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TOWN OF ARLINGTON
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November 14, 2016

RE: Application for a comprehensive permit for “Thorndike Place”

Dear Members of the Zoning Board of Appeals:

On behalf of the Arlington Board of Selectmen, please accept the following initial comments in regard to the above noted comprehensive permit application. [At your request](#), these initial comments are submitted to the Zoning Board of Appeals (“ZBA”) pursuant to G.L. c.40B, s.20. We reserve our rights to submit additional comments in this matter as warranted, and pause to note that we very much respect the authority of the ZBA and do not presume to direct you, but nonetheless hope you will receive this correspondence as an expression of our earnest opinion as a body and support of the difficult work ahead of you.

As an initial matter, we thank the ZBA for its careful consideration and assertion of the Town’s “safe harbor” status based on 1.5% of applicable land area in Arlington being dedicated to affordable housing. While it is our understanding that the applicant, Arlington Land Realty, LLC (also commonly referred to as “Oaktree” or the “Mugar Development”) has already appealed the ZBA’s articulation of safe harbor status, and such status may be contested at various levels, we agree that any reasonable reading of the law supports our safe harbor status. More importantly, we believe that the safe harbor status you articulated accurately reflects the reality of Arlington – a dense residential community which has consistently worked to support and grow its affordable housing stock in responsible manner in the context of very limited available developable land.

Furthermore, as the ZBA is aware, on August 18, 2015, this Board of Selectmen wrote a detailed comment letter to MassHousing urging MassHousing not to issue project eligibility approval for this application. We have attached our letter to MassHousing

hereto. Although MassHousing opted to grant project eligibility to the applicant, despite the Board of Selectmen's substantial concerns and objections, we hope the Board of Appeals will scrutinize the application strenuously based upon the same concerns we previously articulated. Our prior comments remain accurate today and speak directly to the Zoning Board of Appeals' jurisdiction pursuant to both statute and regulations. In our view, The comprehensive permit application submitted by Arlington Land Realty, LLC is a much like its submissions for project eligibility to MassHousing – grossly incomplete.

As we stated to MassHousing last year, attempting to place 219 dwelling units on less than 6 acres of upland—a density of greater than 37 units per acre—is inconsistent with our understanding of decades of plans and planning in Arlington and troubling given the well chronicled constraints of the locus.

One of the most notable constraints of the locus (one on which we have heard considerable public comment) is the extensive on-site wetland resources the site presents, and its important function for flood control. We previously strenuously urged the applicant to provide more detailed plans and information on its means of addressing this specific constraint and appurtenant concerns. We were told those details would be forthcoming. Yet instead, the applicant now seeks waivers of Arlington's Wetland Bylaw and Regulations in their entirety. In light of these facts, we urge the ZBA of Appeals to deny the applicant's overbroad and unsubstantiated request to waive the requirements of Arlington Wetlands Bylaw and Regulations, along with other blanket waivers the applicant desires without reasonable bases.

Additionally, our public comment process garnered significant concerns about traffic, ecological impacts, and a host of other matters. To assist the ZBA evaluate the technical aspects of the comprehensive permit application, including an analysis of the application's impacts on wetland resources noted above, but also including traffic impacts and consistency with the Town's long standing land use, open space and affordable housing plans, we also urge the ZBA to avail itself of its broad rights and authority pursuant to G.L. c.44, s.53G.

As the ZBA knows and your Comprehensive Permit Regulations permit, the ZBA is free to require the applicant to pay for the Board's hiring of experts in a variety of technical areas. The ZBA's authority pursuant to s.53G is extremely broad; limited only to a prohibition of using s.53G funds for legal counsel; all other consulting services are available to assist the Board. It is our view that availing yourselves of these resources to the maximum extent possible is essential to developing a record to not only support whatever substantive conclusions you find about the application as a body in reaching a decision, but to defend such decision from future litigation and appeals should the need arise. We trust that your decision will be thorough and detailed, consistent with the quality service the ZBA provides to Arlington. However, given the criticism and challenges you may well face, we hope you will actively seek whatever support necessary from the Town to leave no stone unturned and render your determinations as precisely and powerfully as possible.

In sum, mindful of our role as the Board of Selectmen, we respectfully register our ongoing concern that what little we have seen from the applicants does nothing to assuage common sense doubts that a project of this magnitude on such a problematic site is feasible or appropriate for Arlington. The Board remains committed to assisting the Board of Appeals enforce the rules and regulations of the Town and ensure the protection of Arlington residents' health and safety.

We look forward to being of assistance.

Very truly yours,

Diane M. Mahon, Chair
BOARD OF SELECTMEN