that more details will not be forthcoming before the Board comments to MassHousing. She then inquired about the applicant's commitment to removing invasive vegetation and other like improvements on the site, seeking a 10-12 year commitment as DCR has recommended in other projects.

Ms. Noyes believes as a partnership with the Town could be forged and noted that as development team is willing to deed 10 acres of the site to the Town in perpetuity.

Ms. Mahon then inquired about representations about an off-ramp from Route 2 to access the development, expressing that her understanding is that Mass DOT believes the grade of such a ramp would be steep and potentially dangerous.

Ms. Noyes and Mr. Engler answered that the project is already very complex, but if a 40 application is before the ZBA, they believe they developed the option if the Town was so inclined, but in any event, such plans are far ahead of the Site Approval stage.

Mahon concluded that she has consistently supported preserving this site, expressed appreciation that the development team had come to meet with the Board, but also frustration with the level of information provided.

Arlington State Legislative Delegation

Chairman of Greeley yielded the floor to State Sen. Kenneth Donnelly, Rep. Sean Garballey, and Rep. David Rogers.

Sen. Donnelly spoke for delegation highlighting that members of the delegation met with DCR and reminded them of their commitment to this site as a priority for conservation. Members also met with DOT and asked them to notify them of any proposal to provide access through Route 2, as well as MassHousing.

The delegation strongly advocates for protecting this environmentally sensitive area, which to the Senator's memory includes instances of flooding so severe, water from the Mystic River was flowing up the Alewife Brook. The delegation supports affordable housing, but not on environmentally sensitive areas, and not where 95 percent of Arlington is already residential and dense.

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Public Comment

Mr. Greeley opened the floor to Public Comment, with a limitation of 2 minutes per speaker and a request for organizations to have representatives speak for their members.

- E.K. Khalsa of the Mystic River Watershed Association noted the Associations' opposition to the project, noting the water quality of the Alewife Brook is rated "D" in the latest grading of the waterway, and that the Mugar property is a natural filter and recharges the groundwater for the brook.
- Elizabeth Thompson of the League of Women Voters spoke of long standing flooding problems in the area and the need to protect the property at issue.
- Gail McCormick of Sustainable Arlington and the Spy Pond Condo Association asserted that climate change will make the flooding problem more severe in the coming years. The condos flood insurance rate rose more than five times from the previous rate. She questioned whether is it fair to put affordable housing in a known floodplain.
- Ann LeRoyer of the Open Space Committee stated that the acquisition of this property has been a top priority for the last 5 Open Space Plans, and over 20 years.
- Henry Brush of the Arlington Soccer Club stated that the 1900 players and 300 coaches in his organization, makes it one of the largest in the state. Thorndike field is a significant component of the playing fields and it regularly is flooded as is. Increased flooding would impact them greatly.
- George Laite of the East Arlington Good Neighbor Committee stated that they oppose the project and small changes will not improve conditions. The Committee's representatives also spoke of concerns that the presented information is incomplete. The traffic and safety concerns, as well as the protection of the natural ecosystems demands that more information be forthcoming before any endorsement is given.
- Elsie Fiore, long time resident, read a quote of herself from Sheila Cook's local history "The Great Swamp," stating that the Mugar property... "acts as a sponge."
- John Morvitch of Little John St, stated that "we don't want that project, it will impact the habitat for wildlife, fire and police access will be hampered along with traffic, and we don't want it."
- Jennifer Griffith of Edith St, agreed with the previous statements on traffic problems, and feared accidents will increase as well. She noted that the East Arlington area is very flat, the water has nowhere to go. Compensations and mitigations clog up and fail over time. The developers and Town reviewers need to use up-to -date hydrologic/rainfall data when calculating impacts and designing compensation. Even so, climate change will still make this effort insufficient in the long run. It would be better to have this parcel as protected public land with no development on it.

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- Steve Revilak of Sunnyside Rd, asked several questions on the affordable housing data, and how many units will be affordable, what percentage AMI is the target, and what AMI value is being used? Ms. Noyes responded that 25% of the units will be affordable, with 80% AMI. The lottery for these units extends beyond Arlington.
- John Belskis, town resident, stated that he has worked for many years to on c. 40B issues and is very concerned for East Arlington. He noted that Arlington compares very favorably state-wide in terms of its affordable housing efforts and that 10% of housing could never be achieved here without constructing skyscrapers.
- Kelly Moss of Lake St described the woods as a natural sponge in the floodplain. She has two sump pumps in her basement and flood insurance. She summarized that just because the developers could build a building on that land, doesn't mean they should.
- Neil Martelle resident of East Arlington stated that East Arlington has changed a lot in the last 12 years. He is concerned for traffic safety. He has observed the anger that commuters experience while stuck in the tie ups. The proponents of this project might make a lot of money on this project but at what cost? This project should take a balanced approach.
- Ted Peluso asked the proponents what are they bringing to the project? Where will the homeless people and animals will go when this project is built? They will be displaced into the neighborhoods in his opinion.
- A resident of the East Arlington neighborhood stated that the narrow streets of the immediate neighborhood will be clogged with the extra traffic from the proposed development. She is very concerned for the pedestrians, kids, bikes that also use those small roads.
- Neil Saunders, a 15 year resident, stated that its clear the proponents goal is to make money and skirt our local laws. He cited the example of the Belmont Uplands development off of Acorn Park Drive. When it rains, the stormdrains there go shooting into the air in surcharging.
- Christopher Loreti stated that he is not convinced that the acquisition of the Mugar land is a priority of the Town since they have not spent any money on it. The Community Preservation Act was enacted, by special Town Meeting. He warned that we should all think seriously about what alternative proposal might be for this property.
- Aram Hollman asserted that the swampland is not developable. The owners should either donate it to the Town or place a permanent Conservation easement on it. He also believes that c. 40B should be amended to not trump local bylaws. He asked if it is possible to down zone and remove R5, R6 and R7 from the zoning statutes.
- John Worden of Jason Street described a billboard on the Mugar land, 50 years ago, which stated "future site of Star Market". The sign burned down. Back in 1970, the Mugar asked

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for the land to be rezoned as PUD, which was granted. He asked why they do not want to develop according to the zone they requested?

- A female Town Meeting member noted that many Town Meeting members were present at this meeting. They passed the Community Preservation Act and support open space and affordable housing.
- Laura Notten of Arlington Heights, stated that she came to tonight's meeting with an open mind, that potentially there are design solutions to some of these concerns. But at this stage, with only preliminary designs and so many unknowns, she seriously questions whether this project is feasible. The Town deserves more than the absolute minimum, and the Board of Selectmen are justified in their concerns.
- Alison Lane, of Belmont, stated that this is similar to the struggle to protect the Belmont Uplands, with its large habitat disruption. She noted that Mr. Engler also worked as a proponent on that project.
- Deann Dupont, of Precinct 13, spoke of her flooding problems up on a hill, when a neighboring property had a new bigger house and driveway constructed on it. Where are the contingency funds for the future impacts, say in 50 or a hundred years? The tree removal on this land will impact water levels by removing the sponge and temperatures since they cool the area.
- Glenn Koenig, a 40 year resident, stated that he filmed the flood video 15 years ago. He saw a photo of this parcel from 1953, when he was only 3 years old. How many proposals have come up over that time? "Mr. Mugar, let go of this land".
- A Ms. Evans, resident, has reviewed the MassHousing application that states that "groundwater is not in our purview". This is a problem since the stormdrains in that neighborhood surcharge during flood events. Stormwater is connected to groundwater. The proponents have asked for waivers to 28 of the local laws, including a 25% reduction in fees. Ms. Evans asked that the full fees be charged to these proponents.

Concluding Remarks

Vice Chair Mahon made concluding remarks that Arlington Land Realty commits to only 80 parking spaces by only putting 80 spaces in the design. She further stated that the tent city in the woods is also the responsibility of the property owner and that they should do something about it.

Finally she noted that the Town of Arlington fully supports affordable housing through its commitment of significant CDBG funds to affordable housing and the Housing Association of Arlington, a new housing production plan, the CPA, inclusionary zoning, and the Homeless Prevention Fund.

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Mr. Greeley adjourned the meeting at 9:24pm.

A true record: Attest

Douglas W Heim
Town Counsel

Next Scheduled Meeting of BoS August 17, 2015

8-12-15

Documents Used

Agenda Item	
1.	Revision Sustainable Development Scorecard; MA Housing Application Start - 2.5 By-Right Site Plan; MA Housing Application 3.1 Prelim Site Plan - 4.1 Letter of Interest; MA Housing Application 5.1 Letter of Interest – End; Conservation Commission Letter to Board of Selectmen; Nover-Armstrong Analysis and Report; Arlington Redevelopment Board Comments