

Town of Arlington Select Board

Meeting Agenda

March 15, 2021 7:15 PM Conducted by Remote Participation

- 1. Executive Order on Remote Participation
- 2. Discussion: Mugar Property John V. Hurd, Chair

NEW BUSINESS

Next Scheduled Meeting of Select Board March 22, 2021 You are invited to a Zoom webinar. When: Mar 15, 2021 07:15 PM Eastern Time (US and Canada) Topic: Select Board Meeting Register in advance for this webinar: https://town-arlington-ma-us.zoom.us/webinar/register/WN_GZ78T0XxS-ao_bvhdf6PLg After registering, you will receive a confirmation email containing information about joining the webinar.

Notice to the Public on meeting privacy In the interests of preventing abuse of videoconferencing technology (i.e. Zoom Bombing) all participants, including members of the public, wishing to engage via the Zoom App must register for each meeting and will notice multi-step authentication protocols. Please allow additional time to join the meeting. Further, members of the public who wish to participate without providing their name may still do so by telephone dial-in information provided above.

Documents regarding agenda items will be made available via Novus Agenda and the Town's Website. https://www.mass.gov/doc/open-meeting-law-order-march-12-2020/download



Town of Arlington, Massachusetts

Executive Order on Remote Participation

ATTACHMENTS:

	Туре	File Name	Description
D	Reference Material	Executive_Order_on_Remote_Participation.p	df Executive Order on Remote Participation



Office of the Governor Commonwealth of Massachusetts State House • Boston, MA 02133 (617) 725-4000

GOVERNOR

KARYN E. POLITO LIEUTENANT GOVERNOR

ORDER SUSPENDING CERTAIN PROVISIONS OF THE OPEN MEETING LAW, G. L. c. 30A, § 20

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus ("COVID-19"); and

WHEREAS, many important functions of State and Local Government are executed by "public bodies," as that term is defined in G. L. c. 30A, § 18, in meetings that are open to the public, consistent with the requirements of law and sound public policy and in order to ensure active public engagement with, contribution to, and oversight of the functions of government; and

WHEREAS, both the Federal Centers for Disease Control and Prevention ("CDC") and the Massachusetts Department of Public Health ("DPH") have advised residents to take extra measures to put distance between themselves and other people to further reduce the risk of being exposed to COVID-19. Additionally, the CDC and DPH have advised high-risk individuals, including people over the age of 60, anyone with underlying health conditions or a weakened immune system, and pregnant women, to avoid large gatherings.

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise authority over public assemblages as necessary to protect the health and safety of persons; and

WHEREAS, low-cost telephone, social media, and other internet-based technologies are currently available that will permit the convening of a public body through virtual means and allow real-time public access to the activities of the public body; and

WHEREAS section 20 of chapter 30A and implementing regulations issued by the Attorney General currently authorize remote participation by members of a public body, subject to certain limitations;

NOW THEREFORE, I hereby order the following:

(1) A public body, as defined in section 18 of chapter 30A of the General Laws, is hereby relieved from the requirement of section 20 of chapter 30A that it conduct its meetings in a public place that is open and physically accessible to the public, provided that the public body makes provision to ensure public access to the deliberations of the public body for interested members of the public through adequate, alternative means.

Adequate, alternative means of public access shall mean measures that provide transparency and permit timely and effective public access to the deliberations of the public body. Such means may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring. Where allowance for active, real-time participation by members of the public is a specific requirement of a general or special law or regulation, or a local ordinance or by-law, pursuant to which the proceeding is conducted, any alternative means of public access must provide for such participation.

A municipal public body that for reasons of economic hardship and despite best efforts is unable to provide alternative means of public access that will enable the public to follow the proceedings of the municipal public body as those activities are occurring in real time may instead post on its municipal website a full and complete transcript, recording, or other comprehensive record of the proceedings as soon as practicable upon conclusion of the proceedings. This paragraph shall not apply to proceedings that are conducted pursuant to a general or special law or regulation, or a local ordinance or by-law, that requires allowance for active participation by members of the public.

A public body must offer its selected alternative means of access to its proceedings without subscription, toll, or similar charge to the public.

(2) Public bodies are hereby authorized to allow remote participation by all members in any meeting of the public body. The requirement that a quorum of the body and the chair be physically present at a specified meeting location, as provided in G. L. c. 30A, § 20(d) and in 940 CMR 29.10(4)(b), is hereby suspended.

(3) A public body that elects to conduct its proceedings under the relief provided in sections (1) or (2) above shall ensure that any party entitled or required to appear before it shall be able to do so through remote means, as if the party were a member of the public body and participating remotely as provided in section (2).

(4) All other provisions of sections 18 to 25 of chapter 30A and the Attorney General's implementing regulations shall otherwise remain unchanged and fully applicable to the activities of public bodies.

This Order is effective immediately and shall remain in effect until rescinded or until the State of Emergency is terminated, whichever happens first.

Given in Boston at $\frac{2}{2}$, $\frac{1}{2}$ PM this 12th day of March, two thousand and twenty.

Charles PBash

CHARLES D. BAKER GOVERNOR Commonwealth of Massachusetts



Town of Arlington, Massachusetts

Discussion: Mugar Property

Summary: John V. Hurd, Chair

ATTACHMENTS:

	Туре	File Name	Description
۵	Reference Material	Mugar_Refernce.pdf	Mugar Reference
D	Reference Material	Doug_Letter.pdf	Letter from Town Counsel
۵	Reference Material	Updated_Letter_From_D.Heim.pdf	Draft Letter to Mugar

March 8, 2021

<u>Via Email</u>

Jessica Malcolm, Manager of Planning and Programs Massachusetts Housing Finance Agency One Beacon Street Boston, Massachusetts 02108

> Re: Thorndike Place, Arlington (MassHousing ID #778/#779) Notice of Project Revision Under 760 CMR 56.04(5)

Dear Jessica:

On behalf of the Applicant, Arlington Land Realty LLC, and in accordance with 760 CMR 56.04(5), we are notifying MassHousing, as the Subsidizing Agency, of the desire of the Applicant to change certain aspects of its respective project known as Thorndike Place. As more fully described herein, the revisions come about in light of feedback from the Zoning Board and others within the public hearings on the Applicant's Comprehensive Permit Application.

Original Proposal and Permitting Process Background:

The Applicant was granted a Project Eligibility Letter ("PEL") from MassHousing for Thorndike Place on December 4, 2015. At that time, the Thorndike Place project proposal included a total of 219 dwelling units, twelve (12) of which were townhouse homeownership units together with 207 units of rental housing situated on a triangular parcel consisting of 17.8+/- acres of land (5.6 +/buildable acres), located on Dorothy Road, in Arlington, Massachusetts. The described project included six (6) duplex-style townhouses (2.5 stories/32 feet) and one (1) multifamily apartment building (4 stories/53 feet). The project's unit mix included 104 one-bedroom units, 92 two-bedroom units and 23 three-bedroom units.

The project locus is within the Planned Unit Development ("PUD") zoning district under the Arlington Zoning Bylaw, for which duplex homes are allowed as of right and multifamily housing is conditionally allowed. In the PUD district, the maximum building height is 85 feet and residential housing is limited to five (5) floors. As described in the Project Eligibility application, the developed portion of the site would be along Dorothy Road and would extend along the length of Dorothy Road, including surface parking and the easternmost third of the four-story apartment building located behind six lots on Dorothy Road. Off-street parking for the apartment building was proposed both via surface parking (102 spaces) and parking under the apartment building (178 spaces). As an amenity, not just to the Thorndike Place community but to the Town itself, the Applicant proposed to set side approximately 10+ acres of the site as open space.

The original project design included eight driveway entrances off Dorothy Road, seven of which where associated with the townhouse duplexes and a main access drive near the intersection of Littlejohn Street and Dorothy Road, leading to the surface and garage parking associated with the multifamily building. In addition, the original Project included a secondary access drive at the intersection of Burch Street and Edith Street at the eastern boundary of the site.

Mass Housing's PEL was issued on December 4, 2015. On September 1, 2016, the Applicant filed a Comprehensive Permit application with the Arlington Zoning Board of Appeals ("ZBA"). On September 27, 2016, the ZBA opened the public hearing on the Application and by letter dated October 6, 2016, the ZBA notified the Applicant that the ZBA sought protection under the General

{00191189;v1}East Mill, 21 High Street, Suite 301, North Andover, MA 01845 WWW.SMOLAKVAUGHAN.COM Land Area Minimum Safe Harbor, asserting its belief that the Town had 1.5% or more of its General Land Area dedicated to Subsidized Housing Inventory ("SHI") eligible housing. The Applicant submitted a challenge to the DHCD pursuant to 760 CMR 56.03(8), noting that the Town had double discounted land area associated by water bodies, thereby inaccurately calculating the general land area in performing its calculations. On November 21, 2016, DHCD issued its written determination finding that that the ZBA had not achieved safe harbor status. In December 2016, the ZBA filed an interlocutory appeal with the Housing Appeals Committee ("HAC"). The HAC decision was issued on October 15, 2019,¹ again determining that the Town did not establish qualifying for the safe harbor.

Project Revisions

Subsequent to the HAC's Decision on the interlocutory appeal, the Application was remanded to the ZBA in late fall 2019. Due to Covid19, the ZBA did not conduct public hearings for a number of months and it was not until late September 2020 that public hearings, via Zoom, were reestablished on the application. With input from the ZBA as to the size, scale and location of buildings near or within resource areas, the Applicant presented revised plans to the ZBA in November 2020. The revised plans, reduced the density by removing the standalone duplex buildings and shifting the multifamily building to the north, away from resource areas as defined in the Massachusetts Wetlands Protection Act and the Arlington Wetlands Bylaw.

Since that time, the Applicant and the ZBA have conducted continued public hearings in November, December, January and February together with multiple work sessions with the Applicant's professional team, the ZBA's peer review professionals, the Conservation Commission, the Transportation Advisory Committee ("TAC") and Town staff. As a result of the feedback provided to the Applicant by the ZBA, the Town Planner, Town Engineer, the Conservation Commission and its agent, the ZBA's Peer Review professionals from BETA Group as well as the public, the current proposal is as follows:

- One multifamily building, which consists of 172 dwelling units, consisting of 88 onebedroom units, 55 two-bedroom units, 18 three-bedroom units and 11 studios.
- The six 2.5 story duplex-style townhouses, and the associated seven access drives to enter the private garages off Dorothy Road, are no longer included in the project.²

¹ In large part, the length of time (nearly three years) for a decision in the HAC interlocutory appeal was attributable to the ZBA's request to stay the appeal and subsequent pursuit of a separate civil lawsuit brought by the ZBA against the DHCD, Department of Mental Health and Department of Developmental Services, seeking confidential address information as to special needs housing. Ultimately, the ZBA never sought to use this information within the underlying HAC appeal.

² In other projects, MassHousing has concluded that a change in tenure does not justify revisiting a PEL. For instance, with respect to the Abbyville Commons 40B proposal in Norfolk, subsequent to obtaining site approval for a 48-unit rental project, the Developer notified MassHousing that due to input from the community, the proposal was changed from a rental project located in two buildings to 88 duplex-style condominiums. In response to the Section 56.04(5) notice, MassHousing affirmed that no new project eligibility letter was required, stating, "*[i]t is MassHousing's interpretation of the Comprehensive Permit Regulations that Subsidizing Agencies should normally not update Project Eligibility Letters as a project develops but should rather, consider whether the initial proposal is eligible for a subsidy project at the project eligibility stage and then consider with the final approval is eligible directly before the construction at the Final Approval state. Any other approach could interfere with a Chapter 40B's goal of expedited permitting. It is for this reason that a Project Eligibility Letter issued pursuant to the comprehensive permit regulations shall, pursuant to 760 CMR 56.04(6) be conclusive evidence that the project and the applicant have satisfied the project eligibility requirements." A copy of the MassHousing letter is attached as Attachment C (Emphasis added).*

- The developed portion of the site is largely confined to an approximately 5.15-acre limit of work, with the balance of the site to remain as open space/conservation land. This is largely consistent with the original proposal, but it is noted that by condensing the overall length of the apartment building and adjusting its location further to the north on the site, the building and all infrastructure are outside of vegetated wetland areas to the east and south, with only limited impacts to the wetland buffer for a small portion of the subsurface garage under the southwest courtyard, grading, stormwater management systems and a portion of the permeable emergency access road around the back of the building.
- Garage parking under the multifamily building for 179 vehicles plus 176 secured bicycle parking spaces. (The original proposal as set out in the Project Eligibility application included garaged parking for 178 vehicles in the multifamily building garage).
- The building adheres to the PUD zoning district use and dimensional regulations; in particular multifamily use is allowed by special permit in the PUD district, the project is far below the maximum height in the PUD district (which maximum height is set at 85 feet/5 floors for residential uses), the project meets or exceeds the setbacks of the PUD district and it is below the allowable FAR for the site (.80 FAR).

Attached hereto, please find the updated site drawings prepared by BSC Group, revised November 3, 2020 and January 21, 2021 (Attachments A.1 and A.2) and updated architectural elevations and perspective drawings by Oaktree/Bruce Hamilton Architects, as presented to the ZBA at the February 16, 2021 hearing (Attachment B).

The present building design retains the four-story apartment building, but has revised its layout such that there is a central building spine set back approximately 90+ feet from Dorothy Road. Extending northerly (toward Dorothy Road) are three separate wings, or building tabs, the width of each approximate the width of the townhomes on the opposite side of Dorothy Road. These front portions of the building will be two stories tall (approximately 25 feet in height) and set back 25 feet from Dorothy Road.³ In between the building's northerly wings are two large courtyards, one which provides access to the building entry and allows temporary parking/drop offs and the other to be landscaped open space. The courtyards further create a less crowded/more open feel along Dorothy Road. The building wings to the south of the site, substantially removed from Dorothy Road and any abutting property.

As opposed to the eight driveway curb cuts proposed on Dorothy Road under the original proposal, the revised design streamlines the access off Dorothy Road to one main driveway which provides access to the surface parking lot to the west and to the garaged parking under the building.

³ It is noted that the height of the currently revised building wings (25 feet) closest to Dorothy Road are actually lower than the height of the previously proposed townhouses, which were 2.5 stories/32 feet in height. By the use of low, two-story front wings of the building set back 25 feet off Dorothy Road, the architecture of the building is consistent with the setbacks, width and heights of the surrounding townhomes on the opposite side of Dorothy Road and to the east of the site. The revised design has incorporated the municipal input with respect to massing, scale, topography and environmental resources.

SMOLAK & VAUGHAN LLP Jessica Malcolm, Manager Comprehensive Permit Programs

For short-term or drop-off/deliveries, there is a second semi-circular access drive located closer to the center of the building at the location of the building's lobby entrance.

Further, in response to requests by the ZBA and the TAC for a reduction in parking, the revised design incorporates a reduced number of parking spaces and corresponding commitments to a number of transportation demand management (TDM) measures, further enhancing the transit-oriented nature of the Project. Representative TDM measures include: a 23-dock Bluebikes station, a transit-screen display in the building entrance lobby, first month MBTA passes to new residents, a designated transportation coordinator as part of building management staff; secured parking for up to 176 bicycles and a bicycle repair area within the garage; and transportation information packages to be provided to all residents.

The revised design not only reduces impervious access drives and parking areas, but also avoids direct impact to wetland areas and limits permanent project improvements to the outer edges of the 100-foot buffer. Further, the revised proposal significantly limits the amount of work within the floodplain as compared to the original application. Impacts to floodplain are limited to two shallow fingers of the floodplain with the revised plans providing for the creation of compensatory storage at a ratio of 2:1, as consistent with the Arlington Wetlands Regulations.

The ZBA has expressed interest in having MassHousing's clarification concerning the process through which these project changes may be handled. In accordance with 760 CMR 56.04(5), the Applicant provides written notification to the Subsidizing Agency of these project changes. As stated in Section 56.04(5), only changes affecting project eligibility requirements as set forth in Section 56.04(1) are to be assessed.⁴ These described changes do not impact the Applicant's qualification as a limited dividend entity under Section 56.04(1)(a). Similarly, as the proposed changes address density, scale and environmental concerns that had been raised within the public review process, the changes are specifically responsive to otherwise enhance the project and its consistency with the existing environmental resources and topography and do not adversely impact the project or its fundability in accordance with Section 56.04(1)(b). Lastly, there has been no change to site control as Applicant continues to own the site. *See* Section 56.04(1)(c).

⁴ The limits of MassHousing's review under 760 CMR 56.04(5) is similarly described in prior requests submitted to the agency directly on behalf of a Zoning Board. For instance, with respect to the Goodridge Brook Estate's 40B proposal in Lancaster (PEL-963) in which the ownership portion of the proposed development (120 apartments/40 duplexes) was revised by developer (from 40 duplexes to 62 four-bedroom homes), the Lancaster ZBA Chair requested MassHousing to review the changes. By letter dated October 29, 2018, MassHousing reaffirmed the conclusiveness of its prior project eligibility determination in writing to the Lancaster ZBA Chair, stating "[s] ince the changes outlined in your letter have been proposed prior to issuance or denial of a Comprehensive Permit, 760 CMR 56.04(5) narrowly limits the Subsidizing Agency's review to changes which affect the project eligibility requirements set forth in Section 56.04(1)." See Attachment D (Emphasis supplied).

SMOLAK & VAUGHAN LLP

Jessica Malcolm, Manager Comprehensive Permit Programs

We thank you for your review of this matter and request that MassHousing reaffirm its prior PEL. Please feel free to contact me should you have any additional questions. Thank you.

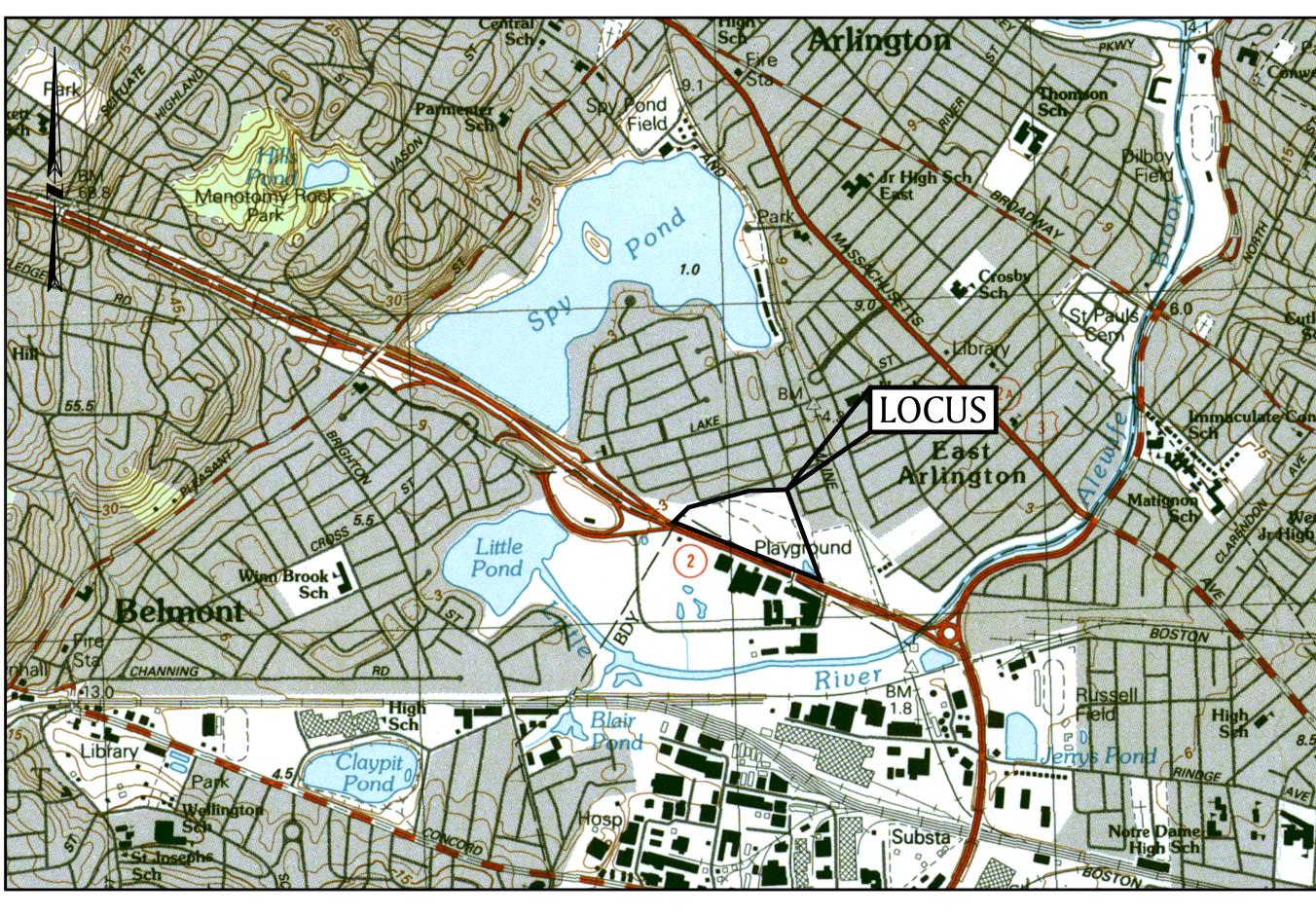
Sincerely,

/s/ Stephanie A. Kiefer

Stephanie A. Kiefer

sak/

Encl.
cc: Peter Mugar, Arlington Land Realty LLC
Gwen Noyes/Arthur Klipfel, Oaktree Development
Robert Engler, SEB Housing Consultants
Christian Klein, Chairman, Arlington Zoning Board of Appeals (via email)
John V. Hurd, Chairman, Arlington Board of Selectmen (via first class mail)
Jennifer Maddox, Undersecretary for Housing and Community Development (via first class mail)



PREPARED FOR:

ARLINGTON LAND REALTY, LLC 84 SHERMAN STREET, 2ND FLOOR CAMBRIDGE, MA 02140

THORNDIKE PLACE COMPREHENSIVE PERMIT DOROTHY ROAD ARLINGTON, MASSACHUSETTS

MARCH 13, 2020

REVISED: NOVEMBER 3, 2020

LOCUS MAP

0 0 1000 2000 3000 fee SCALE: 1" = 1000±

ISSUED FOR PERMITTING NOT FOR CONSTRUCTION

INDEX OF DRAWINGS

- G-100 TITLE SHEET
- G-101 GENERAL NOTES & LEGEND
- V-100 EXISTING CONDITIONS PLAN
- C-100 EXISTING ENVIRONMENTAL RESOURCE PLAN
- C-101 SITE PREPARATION PLAN
- C-102 OVERALL SITE PLAN
- C-103 LAYOUT & MATERIALS PLAN
- C-104 GARAGE LEVEL PLAN
- C-105 GRADING & DRAINAGE PLAN
- C-106 UTILITY PLAN
- L-100 PLANTING PLAN
- C-200-203 CIVIL & LANDSCAPE DETAILS

PREPARED BY:



803 Summer Street Boston, Massachusetts 02127

617 896 4300



GENERAL NOTES

- 1. EXISTING CONDITIONS SURVEY INFORMATION WAS PREPARED BY BSC GROUP, INC. SURVEY IS BASED ON AN ON-THE-GROUND SURVEY CONDUCTED BY BSC GROUP IN DECEMBER 2019-FEBRUARY 2020.
- REVIEW ALL EXISTING CONDITIONS IN THE FIELD AND REPORT ANY DISCREPANCIES BETWEEN PLANS AND
- ACTUAL CONDITIONS TO THE OWNER'S REPRESENTATIVE PRIOR TO STARTING WORK.
- THE LOCATIONS OF UNDERGROUND UTILITIES SHOWN ON THIS PLAN ARE BASED ON THE SURVEY REFERENCED ABOVE. THE CONTRACTOR SHALL CONTACT DIGSAFE AND THE PROPER LOCAL AUTHORITIES OR RESPECTIVE UTILITY COMPANIES TO CONFIRM THE LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK. ANY DAMAGE DUE TO FAILURE OF THE CONTRACTOR TO CONTACT THE PROPER AUTHORITIES SHALL BE BORNE BY THE CONTRACTOR.
- ANY DISCREPANCIES BETWEEN DRAWINGS, SPECIFICATIONS, AND SITE CONDITIONS SHALL BE REPORTED IMMEDIATELY TO THE CONTRACTOR/ENGINEER FOR CLARIFICATION AND RESOLUTION PRIOR TO BIDDING OR CONSTRUCTION.

SITE PREPARATION NOTES

- AREAS DESIGNATED FOR CLEARING SHALL BE CLEARED ONLY.
- 2. THE SUBCONTRACTOR(S) IS/ARE RESPONSIBLE FOR ANY DAMAGE TO EXISTING CONDITIONS TO REMAIN THAT ARE DUE TO SUBCONTRACTOR(S) OPERATIONS.
- ITEMS TO BE REMOVED THAT ARE NOT STOCKPILED FOR LATER REUSE ON THE PROJECT OR DELIVERED TO THE OWNER SHALL BE LEGALLY DISPOSED OF OFF SITE BY THE SUBCONTRACTOR(S).
- 4. THE SUBCONTRACTOR(S) SHALL BE RESPONSIBLE FOR COORDINATING THEIR EFFORTS WITH ALL TRADES. 5. THE CONTRACTOR SHALL COORDINATE ALL ADJUSTMENT OR ABANDONMENT OF UTILITIES WITH THE RESPECTIVE
- UTILITY COMPANY. 6. THE SUBCONTRACTOR(S) SHALL MAINTAIN OR ADJUST TO NEW FINISH GRADE AS NECESSARY ALL UTILITY AND SITE STRUCTURES SUCH AS LIGHT POLES, SIGN POLES, MAN HOLES, CATCH BASINS, HAND HOLES, WATER AND GAS GATES, HYDRANTS, ETC., FROM MAINTAINED UTILITY AND SITE SYSTEMS UNLESS OTHERWISE NOTED OR
- DIRECTED BY THE CONTRACTOR/ENGINEER. TEMPORARY CONSTRUCTION HAUL ROADS (IF REQUIRED) SHALL BE EXCAVATED AND THE SUB-BASE COMPACTED TO 95% SPMDD. THE USE OF SEPARATION FABRICS MAY BE USED TO FACILITATE FUTURE REMOVAL AND RECOVERY OF GRANULAR MATERIALS. HAUL ROAD SHALL HAVE AT LEAST 9" OF 6-INCH MINUS STONE AND

EROSION AND SEDIMENT CONTROL MEASURES

SHALL BE MAINTAINED DURING CONSTRUCTION.

- EROSION CONTROL SHALL BE PROVIDED IN ACCORDANCE WITH THE SEQUENCE OF STAGED CONSTRUCTION. THE CONTRACTOR SHALL SUBMIT A DETAILED EROSION CONTROL PLAN INCLUDING SCHEDULE FOR APPROVAL BY THE TOWN OF ARLINGTON. A COPY OF THE APPROVED NPDES - EROSION AND SEDIMENT CONTROL PLAN SHALL BE MAINTAINED ON THE SITE.
- 2. ALL EROSION AND SEDIMENTATION CONTROL MEASURES SHALL BE INSTALLED PRIOR TO ANY SITE EXCAVATION OR DISTURBANCE AND SHALL BE MAINTAINED THROUGHOUT THE CONSTRUCTION PROCESS. THE SMALLEST PRACTICAL AREA OF LAND SHALL BE EXPOSED AT ANY ONE TIME.
- SEDIMENT TRAPS SHALL BE INSTALLED AT DRAINAGE STRUCTURES IN PUBLIC STREET IN THE PROJECT AREA. STRAW BALE BARRIERS AND SILTATION FENCES ARE TO BE MAINTAINED AND CLEANED UNTIL ALL SLOPES HAVE BEEN STABILIZED.
- SEDIMENT BARRIERS SHALL BE INSPECTED AND APPROVED BY THE TOWN OF ARLINGTON BEFORE CONSTRUCTION CAN START.
- STRAW BALES AND MULCH SHALL BE MOWINGS OF ACCEPTABLE HERBACEOUS GROWTH, FREE OF NOXIOUS WEEDS OR WOODY STEMS, AND SHALL BE DRY WHEN INSTALLED.
- 6. THE UNDERSIDE OF STRAW BALES SHOULD BE KEPT IN CLOSE CONTACT (TRENCHED IN 3-INCHES MINIMUM) WITH THE EARTH AND RESET AS NECESSARY.
- DISTURBED AREAS SHALL BE BLANKETED OR SEEDED AND MULCHED AS SOON AS PRACTICAL AFTER CONSTRUCTION ACTIVITIES IN THAT AREA HAVE CONCLUDED. ALL ERODABLE/BARE AREAS SHALL BE BLANKETED OR SEEDED AND MULCHED WITHIN 7 DAYS WITH TEMPORARY EROSION CONTROL SEEDING.
- STABILIZE SLOPES GREATER THAN 3:1 (HORIZONTAL:VERTICAL) WITH SEED, SECURED GEOTEXTILE FABRIC, SPRAYED COMPOST BLANKET, OR RIP-RAP AS REQUIRED TO PREVENT EROSION DURING CONSTRUCTION.
- 9. SEDIMENT BARRIERS SHALL BE CONSTRUCTED AROUND ALL SOIL STOCKPILE AREAS.
- 10. CLEAN OUT DRAINAGE FEATURES AND STRUCTURES AFTER COMPLETION OF CONSTRUCTION.
- 11. SEDIMENT COLLECTED DURING CONSTRUCTION BY THE VARIOUS TEMPORARY EROSION CONTROL SYSTEMS SHALL BE DISPOSED OF ON THE SITE ON A REGULAR BASIS. SEDIMENT SHALL BE REMOVED FROM EROSION CONTROL SYSTEMS WHEN THE HEIGHT OF THE SEDIMENT EXCEEDS ONE-HALF OF THE HEIGHT OF THE SEDIMENT CONTROL MEASURE.
- 12. AFTER ALL DISTURBED AREAS HAVE BEEN STABILIZED. THE SUBCONTRACTOR(S) SHALL REMOVE ALL TEMPORARY EROSION CONTROL MEASURES AT THE CONTRACTOR/ENGINEER DIRECTION.
- 13. AFTER THE REMOVAL OF TEMPORARY EROSION CONTROL MEASURES. THE SUBCONTRACTOR(S) SHALL GRADE AND SEED AREA OF TEMPORARY EROSION CONTROL MEASURE.
- 14. DAMAGED OR DETERIORATED ITEMS WILL BE REPAIRED IMMEDIATELY AFTER IDENTIFICATION OR AS DIRECTED BY THE CONTRACTOR/ENGINEER. 15. THE CONTRACTOR'S SITE SUPERINTENDENT WILL BE RESPONSIBLE FOR DAILY INSPECTIONS, MAINTENANCE, AND
- REPAIR ACTIVITIES. THE CONTRACTOR SHALL INSPECT EROSION CONTROL MEASURES EVERY SEVEN (7) CALENDAR DAYS OR ONCE EVERY FOURTEEN (14) DAYS AND WITHIN 24 HOURS OF ANY STORM EXCEEDING 1/2 INCH PRECIPITATION. DAMAGED AND INEFFECTIVE EROSION CONTROL MEASURES SHALL BE REPAIRED OR REPLACED WITHIN 48 HOURS.
- 16. PIPE OUTLETS (IF ANY) SHALL BE STABILIZED WITH STONE.
- 17. TEMPORARY SEEDING SHALL BE AT A RATE OF 45 LBS PER ACRE. ERODABLE AREAS OUTSIDE AND DOWN SLOPE FROM THE CONSTRUCTION LIMITS SHALL BE SIMILARLY SEEDED.
- 18. WATER PUMPED OR OTHERWISE DISCHARGED FROM THE SITE DURING CONSTRUCTION DEWATERING SHALL BE FILTERED. DEWATERING PLAN SHALL BE SUBMITTED FOR APPROVAL BY THE ENGINEER.
- 19. WHEN TEMPORARY DRAINAGE IS ESTABLISHED, EROSION/SEDIMENTATION CONTROL MEASURES MAY BE REQUIRED BY CONTRACTOR/ENGINEER.
- 20. GRAVEL CONSTRUCTION ROADS AND CONSTRUCTION PARKING AREAS OF SUFFICIENT WIDTH AND LENGTH, AND VEHICLE WASH DOWN FACILITIES, SHALL BE PROVIDED TO PREVENT SOIL FROM BEING TRACKED ONTO PUBLIC OR PRIVATE ROADWAYS. ANY SOIL REACHING A PUBLIC OR PRIVATE ROADWAY SHALL BE REMOVED BEFORE THE END OF EACH WORKDAY AND AS NEEDED.
- 21. NECESSARY MEASURES SHALL BE TAKEN TO CONTAIN ANY FUEL OR POLLUTION RUNOFF. LEAKING EQUIPMENT OR SUPPLIES SHALL BE IMMEDIATELY REPAIRED OR REMOVED FROM THE SITE.
- 22. THE COST OF REPAIRING OR REMOVING SEDIMENT FROM EROSION CONTROL SYSTEMS SHALL BE INCLUDED IN THE CONTRACT UNIT PRICE FOR THE APPLICABLE EROSION CONTROL ITEM.
- 23. ALL EROSION CONTROL MEASURES SHALL BE KEPT OPERATIONAL AND MAINTAINED CONTINUOUSLY THROUGHOUT THE PERIOD OF LAND DISTURBANCE UNTIL PERMANENT SEDIMENT AND EROSION CONTROL MEASURES ARE OPERATIONAL. CONTRACTOR SHALL PROVIDE TO THE CONSERVATION COMMISSION MEASURES (EROSION AND SEDIMENTAITON CONTROL) FOR WORK DURING WINTER CONDITIONS.
- 24. CONTRACTOR SHALL SPRAY WATER FROM A WATER TRUCK ON DRY AND WINDY DAYS TO PREVENT DUST FROM FORMING.
- 25. EROSION CONTROL MEASURES AS SHOWN ON THESE DRAWINGS IS INTENDED TO CONVEY MINIMUM REQUIREMENTS. THE CONTRACTOR SHALL IMPLEMENT ADDITIONAL MEASURES AS NECESSARY TO PREVENT SOIL EROSION AND TO COMPLY WITH THE PROJECT'S STORMWATER POLLUTION PREVENTION PLAN.
- 26. SOILS ON SLOPES THAT ARE 3:1 OR STEEPER SHOULD BE ROUGHENED PER THE EPA'S NPDES SOIL ROUGHENING FACT SHEET IF THEY ARE TO BE SEEDED WITHIN 2 WEEKS OF DISTURBANCE. IF NOT, EROSION

CONTROL BLANKETS SHOULD BE INSTALLED ON THESE SLOPES.

LAYOUT AND MATERIAL NOTES

- 1. THE FOLLOWING LAYOUT CRITERIA SHALL CONTROL UNLESS OTHERWISE NOTED ON THE PLAN: a. ALL TIES TO PROPERTY LINES ARE PERPENDICULAR TO THE PROPERTY LINE UNLESS OTHERWISE NOTED. b. DISTANCES AND DIMENSIONS ARE IN DECIMAL FEET.
- 2. SCREENED IMAGES SHOW EXISTING CONDITIONS. WHERE EXISTING CONDITIONS LIE UNDER OR ARE IMPINGED UPON BY PROPOSED BUILDINGS AND/OR SITE ELEMENTS, THE EXISTING CONDITION WILL BE REMOVED, ABANDONED AND/OR CAPPED OR DEMOLISHED AS REQUIRED. AMBIGUITIES IN THE PLANS SHALL BE CLARIFIED BY THE ENGINEER OR SITE SUPERINTENDENT.

GRADING AND UTILITY NOTES

- THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE APPLICANT. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK, AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MAY BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ALL UNDERGROUND UTILITIES.
- 2. THE PROJECT APPLICANT SHALL OBTAIN ALL NECESSARY STREET-OPENING PERMITS, WATER AND SEWER CONNECTION PERMITS AND PAY REQUIRED FEES PRIOR TO COMMENCING WORK ON THESE UTILITIES. WHERE AN EXISTING UTILITY IS FOUND TO CONFLICT WITH THE PROPOSED WORK, THE LOCATION, ELEVATION, AND SIZE OF THE UTILITY SHALL BE ACCURATELY DETERMINED WITHOUT DELAY BY COORDINATION WITH THE
- TOWN OF ARLINGTON.
- 4. ALL ARRANGEMENTS FOR THE ALTERATION AND ADJUSTMENT OF ALL GAS, ELECTRIC, TELEPHONE, AND ANY OTHER PRIVATE UTILITIES BY THE UTILITY COMPANIES SHALL BE MADE BY THE PROJECT APPLICANT. 5. AREAS OUTSIDE THE LIMITS OF PROPOSED WORK DISTURBED BY THE CONSTRUCTION SHALL BE RESTORED TO THEIR ORIGINAL CONDITION.
- 6. WHERE PROPOSED GRADES MEET EXISTING GRADES, SUBCONTRACTOR(S) SHALL BLEND GRADES TO PROVIDE A SMOOTH TRANSITION BETWEEN EXISTING AND NEW WORK. PONDING AT TRANSITION AREAS WILL NOT BE ALLOWED.
- 7. POSITIVE DRAINAGE SHALL BE MAINTAINED AWAY FROM ALL STRUCTURES. 8. SUBCONTRACTOR(S) SHALL VERIFY EXISTING GRADES AND NOTIFY THE CONTRACTOR/ENGINEER OF ANY
- DISCREPANCIES. PRIOR TO ANY WORK OVER EXISTING TOWN-OWNED UTILITIES, CONTRACTOR TO EVALUATE CONDITION OF SUBSURFACE UTILITIES PRIOR TO CONSTRUCTION. A POST-CONSTRUCTION EVALUATION SHALL ALSO BE PERFORMED TO IDENTIFY ANY DAMAGE CAUSED DURING CONSTRUCTION.
- 10. ANY INSTALLATION OF UTILITY POLES OR UNDERGROUND CONDUIT WITHIN THE PUBLIC RIGHT-OF-WAY WILL REQUIRE A GRANT OF LOCATION FROM THE BOARD OF SELECTMEN.

PLANTING NOTES

- MAINTENANCE SHALL BEGIN IMMEDIATELY AFTER PLANTING AND WILL CONTINUE UNTIL FINAL WRITTEN ACCEPTANCE OF PLANT MATERIAL.
- 2. MAINTAIN POSITIVE DRAINAGE AWAY FROM ALL BUILDING FOUNDATIONS AND STRUCTURES. 3. MAXIMUM SLOPE WITHIN DISTURBED AREAS SHALL NOT EXCEED 3:1, UNLESS OTHERWISE NOTED. 4. THE LANDSCAPE CONTRACTOR SHALL SUPPLY ALL PLANT MATERIALS IN QUANTITIES SUFFICIENT TO COMPLETE
- PLANTINGS SHOWN ON THE DRAWINGS.
- ASSOCIATION.
- 6. PLANTS SHALL BEAR THE SAME RELATIONSHIP TO FINISH GRADE AS TO ORIGINAL GRADES BEFORE DIGGING. PLANTS TO BE BALLED IN BURLAP OR CONTAINERIZED.
- 8. AREAS PLANTED WITH EVERGREEN TREES SHALL BE COVERED WITH A MINIMUM 3" OF MULCH. MULCH FOR PLANTED AREAS TO BE AGED PINE BARK: PARTIALLY DECOMPOSED, DARK BROWN IN COLOR AND FREE OF WOOD CHIPS THICKER THAN 1/4 INCH. 9. THE LANDSCAPE CONTRACTOR SHALL GUARANTEE ALL PLANT MATERIALS FOR ONE (1) FULL YEAR FROM DATE
- OF ACCEPTANCE.
- THE SITE.
- 11. PLANT SPECIES AS INDICATED IN THE PLANT LIST ARE SUGGESTIONS ONLY. FINAL SELECTION OF SPECIES SHALL OCCUR AT THE TIME OF PLANT PURCHASE, DEPENDING ON AVAILABILITY. PLANT SIZE AND QUANTITY SHALL NOT CHANGE WITHOUT APPROVAL OF CONTRACTOR/LANDSCAPE ARCHITECT.

- 5. MATERIALS SHALL CONFORM TO THE GUIDELINES ESTABLISHED BY THE AMERICAN NURSERY AND LANDSCAPE
- 10. PLANT MATERIALS ARE SUBJECT TO THE APPROVAL OF THE LANDSCAPE ARCHITECT, AT THE NURSERY, AND AT

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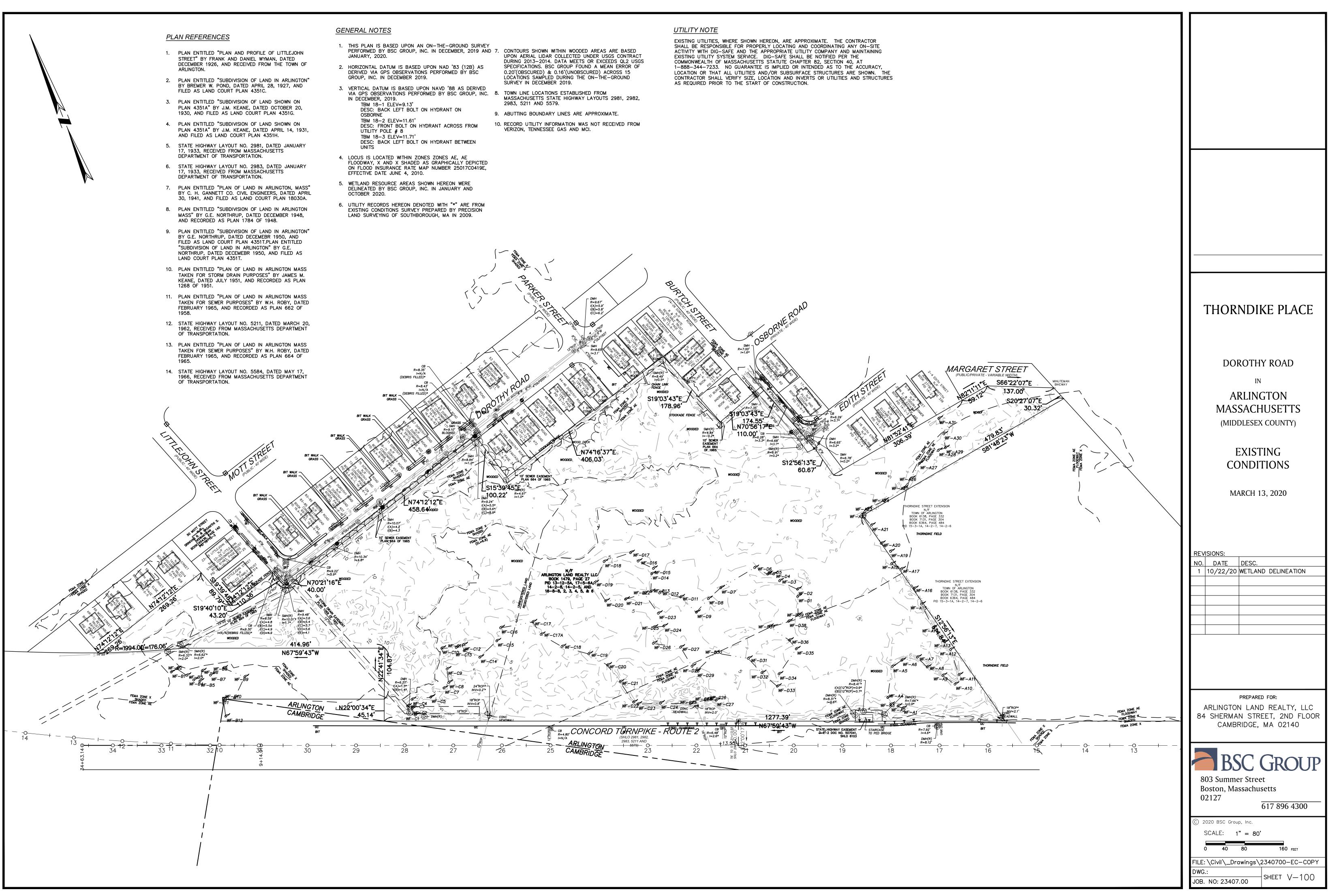
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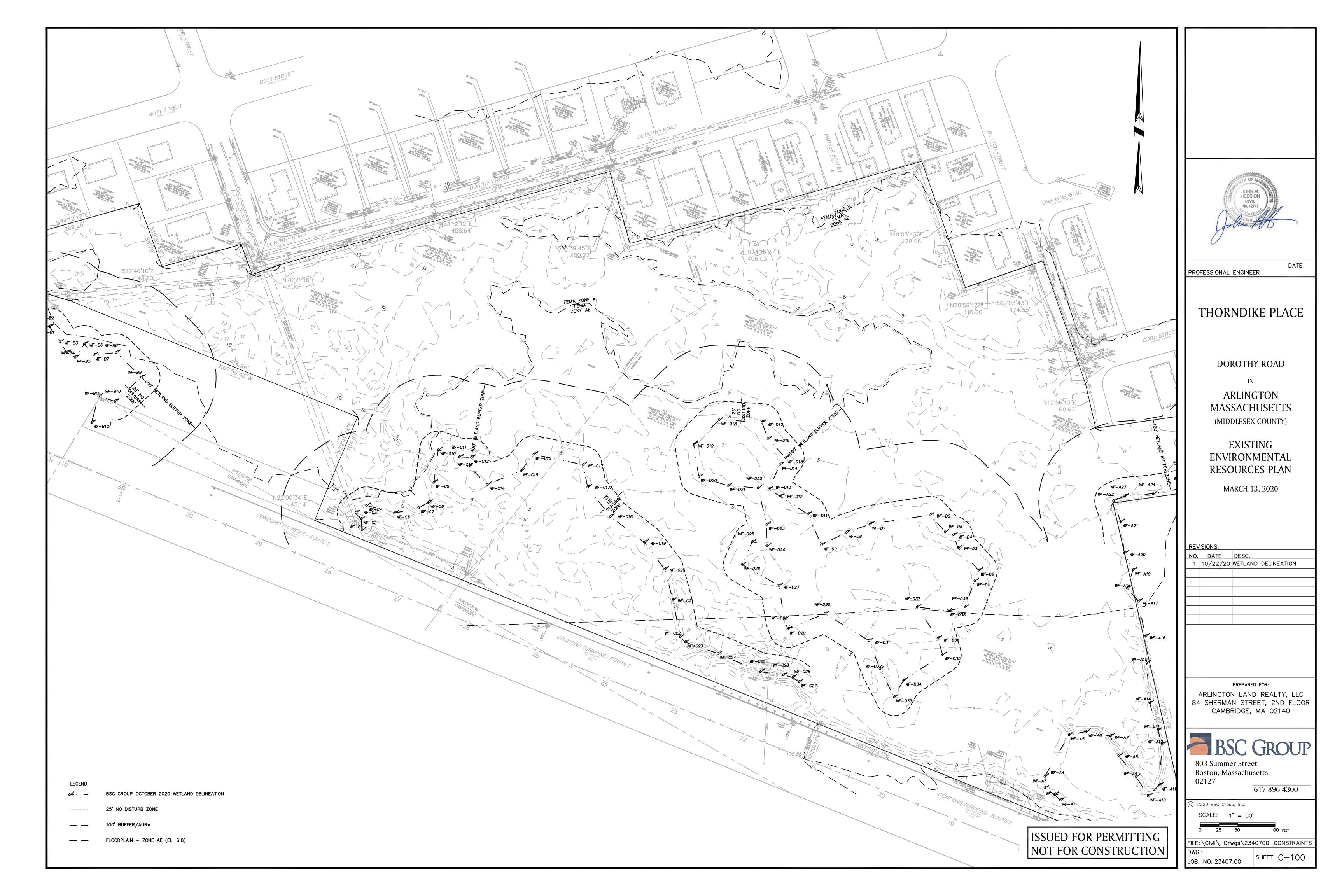
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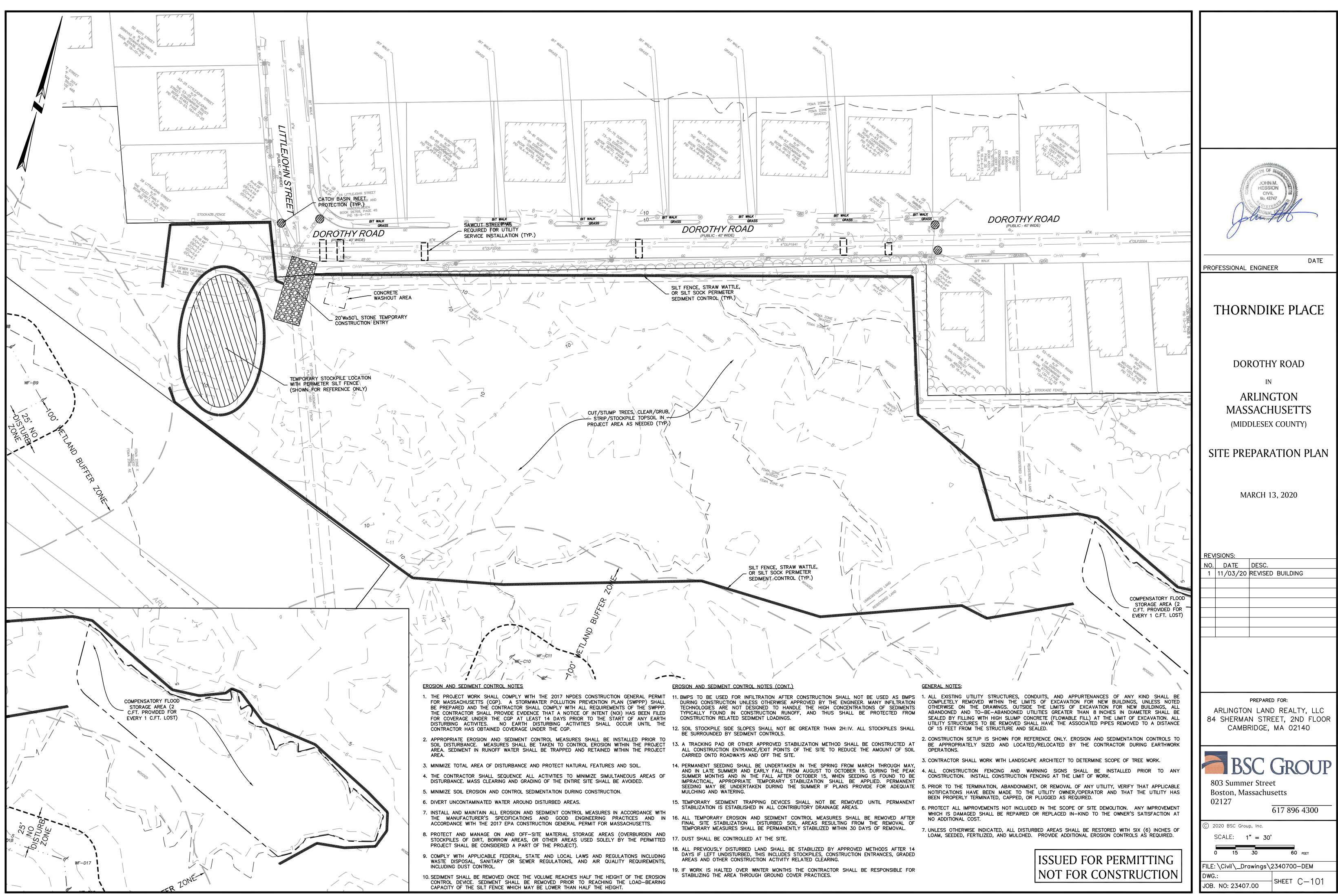
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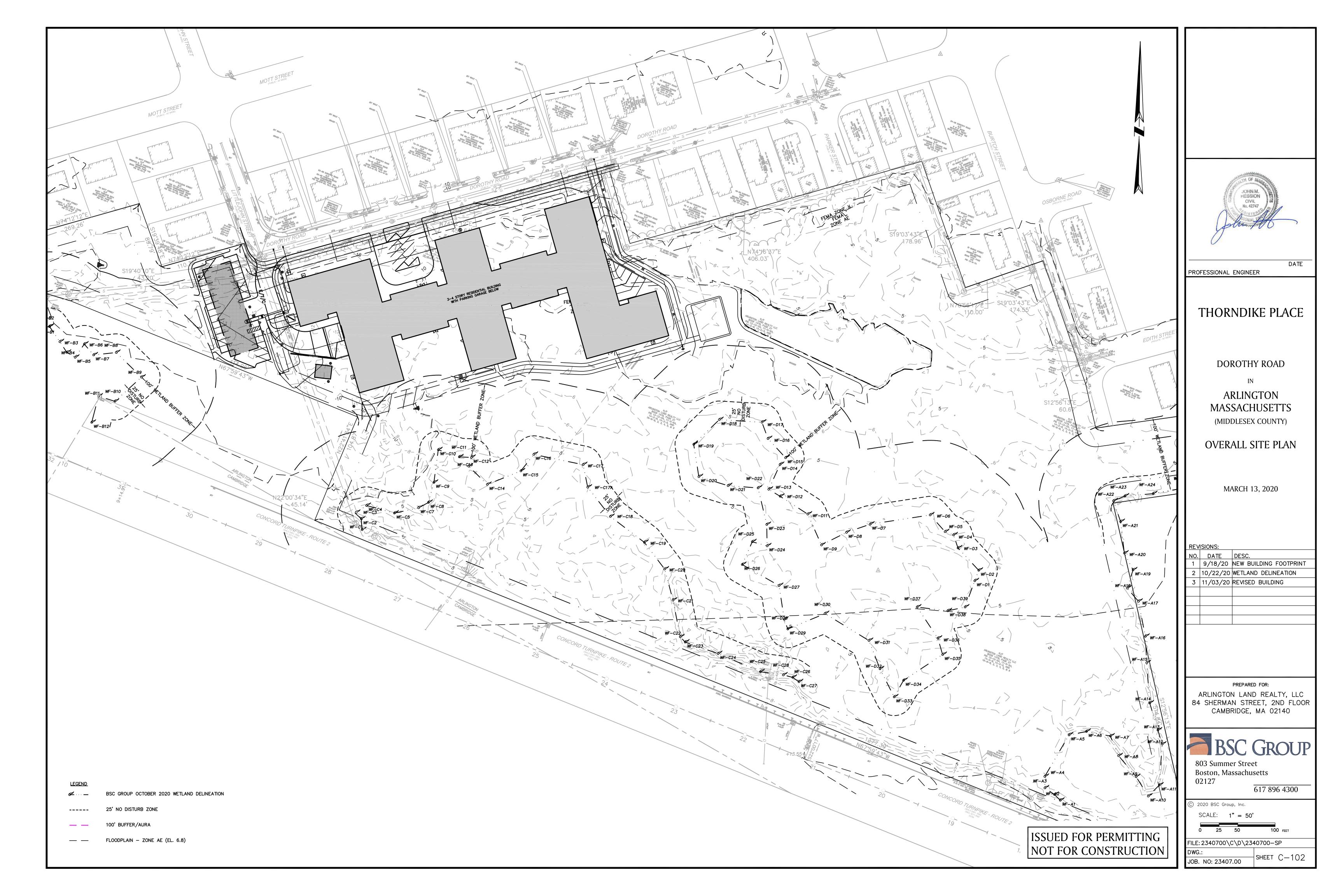
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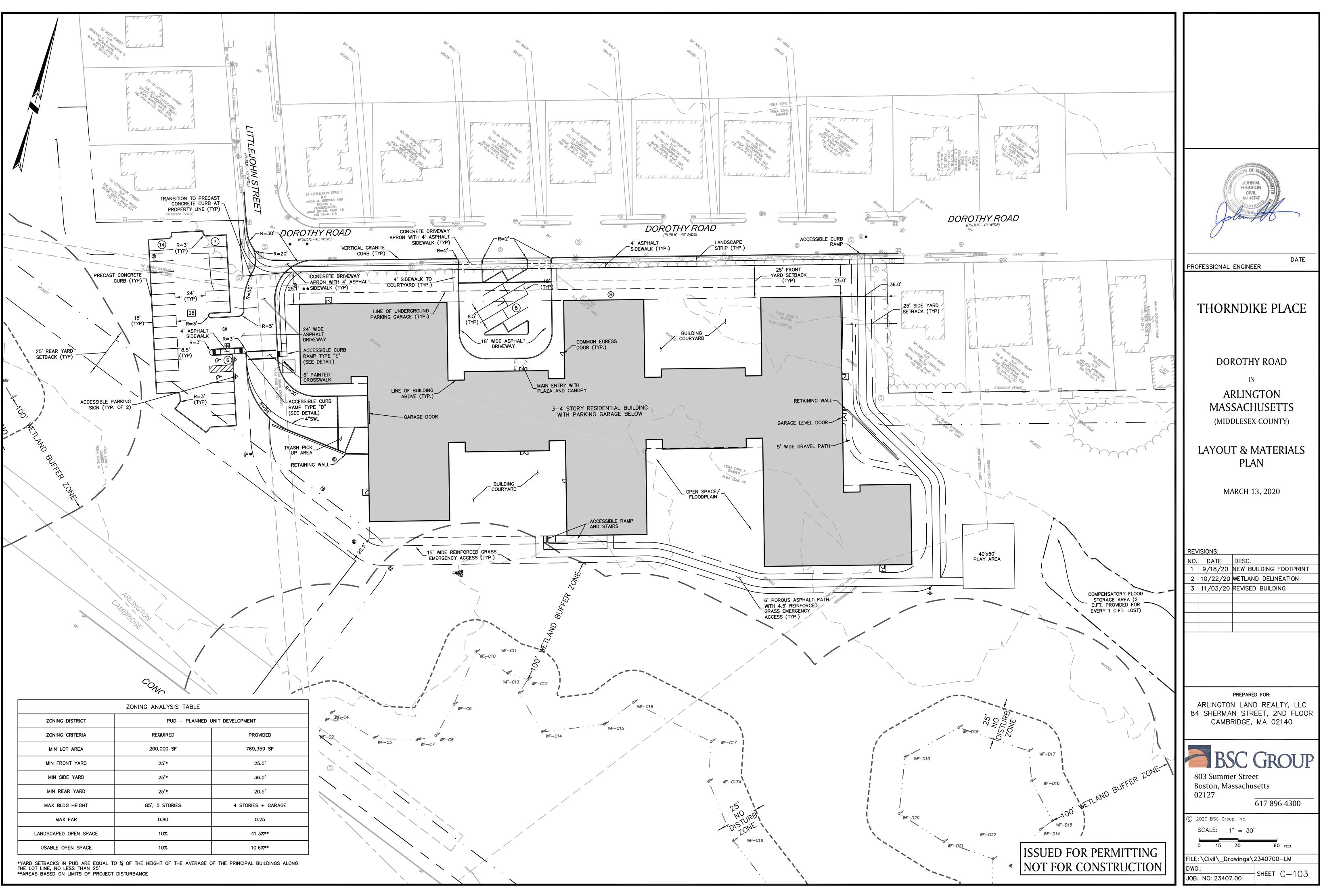
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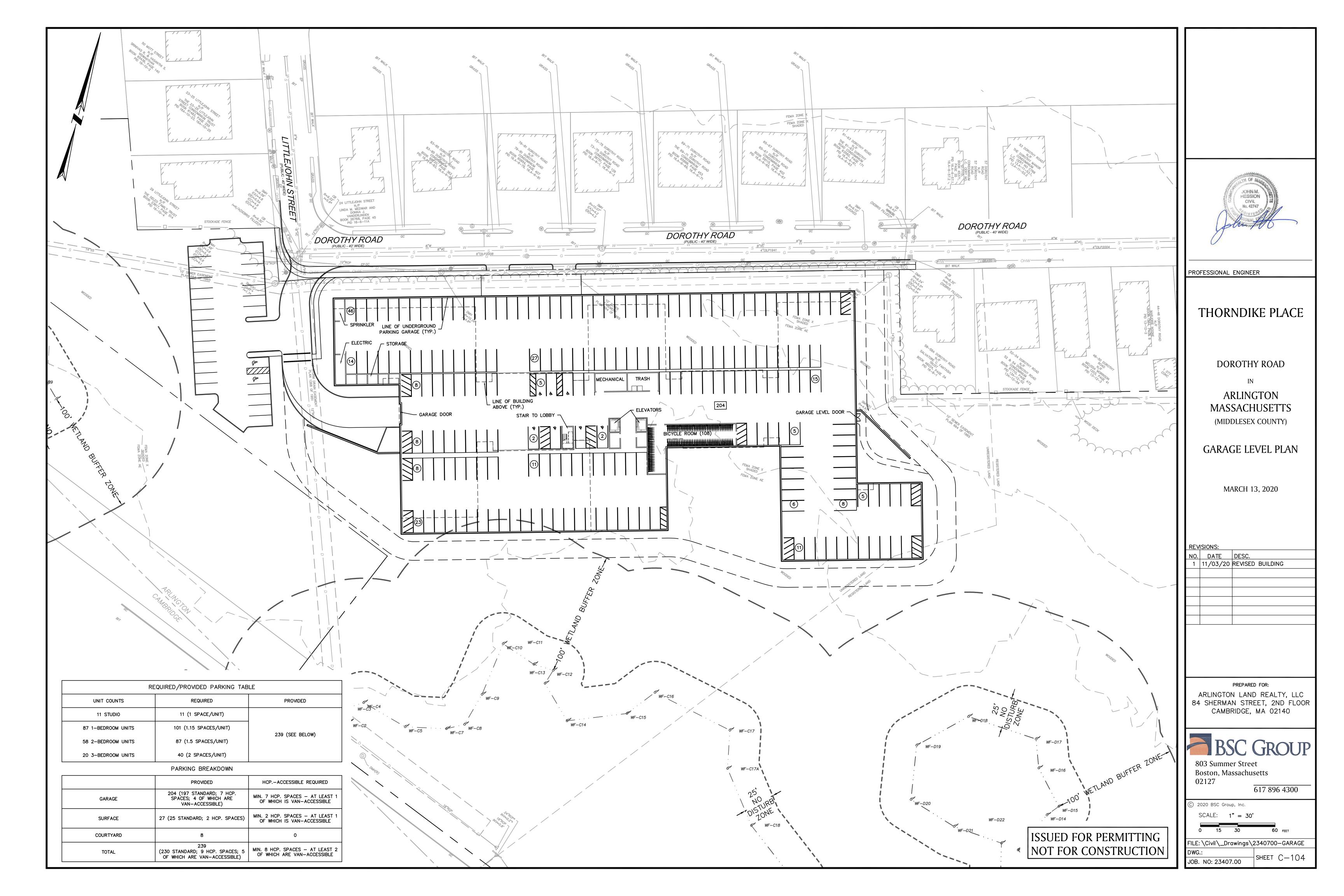


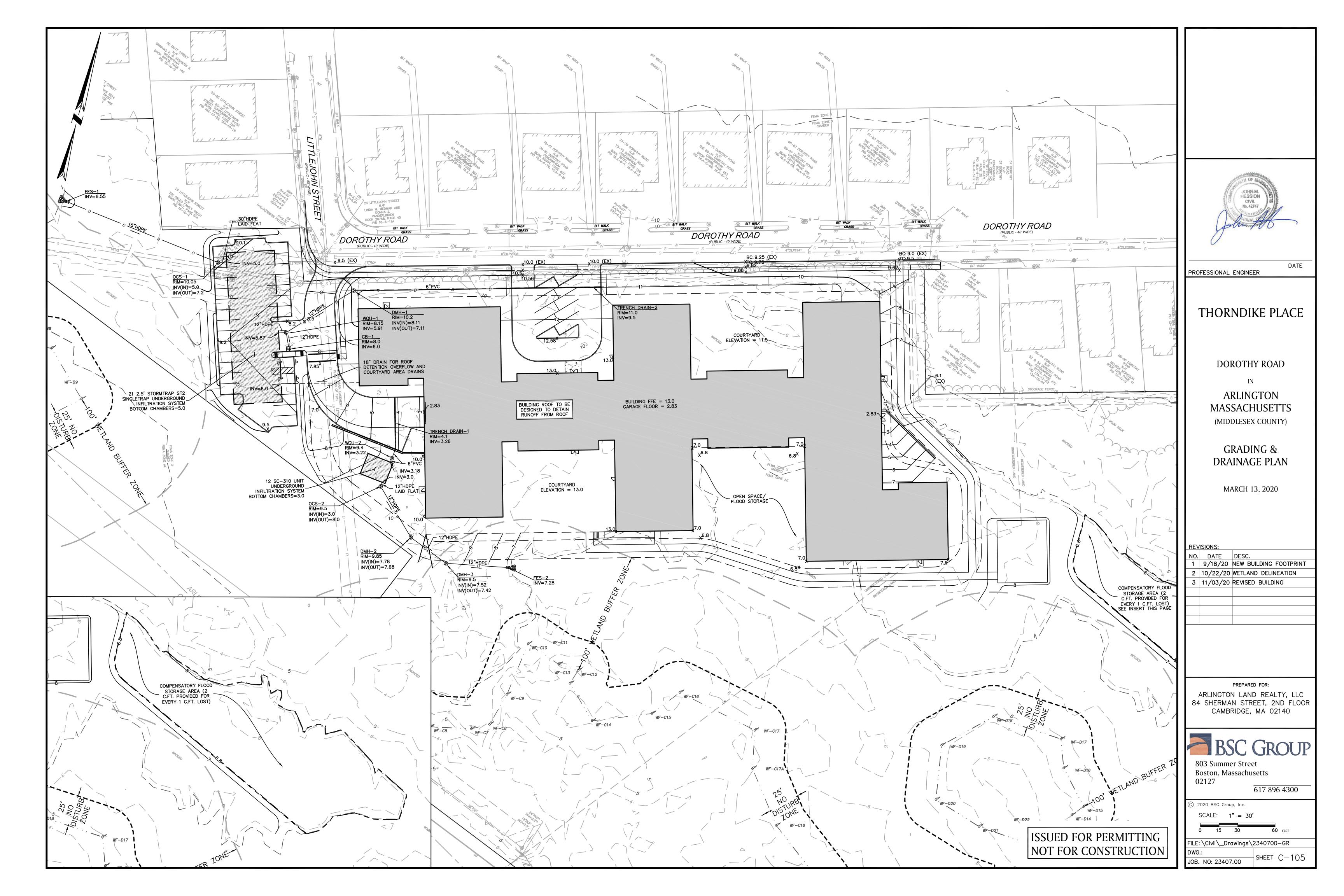


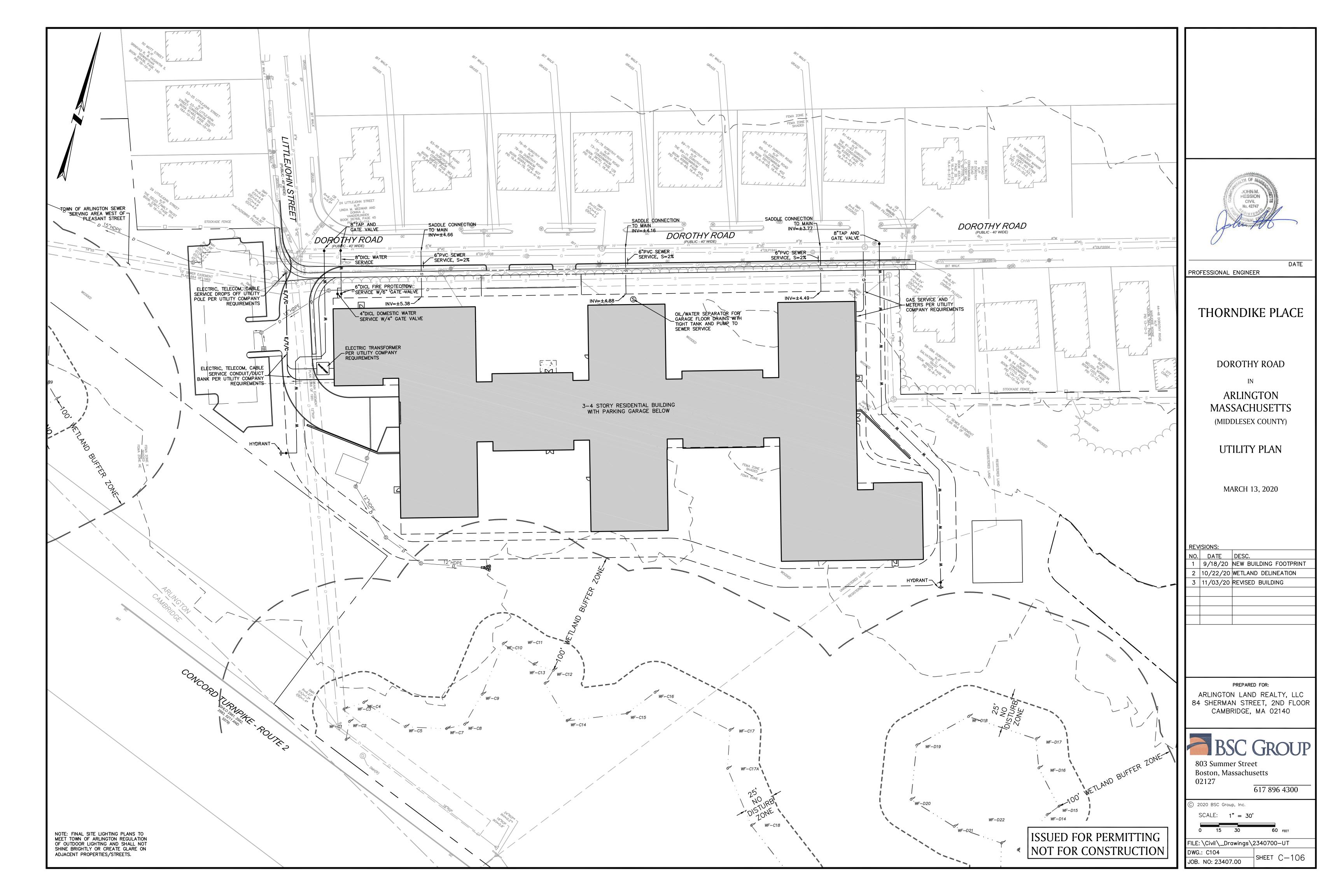




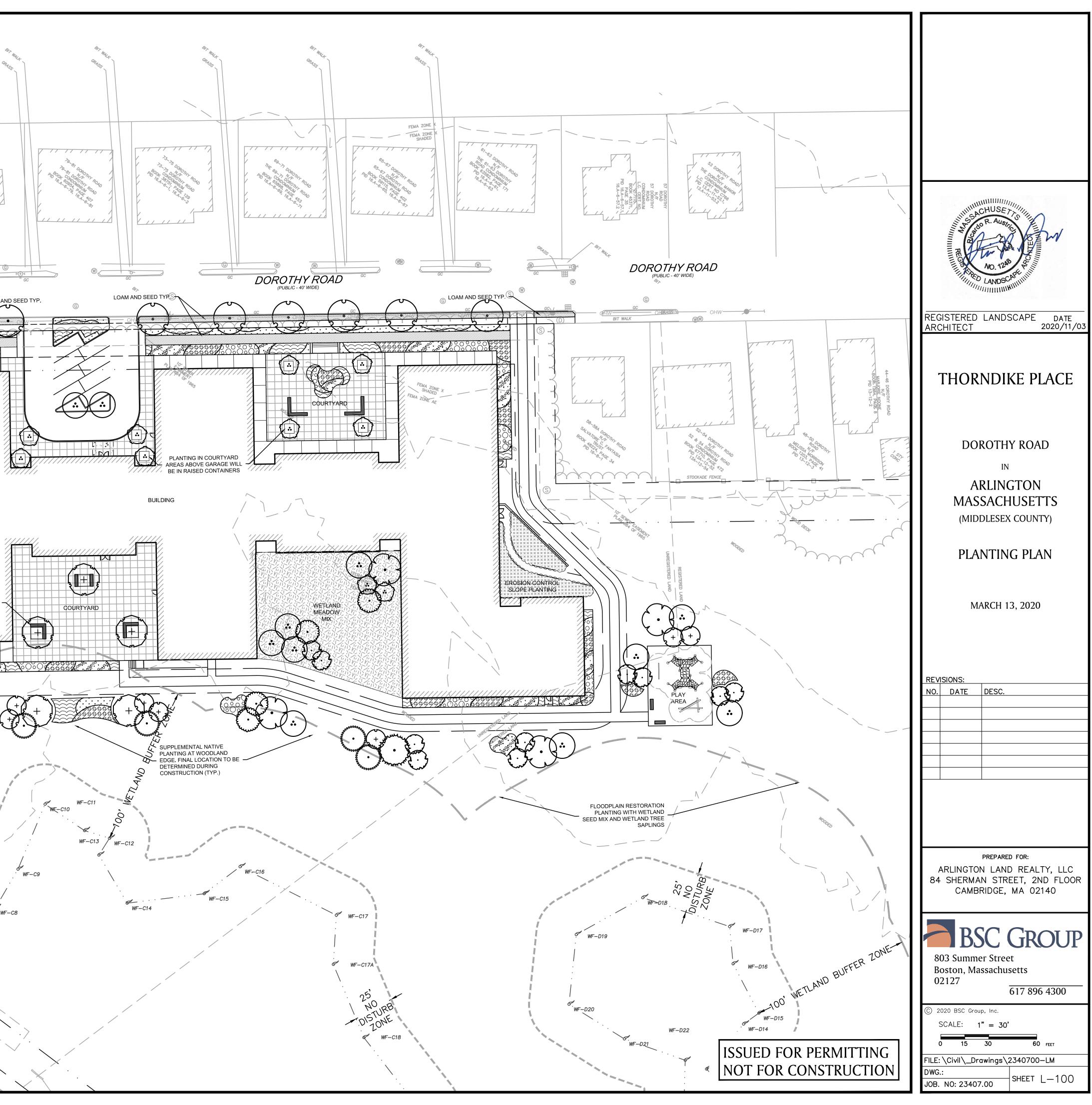


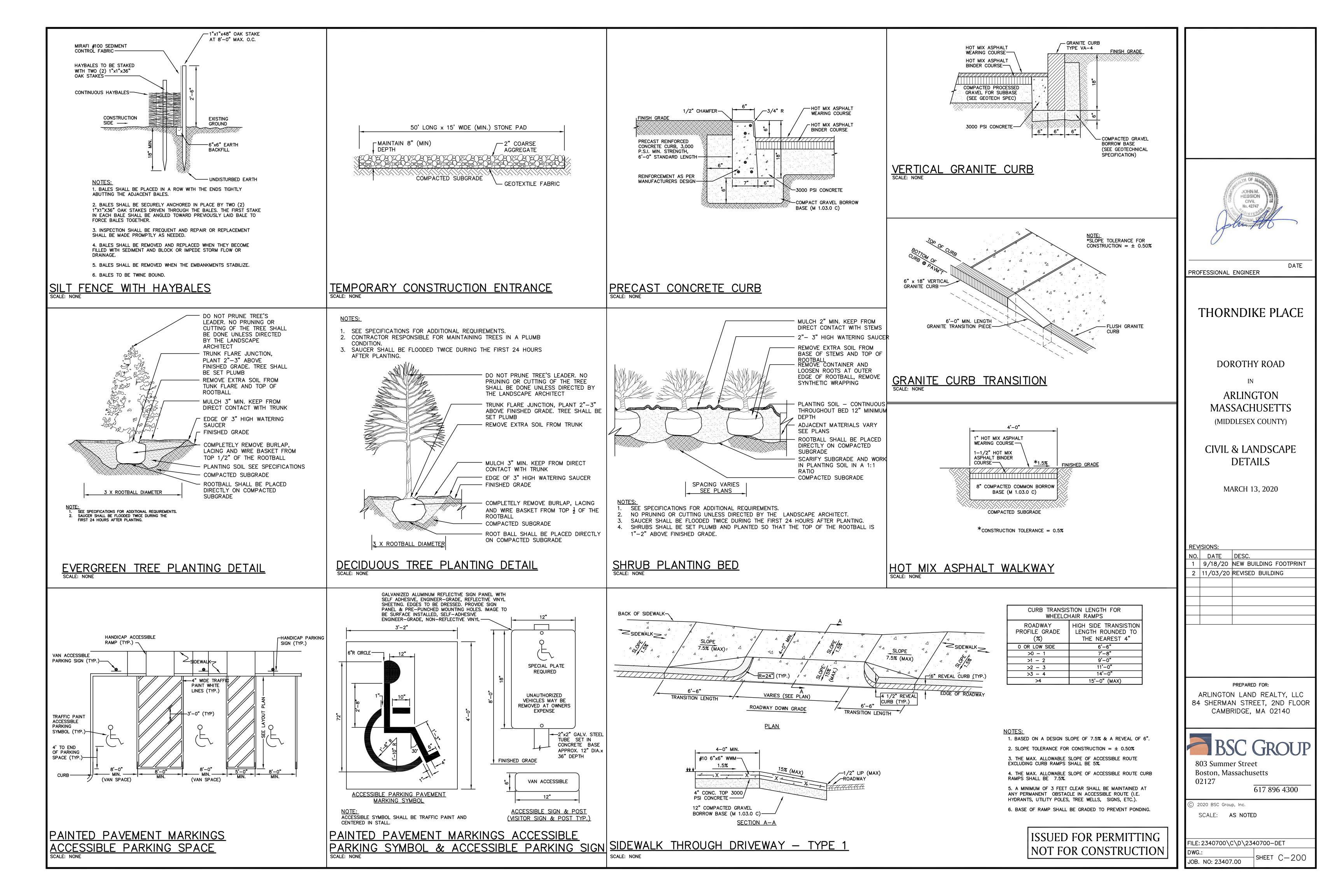


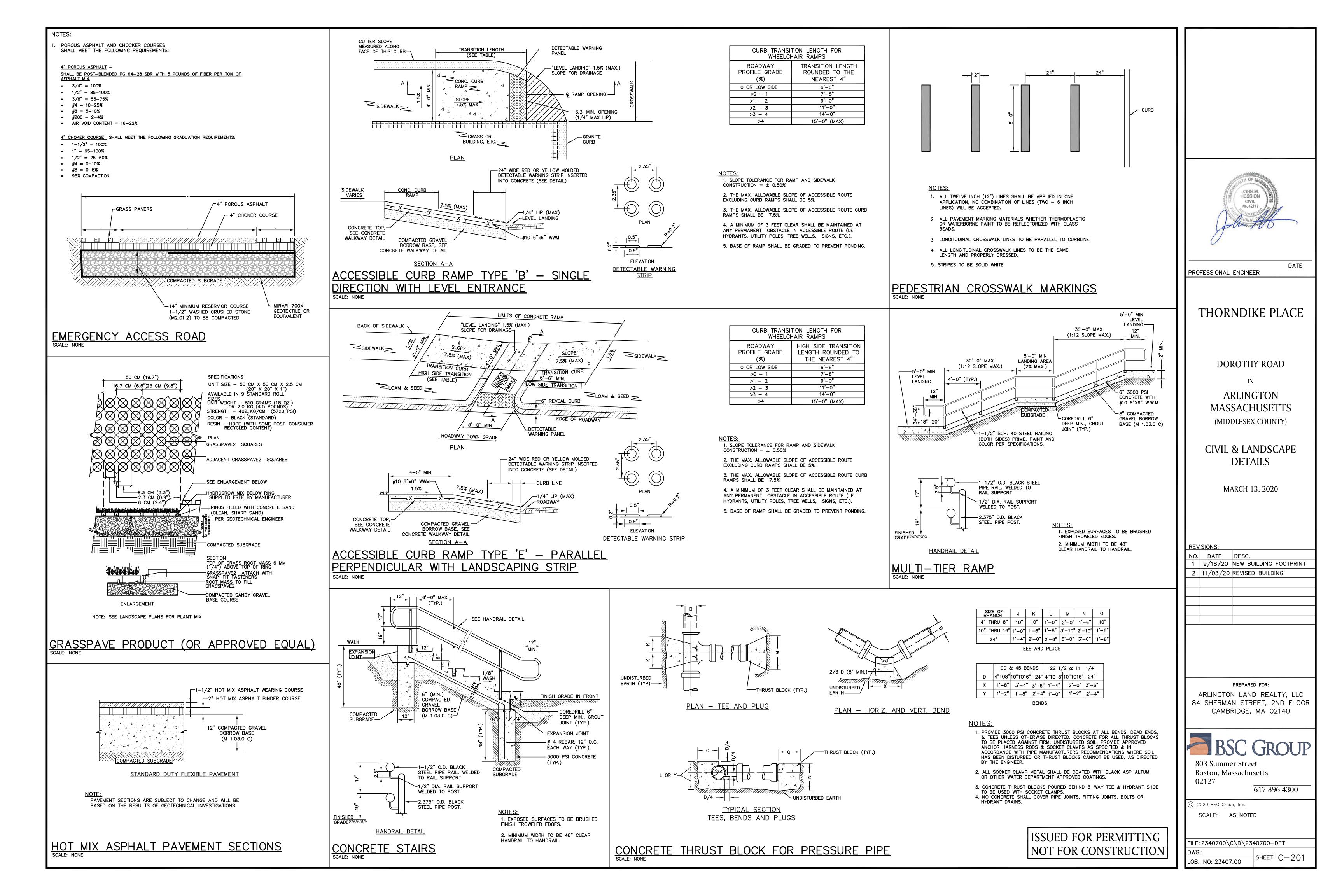


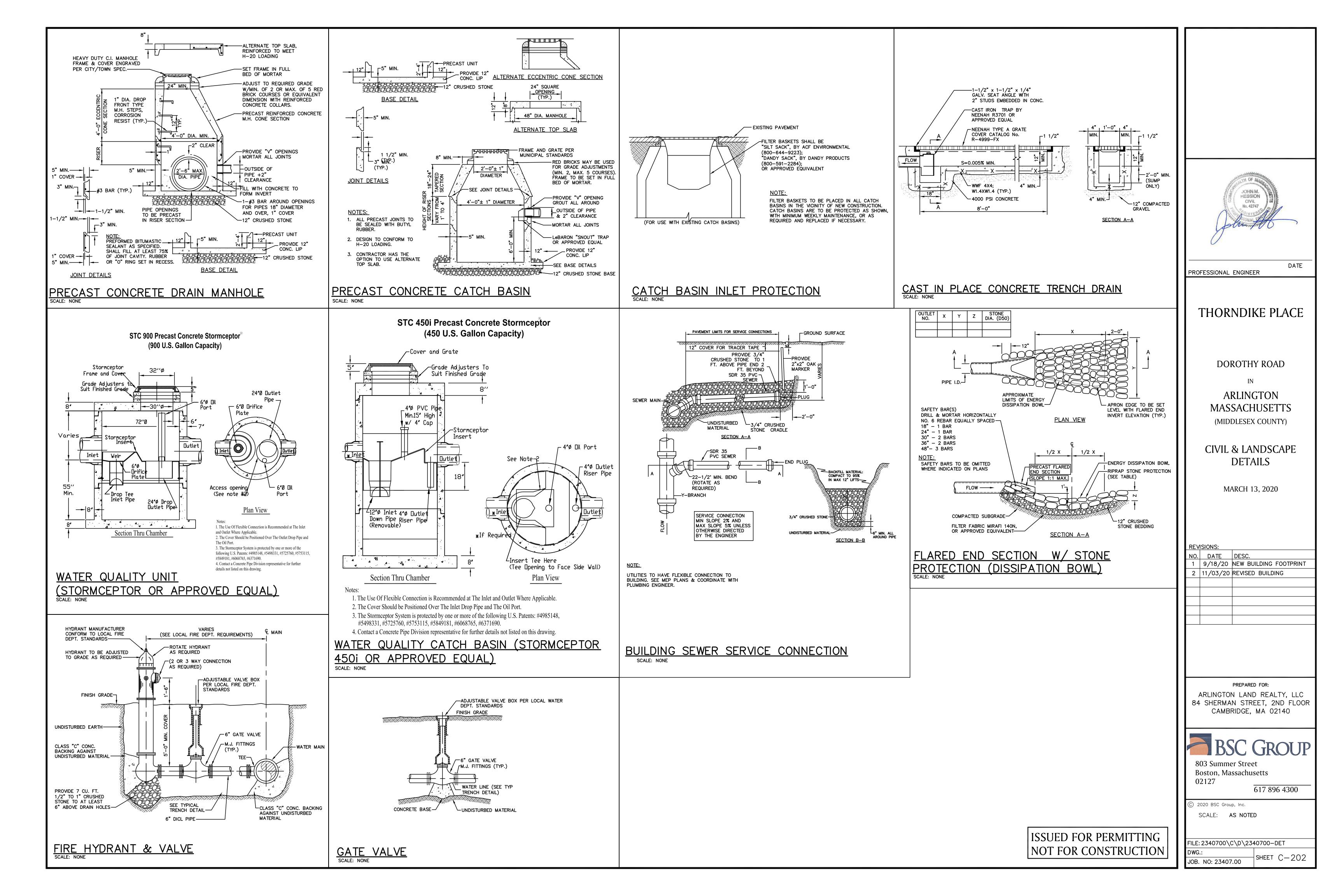


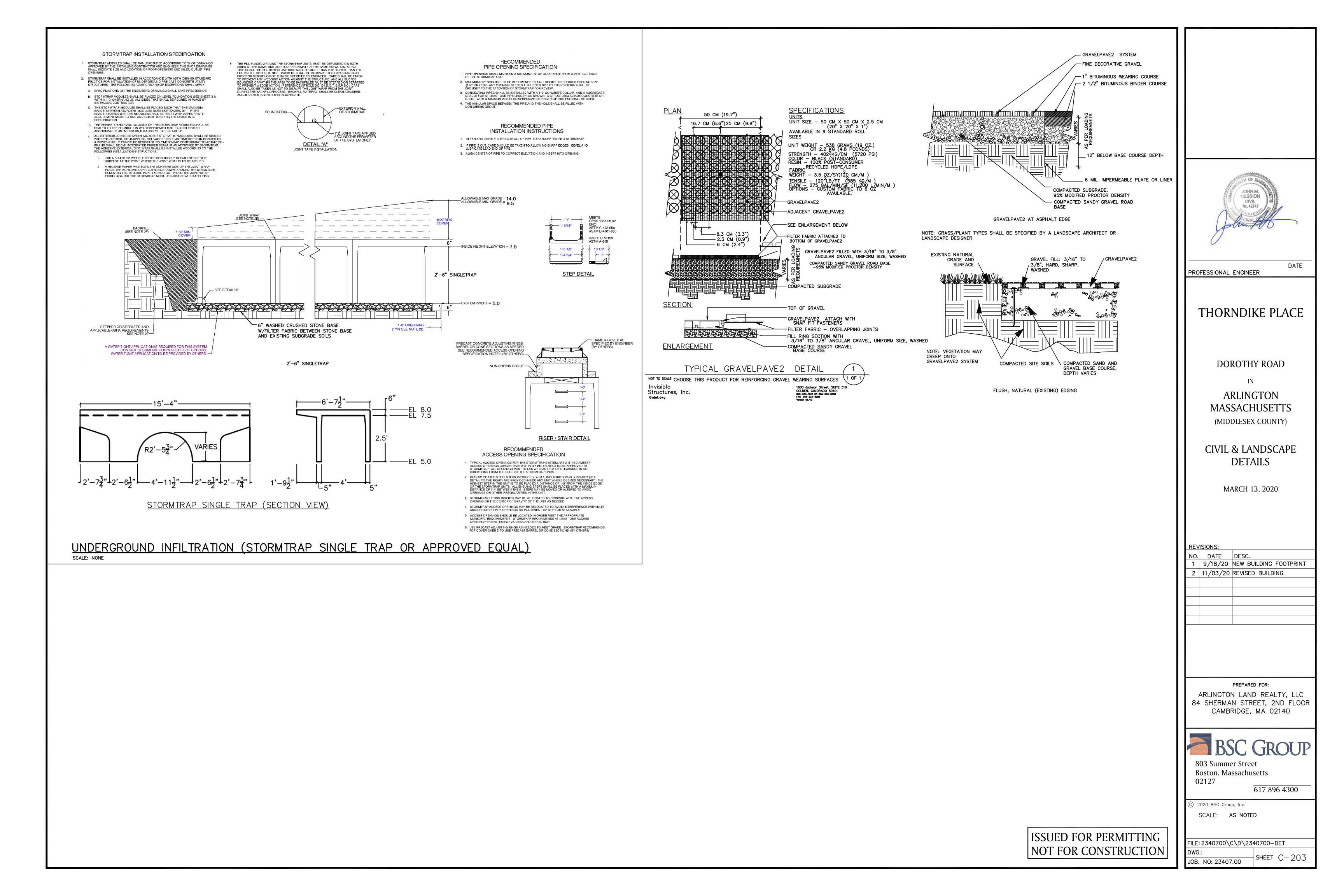
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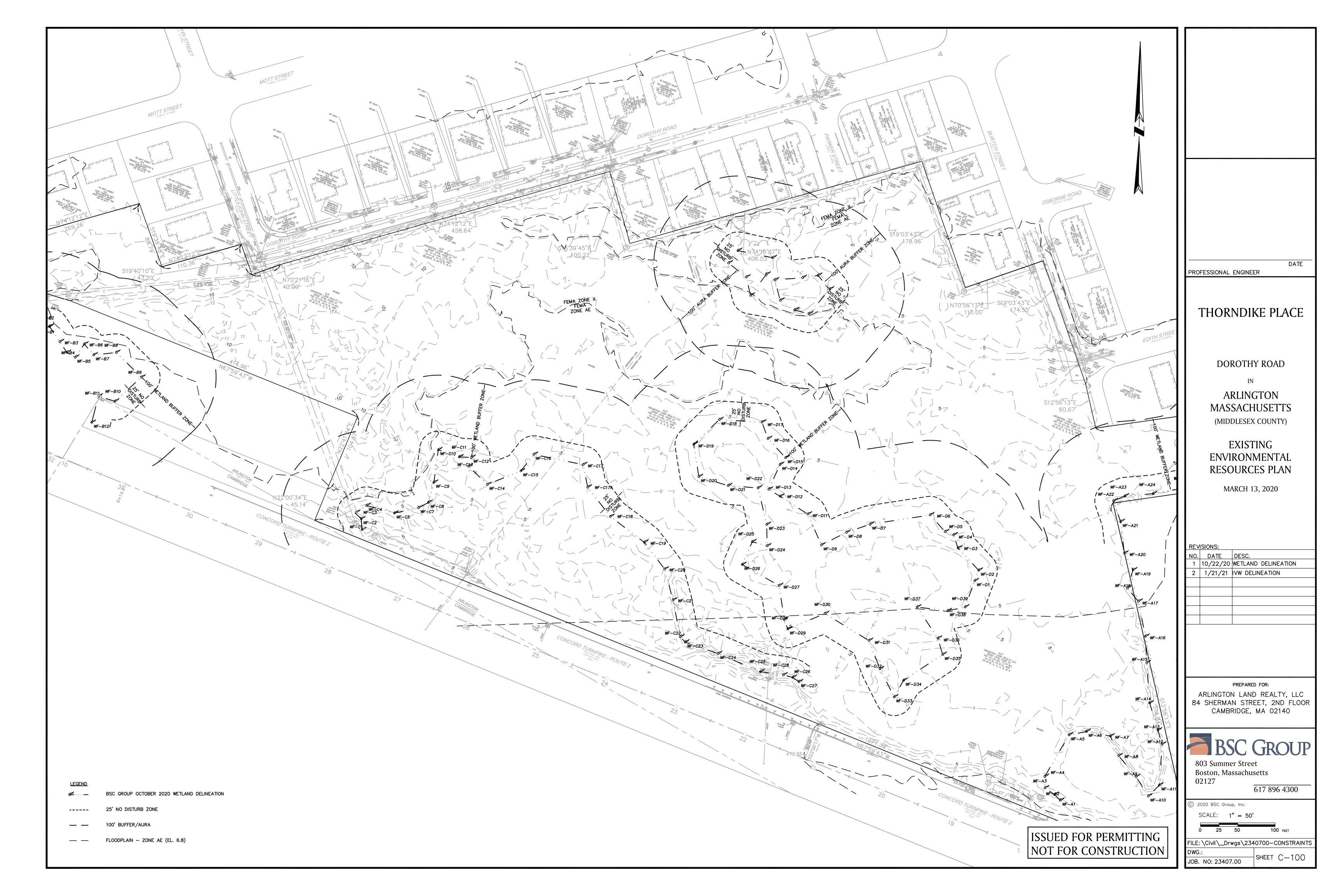


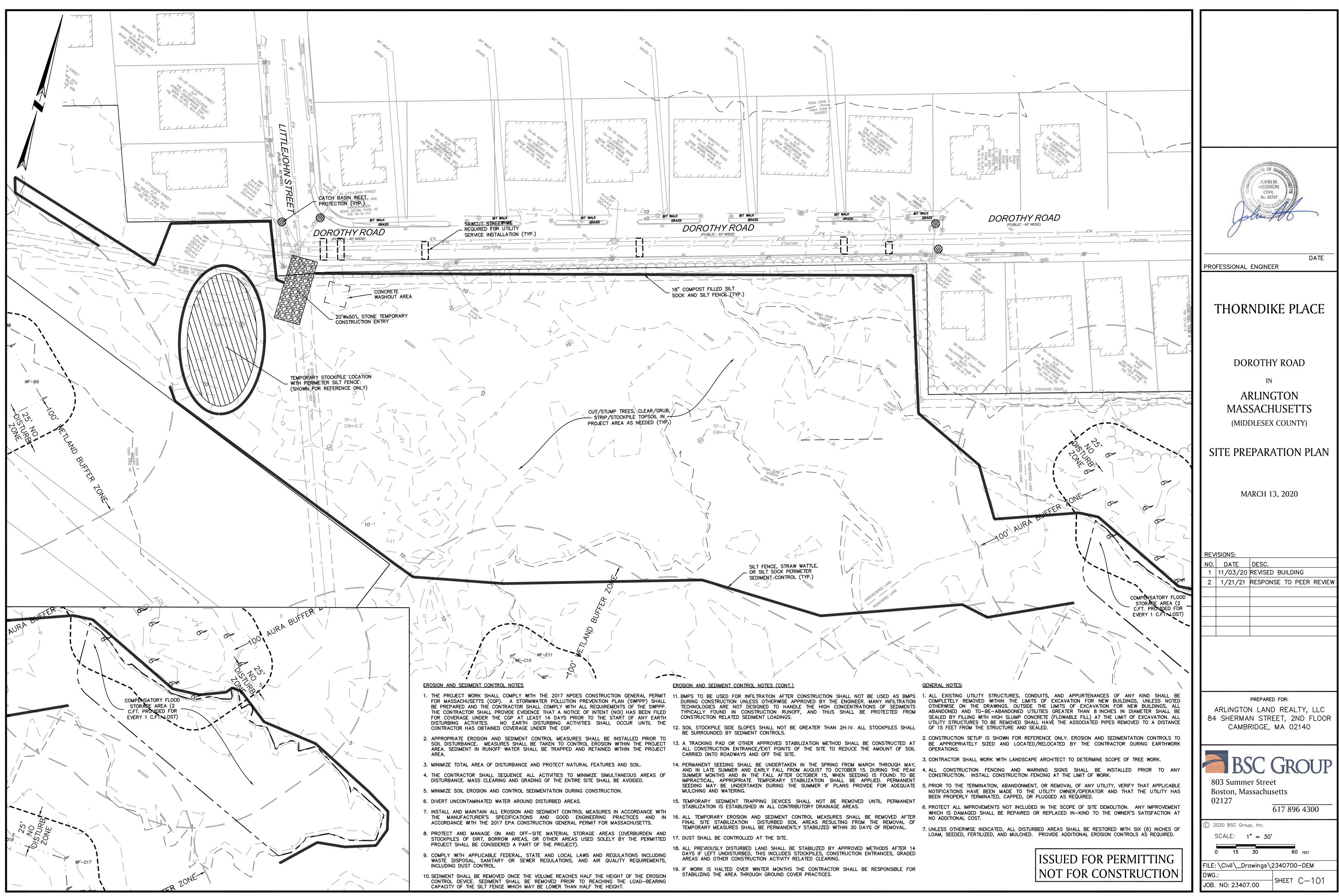


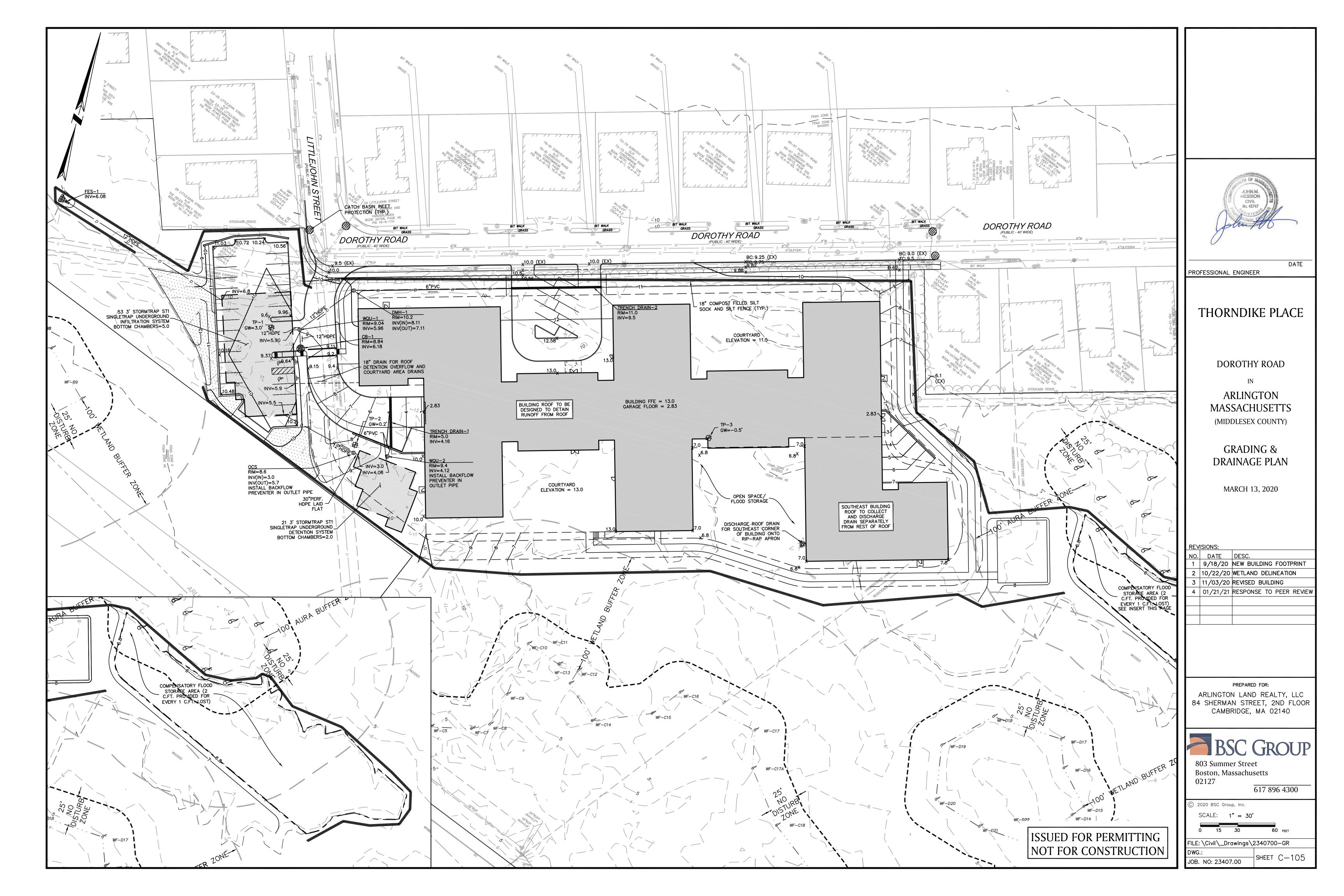


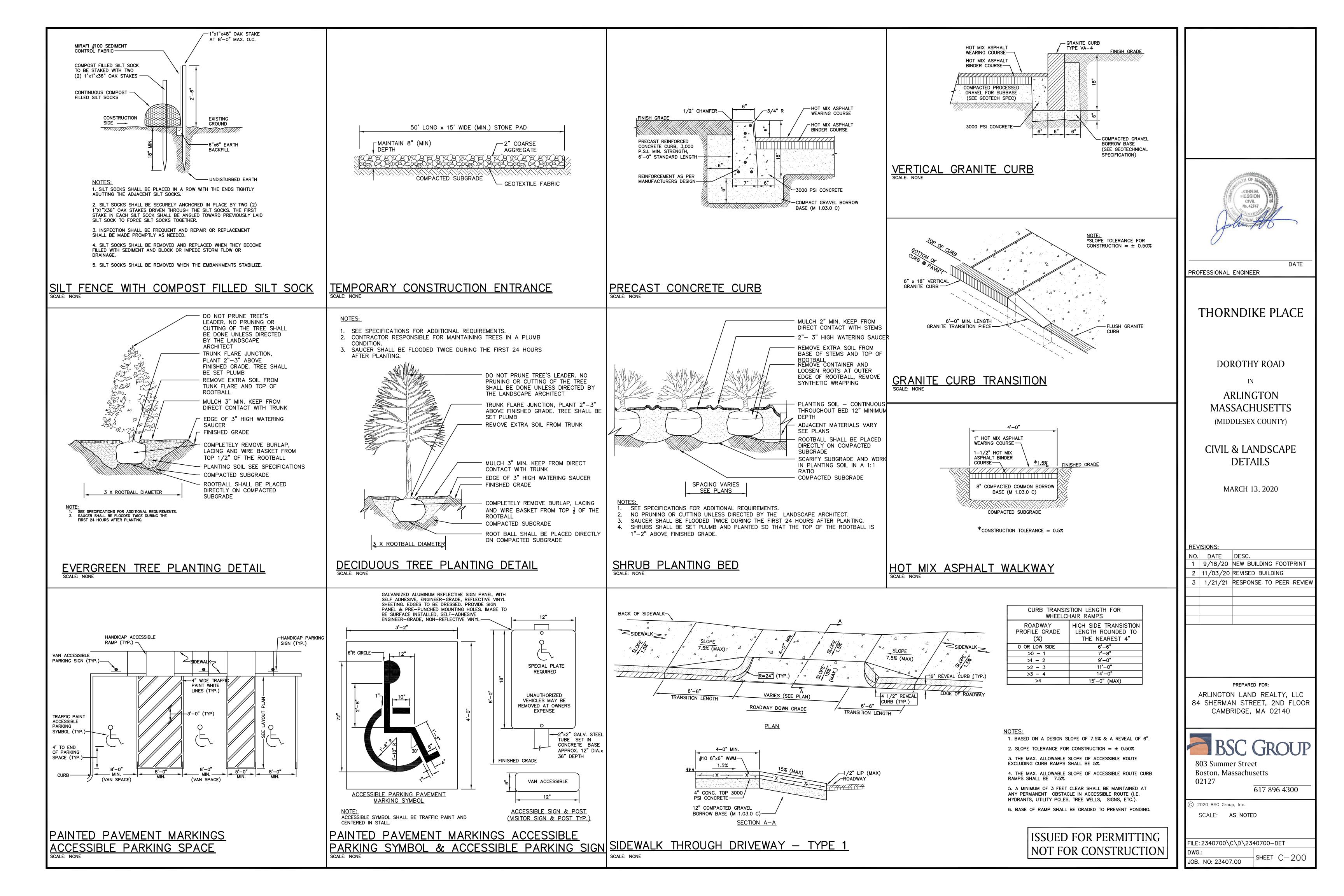


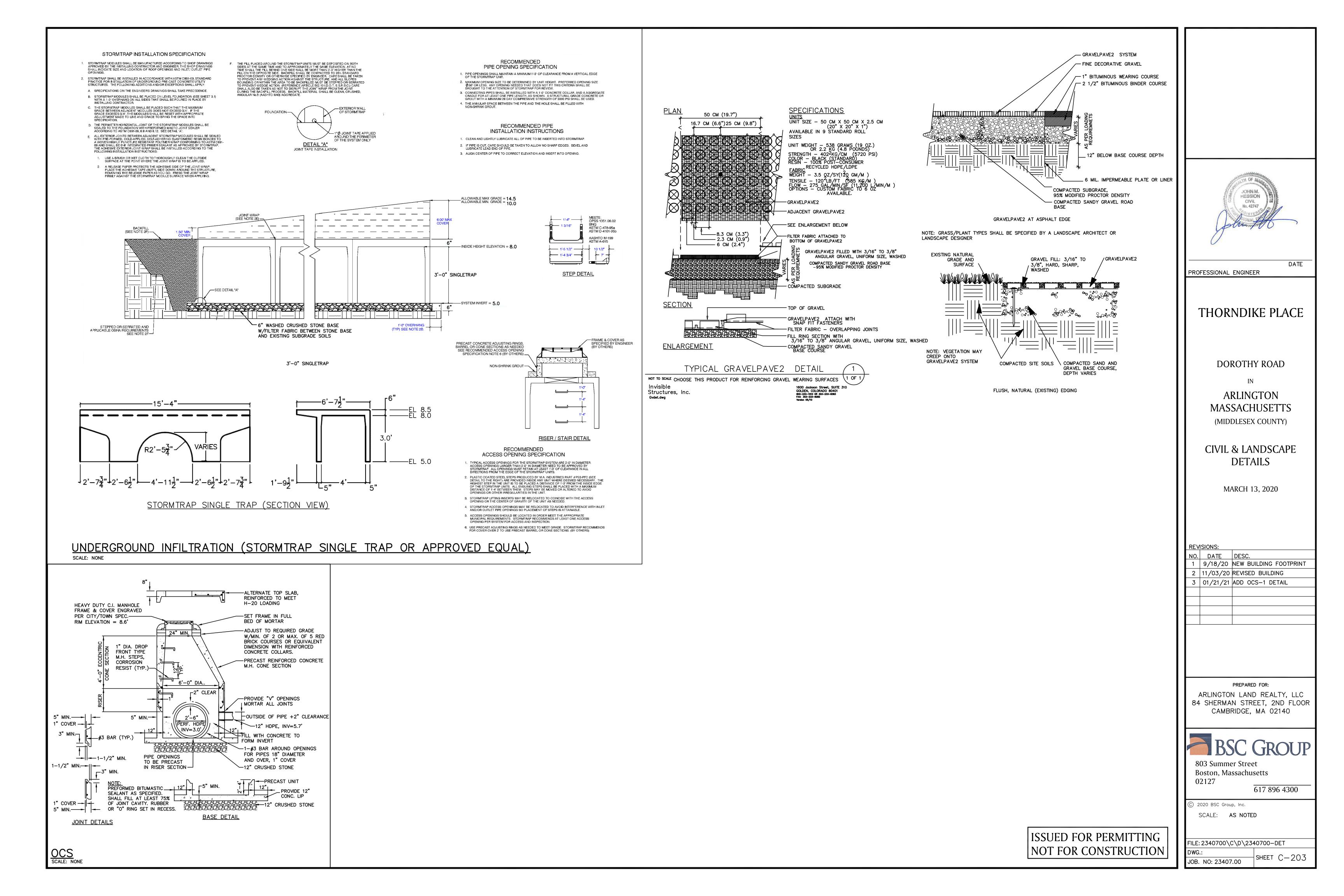














Massachusetts Housing Finance Agency One Beacon Street, Boston, MA 02108

 TEL: 617.854.1000
 www.masshousing.com

 Fax: 617.854.1091
 www.masshousing.com

 Videophone: 857.366.4157 or Relay: 711

January 30, 2019

Abbyville Residential, LLC Abbyville Development, LLC 200 Stonewall Boulevard, Suite 4 Wrentham, MA 02903 Attn: Thomas DiPlacido, Manager

Re: The Preserve at Abbyville; MH ID No. 910 Abbyville Commons; MH ID No. 911 **Project Change**

2.5

Dear Mr. DiPlacido:

We have received your letter of January 16 (attached as <u>Exhibit A</u>) describing a proposed modification to the above-captioned proposed 40B developments located off Lawrence Street in Norfolk, Massachusetts, known as The Preserve at Abbyville and Abbyville Commons (the "Projects"). Both projects received a Determination of Project Eligibility (Site Approval) from MassHousing on March 8, 2018 and are currently under deliberation by the Norfolk Zoning Board of Appeals (the "Board of Appeals") following the filing of an application for a Comprehensive Permit pursuant to M.G.L Chapter 40B.

You have requested a determination as to whether the proposed modifications to each project, including a change in tenure for Abbyville Commons from rental to homeownership, would be considered a Substantial Change in accordance with 760 CMR 56.04 (5).

MassHousing has reviewed the revised plans included and has determined that the proposed changes are, in fact, substantial in accordance with 760 CMR 56.04 (5). MassHousing has also reviewed the revised Site Plan with attention to the project eligibility requirements set forth in 760 CMR 56.04(1). Since compliance with those requirements will not be affected by the proposed changes, MassHousing can confirm that a new Project Eligibility Letter is **not** required in this instance.

You have also inquired about the possibility of merging the two proposed projects (The Preserve at Abbyville and Abbyville Commons) into a single project, now that both projects are proposed to be homeownership. It is MassHousing's interpretation that both The Preserve at Abbyville and Abbyville Commons can be merged as a single project for review by the Town of Norfolk Zoning Board of Appeals as a consolidated project consisting of 176 residential homeownership units. Such combined project would fall below the Large Project provisions described under 760

CMR 56.03(6) since the Town of Norfolk has between 2,500 and 5,000 housing units and, therefore, the number of units proposed under the combined project would be less than the 200-unit Large Project threshold.

It is MassHousing's interpretation of the Comprehensive Permit Regulations that Subsidizing Agencies should normally not update Project Eligibility Letters as a project develops but should, rather, consider whether the initial proposal is eligible for a subsidy program at the project eligibility stage and then consider whether the final proposal is eligible directly before construction at the Final Approval stage. Any other approach could interfere with Chapter 40B's goal of expedited permitting. It is for this reason that a Project Eligibility Letter issued pursuant to the comprehensive permit regulations shall, pursuant to 760 CMR 56.04(6), be conclusive evidence that the project and the applicant have satisfied the project eligibility requirements.

Please be assured that MassHousing will carefully review the approved plans once the Project comes back to us for Final Approval, and at that point will determine whether the approved plans still meet the requirements of the 40B regulations and guidelines.

If you have any further questions regarding this project, please contact Jessica Malcolm in this office at (617) 854-1201.

Very truly yours,

r.C. Maton

Gregory P. Watson Manager, Planning and Programs

cc: Norfolk Zoning Board of Appeals (via e-mail)

Abbyville Residential LLC & Abbyville Development LLC 200 Stonewall Boulevard, Suite 4 Wrentham, Massachusetts, 02093

January 16, 2019

Mr. Gregory Watson Manager of Comprehensive Permit Programs MassHousing One Beacon Street Boston, Massachusetts, 02108

Re: The Preserve at Abbyville (PEL ID#910) and Abbyville Commons, Norfolk (PEL ID# 911)

Greg,

At this time I would like to update you to the status of The Preserve at Abbyville, a Homeownership Comprehensive Project and Abbyville Commons, a Rental Comprehensive Project. Both are located within the same locus in the Town of Norfolk and both were granted Project Eligibility Letters from MassHousing on March 8, 2018. Both PELs are attached.

The Preserve at Abbyville

The Preserve at Abbyville, was granted a Project Eligibility Letter for 148 homes. This was comprised of 32 two-bedroom homes, 60 three-bedroom homes and 56 four-bedroom homes situated on approximately 190.67 acres of land. The project proposed to dedicate 140 acres of the 190.67 acres as Open Space for passive recreation.

The current proposal is 88 detached single family 4-bedroom homes on approximately 185 acres of land. The Open Space is now planned to be 131.60 acres which will still be dedicated for passive recreation.

The original proposal had single family homes sited on lots that averaged 10,000sf, but could be as small as 6,000sf. The average continuous frontage was 80 feet but at least one lot had only 20 feet of continuous feet. The homes were also only setback from the street a minimum of 20' in most instances while there were zero side yard setbacks for the 32 two bedroom homes.

The current proposal has 23,000sf average single family lot sizes with the minimum lot size being 15,000sf. The frontage for each lot averages 114 feet, but the minimum frontage would be 100 feet with a proposed minimum front yard setback of 40 feet and side yard setbacks of no less than 10 feet. This side yard setback would allow homes to be closer to one lot line thus allowing for side entry garages on the opposite lot line. The home plans are similar in style, but no longer offer 2 and 3 bedroom options. Please see Attachment "A," Floor Plans & Elevations for The Preserve at Abbyville to see the revised Architectural Styles.

There has also been a significant reduction of proposed public infrastructure from the initial submittal. The total public road length has been reduced from approximately 11,000 feet to 6,000 feet. This will significantly reduce impervious areas and enhance infiltration. Lastly, in lieu of individual septic systems on each lot, the 88 homes of the Preserve at Abbyville will be part of a Homeowners Association in conjunction with the Abbyville Commons Condominiums. Together they will operate a Wastewater Treatment Plant that will be constructed as part of the Project. This will provide additional treatment to protect the underlying Zone II Aquifer.

Abbyville Commons

Abbyville Commons was granted a Project Eligibility Letter to develop 48 rental units. This was comprised of 11 one-bedroom units, 32 two-bedroom units, 5 three-bedroom units and 2 buildings with 10 garages in each. These units were situated on 8.84 acres of land that included a large common green.

As a result of input from the community we were encouraged to eliminate the rental units and to develop the site with homeownership units. This has created a development of 88 three-bedroom duplex-style condominiums each with its own two-car attached garage. The total area of this developed site is now 14.6 acres with a similar common green that is approximately 1.25 acres. The total combined land area of The Preserve at Abbyville and Abbyville Commons is still approximately 200 acres and the land areas for each project have been modified slightly although the entire property area for the combined projects has not changed. Please see Attachment "B" Floor Plans & Elevations for Abbyville Commons to see the proposed Condominiums.

The Condominiums would be centrally located within the overall site to create an "inner core of development." This allows the larger lot sizes and homes of The Preserve at Abbyville to be a buffer around the perimeter of the property. Thereby blending more closely with the existing neighborhood and creating a buffer to the more densely developed condominiums. The distance between each duplex condominium building is no less than 10 feet and the setback line from any building to the property line is 20 feet. An enhanced landscape buffer is proposed along these property lines to create privacy between the Condominiums and the Single Family Homes. Please see Attachment "C" Revised Landscape Plans to review the new layout of both projects.

Lastly, the most significant revision of both projects is the significant reduction in earth removal. The project originally proposed significant cuts and fills which resulted in 1,482,000 cubic yards of removal. With significantly less road infrastructure and larger lots we have been able to reduce that amount by 832,000 cubic yards to 650,000 cubic yards. This is a reduction of over 68,500 truck trips in and out of the site. This reduces construction traffic, emissions, dust and noise significantly over the development of the project. Please see Addendum "D", The Preserve at Abbyville and Abbyville Commons Combined Progression/Analysis/Comparison 12/20/2018 Matrix. This chart summarizes the project from where it began to where it is currently and compares it to our other conventional developments in The Town of Norfolk.

For each of these revised projects, the Zoning Board of Appeals is asking for MassHousing clarification concerning the process by which the proposed changes for each project would be handled, and whether MassHousing can provide assurances that the proposed project modifications for each could be reviewed and adjusted at the final approval stage for each project as there may be questions about land value, adjustments to the pro forma, and other "process" questions. The Board of Appeals will likely want assurances that new PELs will not be required to be issued for each project, and that a conversion of the Abbyville Commons Project from rental to ownership is the type of change that can be accommodated that the final approval process stage. Based upon other projects you have reviewed having similar circumstances, I assume there may be other matters that might be appropriately addressed in such a letter.

If you have any questions or comments please feel free to contact me by email or mobile phone (508-726-9573)

Sinderely, Im

Manager of Abbyville Residential LLC Manager of Abbyville Development LLC



Massachusetts Housing Finance Agency One Beacon Street, Boston, MA 02108

Tel: 617.854.1000 Fax: 617.854.1091 www.masshousing.com Videophone: 857.366.4157 or Relay: 711

October 29, 2018

Matthew J. Mayo, Chairman Zoning Board of Appeals Lancaster Town Offices 701 Main Street Lancaster, MA 01523

Re: Goodridge Brook Estates, PE-963

Dear Mr. Mayo:

Thank you for your email dated October 10, 2018 regarding proposed changes to the site plan for the homeownership portion of Goodridge Brook Estates (the "Project"). This letter is intended to reaffirm the findings made by MassHousing regarding the Determination of Project Eligibility (Site Approval) letter dated March 28, 2018 (the "Project Eligibility Letter").

In accordance with 760 CMR 56.04(5) MassHousing has reviewed preliminary information regarding the proposed changes to the Project and has determined that, while they are substantial, they do not alter any of the findings required to be made by MassHousing when it issued the Project Eligibility Letter.

Since the changes outlined in your letter have been proposed prior to the issuance or denial of a Comprehensive Permit, 760 CMR 56.04(5) narrowly limits the Subsidizing Agency's review to changes which affect the project eligibility requirements set forth at 760 CMR 56.04(1). Since compliance with those eligibility requirements will not be affected by the proposed changes, MassHousing is able to reaffirm the Project Eligibility Letter.

Please be assured that MassHousing will carefully review the plans approved by the ZBA once the applicant comes back to us for Final Approval, and at that point, will determine whether the approved plans still meet the requirements of the 40B regulations and guidelines.

If you have any further questions regarding this project, please contact me at 617-854-1880.

Very truly yours,

sol. Ma

Gregory P. Watson Manager, Planning and Programs

From: Michael Busby Sent: Thursday, October 25, 2018 9:55 AM To: Matthew J. Mayo Subject: RE: GBE Permit Application Lancaster MA

Yes, the Applicant sent us the proposed revisions to the homeownership portion of the development and are currently reviewing the plan.

From: Matthew J. Mayo Sent: Thursday, October 25, 2018 9:50 AM To: Michael Busby Subject: RE: GBE Permit Application Lancaster MA

Thanks Mike,

Have you been provided any additional information from the application regarding the request below?

-M

Matthew J. Mayo, M.S.,

From: Michael Busby Sent: Friday, October 12, 2018 11:18 AM To: Matthew J. Mayo

Subject: RE: GBE Permit Application Lancaster MA

Hi Matt,

We will request from the Applicant the proposed changes to the original site plan and determine whether they are a substantial change from the original proposal as presented at the time of Site Eligibility in accordance with Regulation 760 CMR 56.04 (5) that covers making important changes to projects in the course of a Permit Hearing. Thank you.

Mike

From: Matthew J. Mayo Sent: Wednesday, October 10, 2018 7:50 AM To: Michael Busby Cc: 'Orlando Pacheco' Subject: GBE Permit Application Lancaster MA

Mike,

I have been asked to contact you on behlaf of the Town of Lancaster ZBA to inquire about the home ownership portion of the project (see below). While they have decreased the number of units from the

original proposal, they have increased the number of building footprints. Could you review this situation and let us know if you feel this change would be deemed significant in the eyes of MassHousing.

Any information/advice you could provide will be helpful.

Regards,

Dear Matt,

The Applicant for Goodridge Brook has changed the home ownership portion of the project to a new proposal that is <u>outside of MassHousing's Project Eligibility Letter dated</u> <u>March 28, 2018</u>. I spoke about this on public record at the last Board of Appeals meeting held Thursday, September 27. A large number of Lancaster residents are very concerned about this switch. We are respectfully asking that the home ownership portion of the proposal remain within the eligibility parameters established in writing by MassHousing on March 28, 2018.

After you brought to light that the rental units were in excess of the 120 cap, MassHousing instructed the Applicant to go back to the submission MassHousing had reviewed – and they did. So we are now appropriately reviewing the 120 apartments (not 136) – right on the same page with MassHousing.

<u>However, the home ownership portion is still a very different project from what</u> <u>MassHousing reviewed and issued preliminary eligibility for</u>. <u>MassHousing reviewed 40</u> <u>duplexes</u> – and notably that are set back from Sterling Road on an interior site road. The condos in the original application are 3 bedrooms, with a master bedroom on the ground floor.

What the Applicant has switched to is a different building type – 4 bedroom houses – and 62 footprints – instead of 40. Notably, the new proposal also calls for houses with direct driveway access to Sterling Road – so much greater visual impact and a significant traffic safety consequence with more curb cuts coming right on to Sterling Road (already a dangerous road). The 40 duplexes set back in to the site make much more sense for public safety.

IMPORTANT: Regulation 760 CMR 56.04 (5) that covers making important changes to projects in the course of a Permit Hearing is very clear. A developer can not simply change 40 duplexes to 62 4 bedroom houses without notifying MassHousing. We are <u>currently reviewing a home ownership project that is outside of preliminary eligibility approval</u>.

Matthew J. Mayo, M.S., GISP, CPG, P.G.

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TOWN OF ARLINGTON LEGAL DEPARTMENT



50 Pleasant Street Arlington, MA 02476 781-316-3151 Fax: 781-316-03159

March 10, 2021

By Electronic and First Class Mail Ms. Jessica Malcolm Manager of Planning and Programs Massachusetts Housing Finance Agency One Beacon Street Boston, Massachusetts 02108

Re: Thorndike Place, Arlington (MassHousing ID #778/#779) Notice of Project Revision

Dear Ms. Malcom,

Please accept this letter on behalf of the Chair of Select Board of the Town of Arlington, Mr. John Hurd, in reference to the March 8, 2021 Notice of Project Revision Pursuant to 760 CMR 56.04(5) submitted to you by Arlington Land Realty, LLC (the "Applicant"). In short, the Select Board plans to convene Monday, March 15, 2021, to discuss and approve comments for your consideration regarding the Applicant's Notice consistent with the requirements of the Open Meeting Law. Accordingly, given the limited nature of final review after the close of any c. 40B hearing, please receive this letter as a respectful request for MassHousing to wait for such comment before rendering any decision on the Applicant's Notice and whether or not the revised project is within the scope of project eligibility. The Select Board will be certain transmit its comments with the fifteen (15) day period allotted for your examination of a Notice of Project Revision.

Respectfully submitted,

Douglas W. Heim Town Counsel

DOUGLAS W. HEIM TOWN COUNSEL Mr. John Hurd, Chair, Arlington Select Board (by electronic mail)
 Christian Klein, Chairman, Arlington Zoning Board of Appeals (by electronic mail)
 Attorney Stephanie Kiefer, Smolak & Vaughn, Counsel for the Applicant (by electronic mail)

OFFICE OF THE SELECT BOARD

JOHN HURD, CHAIR DIANE M. MAHON, VICE CHAIR STEPHEN DECOURCEY LENARD DIGGINS DANIEL J. DUNN



730 MASSACHUSETTS AVENUE TELEPHONE 781-316-3020 781-316-3029 FAX

TOWN OF ARLINGTON MASSACHUSETTS 02476-4908

March ____, 2021

By Electronic and First Class Mail Ms. Jessica Malcolm Manager of Planning and Programs Massachusetts Housing Finance Agency One Beacon Street Boston, Massachusetts 02108

Re: Notice of Proposed Revisions to "Thorndike Place," Arlington, MA (MassHousing ID #778/ #779)

Dear Ms. Malcolm,

The Select Board of the Town of Arlington is in receipt of the March 8, 2021 Notice of Project Revision submitted to you by Arlington Land Realty, LLC (hereinafter "the Applicant") relative to the Thorndike Place project proposed in Arlington. For the reasons set forth herein, the Board respectfully submits that the revisions to the project are both substantial and incongruous with MassHousing's December 4, 2015 Site Approval/Project Eligibility determination. As such, this Board requests MassHousing determine that: 1) the changes submitted to you are substantial; and 2) that such changes materially and negatively impact your prior preliminary site approval.¹

The Board is aware of MassHousing's stated policy that it will not normally revise or revoke a project eligibility letter in the interim period between the project eligibility and final approval stages. The Board believes such action is necessary here, however, in light of the material revisions the Applicant is now proposing in contradiction of the project eligibility findings.

¹ For the purposes of this letter, "site approval" and "project eligibility" are used interchangeably. A copy of your December 4, 2015 Project Eligibility/Site Approval Letter is annexed hereto for your convenience as Attachment "A."

760 CMR 56.04(5) sets forth the standard for reviewing "substantial changes" to project which has received preliminary site approval and authorizes the Chief Executive Officer of a municipality (in Arlington, this Select Board) to request review before issuance of a decision on a Comprehensive Permit application. As noted in section 56.04 (5), "[o]nly the changes affecting the project eligibility requirements set forth at 760 CMR 56.04(1) shall be at issue in such review." The three enumerated requirements are:

- (a) The Applicant shall be a public agency, a non-profit organization, or a Limited Dividend Organization;
- (b) The Project shall be fundable by a Subsidizing Agency under a Low or Moderate Income Housing subsidy program; and
- (c) The Applicant shall control the site.

760 CMR 56.04(1)(a)-(c).

With respect to criteria "(b)" it is important to reference the remainder of section 56.04(1), which states, "[c]ompliance with these project eligibility requirements shall be established by issuance of a *written determination of Project Eligibility by the Subsidizing Agency that contains all the findings required under 760 CMR 56.04(4)*, based upon its initial review of the Project and the Applicant's qualifications in accordance with 760 CMR 56.04."(emphasis added). Hence, these criteria include an examination of whether or not the Applicant's proposed revisions are consistent with your previous findings of December 4, 2015 in order for the Project to continue to be "fundable by a Subsidizing Agency;" (i.e. MassHousing). Applied to this project, there are a wide range of proposed revisions that speak to MassHousing's initial eligibility determination, which are now reviewable for their substantiality. A review of such revisions will show that they are substantial changes that conflict with the project eligibility findings.

In other words, contrary to the Applicant's assertion in its notice letter, your examination of their proposed revisions should determine whether or not the Project as revised is substantially different from the one which you evaluated and approved as "fundable" under 760 CMR 56.04(4)(a)-(g). If you find the project is substantially different than the one you approved under such terms, you may then determine whether or not those substantial changes require modification of project eligibility or entirely void project eligibility. The Select Board believes the magnitude of the proposed changes warrants the latter determination; or alternatively, at a minimum the Applicant should be advised that the proposed revisions require modifications consistent with the terms of eligibility.

As applied to the Notice of Proposed Revisions, there are two categories of changes in which the revised project is both substantially changed from the Applicant's original submissions for eligibility purposes, and further are materially inconsistent with MassHousing's previous findings under 760 CMR 56.04(4):

- Removal of Six (6) "Transitional Zone" Townhouses from the Project; and
- Abandonment of Transit-Oriented Site Improvements and Access Points.

The Select Board appreciates that the 40B hearing process invites alterations and improvements based upon feedback from zoning boards, technical experts, and the public. It also respects the Arlington Zoning Board of Appeals' jurisdiction and hard work to evaluate a complex project under the rubric of c. 40B. In this instance however, these alterations stem from the site constraints highlighted to the Applicant and MassHousing at the outset of this project because of its limited access and proximity to wetland resources. Addressing one area of concern by exacerbating others does not render such proposed changes insubstantial or benign.

I. Appropriateness of Design & Removal of Townhouse Transitional Zone

In both the Applicant's submissions for Project Eligibility and MassHousing's approval thereof, the appropriateness of the project was tied heavily to the construction of six (6) duplex style townhouse buildings containing twelve (12) homeownership units² to serve as a buffer between the two and single family homes in the surrounding residential neighborhood and a four-story, large-scale apartment building proposed for the back of the site.

As proposed initially, the townhouses were to occupy the street frontage on Dorothy Road, providing a necessary buffer to the proposed apartment building to be located approximately 80 feet behind the townhouses and more than 150 feet from the road. These townhouses have been entirely eliminated from the revised project and replaced along the street frontage with a 172-unit apartment building³ that is only 23 feet off of Dorothy Road and which stretches along the road for approximately 450 feet. The foregoing proposed revisions are entirely inconsistent with a foundational premise of MassHousing's Approval.

As the Applicant stated to MassHousing to obtain its approval:

The townhouse units were designed as a transitional zone between the duplex and single family homes of the existing residential neighborhood to the north and east of the project and the larger proposed apartment building to the south. *The proposed two-story town homes are of a similar height, scale and spacing as the other homes along Dorothy Road. To reflect the character of the street, the townhouse units feature lap siding, pitched roofs and a welcoming front porches.*

See Application for Site Approval at 3.3. "Narrative Description to Design Approach."⁴ (emphasis added).

 $^{^{2}}$ An added benefit of the townhouses was that they would be developed as homeownership units. Their removal in the revised submission is a change in tenure type as well as building type which, per the initial eligibility letter, provides an independent basis for requiring the submission of a new site eligibility application. (*See* Project Eligibility Letter, at p. 5).

³ As further evidence of the scope of the proposed structure and its incompatibility with the surrounding neighborhood is, if built, the proposed apartment building would be the single largest apartment structure in the Town of Arlington.

⁴ The Applicant also highlighted the Townhouses as evidence of sustainable development through both the lenses of concentration of development and mixed use, and expansion of housing opportunities.

MassHousing was highly responsive to such claims, noting several times in its Site Approval Letter of December 4, 2015, the importance of the townhouses as a buffer to the proposed apartment building. Such references included the following:

"As stated the Project will include 6 duplex style townhouses and 1, four-story apartment building. Buildings have been sited with the goal of minimizing impacts on the surrounding streetscape, with the townhouses located along Dorothy Road, closest to the Site entrance, and the larger building set back to minimize its observable bulk.

Adjacent typology is residential development mainly comprised of one and two-family colonial style homes. *The proposed townhouses are sited along Dorothy Road and will complement the existing residential development of this street, as the townhouses are of a similar height, scale, and spacing as the other homes along Dorothy Road...[and] were designed as a transitional zone between the duplex and single-family homes...[and] reflect the character of the street."*

See, Project Eligibility/Site Approval Letter, at Attachment "1" p. 8-9.

MassHousing further cited the value of the townhouses as essential for a transitional zone in assessing the Project's relationship to adjacent streets and integration into existing development patterns. *Id.* at p. 9. As stated, the revised proposal both eliminates this "transitional zone" in its entirety and moves the similarly-scaled four-story apartment building *closer* to Dorothy Road; eliminating both the townhouses themselves and the eighty feet of distance between them and the original planned apartment building.

The Applicant contends that these revisions are the product of feedback meant to address concerns of the Zoning Board of Appeals and others. However, to this Board's understanding, the extent of such feedback was primarily in the form of universally shared concerns that the original proposal was within wetlands resource areas. To maintain adherence to the project eligibility findings, the foregoing building limitations should have resulted in the Applicant rescaling the proposed apartment building behind the townhouse transition zone. Instead, the Applicant abandoned adherence to the design requirements contained in Section 56.04(4)(c) and proposed the complete removal of the townhouses with an apartment building having no compatibility with its surrounding neighborhood.⁵ Although it is the Applicant's prerogative to address one problem by creating or exacerbating another, such alterations taking place in the context of feedback about wetlands impacts or even the overall scope of the project does not

⁵ The Applicant's asserted justification in its notice letter for the elimination of the townhouses – the removal of driveways – reveals a complete disregard for the legitimate concerns of those living in the neighborhood in which it wishes to build. Moreover, comparison of the prominent language contained in the Applicant's project application concerning the importance of the townhouses as a transitional buffer with the bare mention in the notice letter within a footnote of the supposed compatibility of the relocated apartment building with the surrounding neighborhood further highlights the shortcomings of the revised proposal and its conflict with the project eligibility findings.

render it immune from being rightly considered a substantial change or contrary to a foundational element of MassHousing's Site Approval.

Indeed, the facts presented here following the removal of the townhouses are similar to those which led to MassHousing's denial of site approval/project eligibility in the 2017 Project Eligibility Application for "Medfield Meadows" (MH# 873). *See* January 31, 2017 Project Eligibility Letter of MassHousing re "Medfield Meadows," (MH#873) annexed hereto as Exhibit "B."In your denial of project eligibility relative to said application you noted that proposed three and four-story apartment buildings were not consistent with nearby existing building typology – single and two story homes in a residential neighborhood which would be overwhelmed by the "height, mass, and scale" of apartment buildings. Germane to the specific changes submitted to you in this matter, you noted that the Medfield Meadows Project did not "make a reasonable transition to this well established residential neighborhood." *Id*.

In your Site Approval Letter for this project you explicitly noted how important the Townhouses were to the relationship with the neighborhood in the same terms discussed in "Medfield Meadows," finding, "[t]he proposed townhouse units on Dorothy Road were designed as a transitional zone between the duplex and single family homes of the existing residential neighborhood to the North and East of the project and the larger proposed apartment building to the South." *See*, Project Eligibility/Site Approval Letter, at Attachment "1" p. 9. While this Board questioned whether the Townhouses were sufficient buffers between a long-standing single and two-family residential neighborhood, it cannot disagree with the palpable difference between a project with townhouses and one without.

As submitted by the applicant, the townhouse transitional zone presented the following in terms of presentation to the street, massing, height, and scale:



However, the revised proposal, which the Applicant urges you to consider an insubstantial change presents in stark contrast as follows⁶:



On its face, this revised proposal presents the very concerns that formed the basis for your denial of eligibility in a near-identical context. Where once were townhomes featuring spacing, height and mass similar to the existing homes in the neighborhood, there is now a large apartment building directly on the street with nothing to transition or buffer direct-abutters living in single family or two-family homes next to or across the street from the building. Accordingly, we respectfully ask you to deem the removal of these townhouses a substantial change; and further,

⁶ The Applicant's streetscape rendering, which it included as an attachment to its notice letter, is inaccurate as it fails to show, among other shortcomings, the main entry and the "semi-circular" access drive in the newly proposed apartment building. Moreover, the 3D streetscapes also included in the notice letter package at Exhibit "B" significantly overstate the width of Dorothy Road. Such inaccuracies have added significance here given that a primary issue before MassHousing is compatibility with the surrounding neighborhood.

one material enough that eligibility will require restoration of such townhouses with a re-scaling and re-siting of the apartment building behind the townhouses in a manner that complies with applicable environmental statutes, regulations and bylaws.

II. Site Appropriateness: Traffic & Transportation

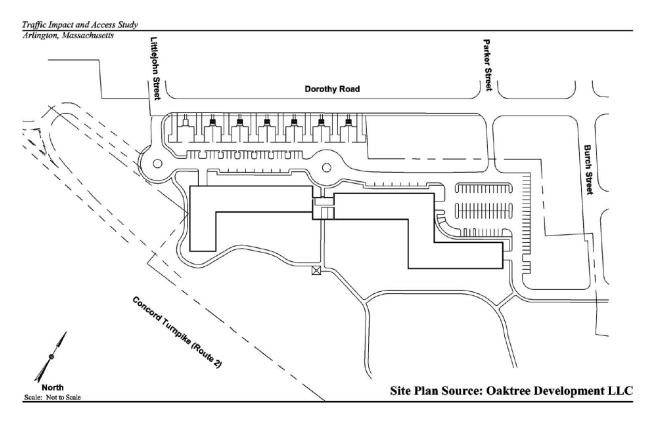
In addition to the foregoing, the project granted preliminary site approval by the revised proposal before you makes no mention of two critical elements to your traffic and transportation assessment and overall evaluation of site appropriateness. First, the site has no access whatsoever to or from Route 2 and no longer features direct access to Parker Street or Burch Street. In its revised form all vehicular access is provided by Little John Street and Dorothy Road, which are essentially the same street for the purposes of this project. Second, the revised project has no walking path improvements to connect the site to a more direct access points to the Alewife T Station or the Minuteman Bikepath. These elements were featured pieces in establishing the appropriateness of a site that still proposes to add parking for more than 200 cars to frequent narrow residential streets. Their abandonment constitutes further substantial and detrimental changes. Four vehicular access points and at least one supplementary pedestrian access point have been reduced to place all vehicular and pedestrian access to a single roadway.

A. <u>Reduced Traffic Access Points & No Access from Route 2</u>

One of MassHousing's principal findings with respect to the general appropriateness of the site for redevelopment was that "[t]he Site is accessible to Route 2, which borders the site." *See* Eligibility Letter at Attachment "1;" Findings "(b), p. 8. Indeed, both the site plans submitted by the Applicant to MassHousing, and the April 2014 Traffic Impact and Access Study by MDM Transportation Consultants highlighted access to Route 2 a feature for MassHousing given the constraints of the modest neighborhood streets otherwise necessary for ingress and egress. As MDM's report stated:

"The proposed Site programming consists of developing the Site as a 207-unit residential development consisting of 193± rental apartment units and 14± townhouse/ condominium units. On-Site parking is planned for 171 garage spaces and 138 surface spaces for a total of approximately 309 parking spaces. *The townhouse apartment units are proposed to have individual driveways directly onto Dorothy Road. Planned Site access/egress for the apartment units includes three unsignalized driveways including a full-access driveway connection to Dorothy Road, a full-access driveway along Burch Street, and a gated emergency-only driveway connection to Parker Street. An additional access/egress driveway that would be restricted to right-in/right-out movements along the Route 2/Lake Street westbound off-ramp is also evaluated as a potential alternative. The preliminary Site layout plan prepared by Oaktree Development LLC is presented in Figure 2"*

See MDM Traffic Impact and Access Study at E.1 p. 2; and Figure 2. (emphasis added).



(As can be seen in MDM's "Figure 2," both the Rt. 2 Ramp and Burch Street and Parker Street access were prominent features of the Site Plans submitted for Site Approval to MassHousing)

This proposal was further referenced in Section E.4 "Access Improvements" of the MDM Study, stating:

The alternative driveway connection to the Route 2 westbound off-ramp to Lake Street is being considered as a more direct access to/from Route 2, thereby reducing dependence on local roadways. The Proponent is in consultation with MassDOT to identify land acquisition requirements that involve re-designation of access lines along the Route 2 property frontage and transfer of property to MassDOT that would mutually benefit both parties.

See MDM Traffic Impact and Access Study at E.1 p. 4

Neither the current revised project plan nor any plan submitted to the Arlington Zoning Board of Appeals within the Applicant's Comprehensive Permit have maintained or even proposed an off-ramp or any other direct access to Route 2. Indeed no alternatives whatsoever have been provided to achieve "reduc[ed] dependence of local roadways" by the Applicant in the Revised Project before you, with or without any of the other changes referenced by the Applicant in their recent Notice.

Additionally, as recited above, MDM's Traffic Impact and Access Study and the Applicant's proposal to you included site access and egress via three driveways – one on Dorothy Road, a second on Burch Street (at the intersection of Edith Road), and a third

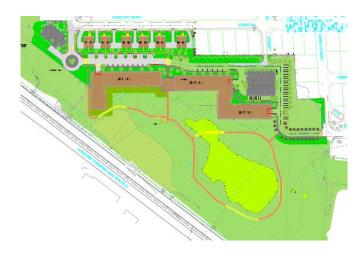
emergency-only access point on Parker Street, all but one of which have been eliminated in the revised project.

Local traffic congestion concerns were one of the principal concerns raised by this Board in its August 18, 2015 and October 6, 2015 comments to MassHousing given the limitations of the narrow residential streets abutting the proposed site. This Board trusts that such representations to MassHousing were meaningful factors within your decision to grant project eligibility. As such, we strongly urge you to deem the abandonment of *any* alternative means for traffic to access the proposed site and the elimination of two vehicular access points to constitute a substantial change under 760 CMR 56.04(5) that is inconsistent with the bases of your eligibility determination.

B. Removal of Plans for Walking Path Access to Public Transit

In a similar vein, MassHousing's preliminary site approval was also predicated in part on the ease of access to public transit from the site via "an integrated system of sidewalks and a *path connection* to the nearby Minuteman Bike Path to facilitate bicycle use and accessibility and use of public transportation at the nearby Alewife MBTA station." *See* MDM Traffic Impact and Access Study at E.3, p. 3; E.5, p. 4; and 3.4, p. 19; and Figure 2. To that end, both the Site Approval Application and the MDM Study included site plans specifically providing a walking bath on the lowland wetland parcels both as an attractive amenity for passive recreation and as a more direct means of connecting the site to the Minuteman Bikepath.⁷ *See, e.g.*, Site Approval Application at 3.1, "Preliminary Site Plan," 3.2 "Preliminary Architectural Plans," and Attachment 2.3 "Site /Context Photographs."

As highlighted in the Preliminary Site Plan submitted to you, the Applicant proposed a connected network of walking paths through the wetlands areas to provide further and more direct connections from the site to the Minuteman Bikepath and Alewife.



⁷ Given the size and scale of Site Plans, full copies previously submitted to MassHousing have not been attached. Full copies can be provided to MassHousing for your convenience at your request.



The foregoing picture was included (Attachment 2.3 to their Application) as an example of what could be achieved to connect the project site more directly to both the existing bikepath and Alewife. However, in the revised proposal, there is only a walking path circling the re-sited apartment building.

It may well be that the Applicant has removed this element of its proposal because it was predicated on eager acceptance of the portions of land in question by the Town and subsequent Town improvements to it using mitigation funds provided by the Applicant. However, at this juncture it cannot be denied that a substantial feature of the project for the purpose of accommodating and encouraging use of public transit from the site has been removed. Especially in concert with the previously noted changes to the vehicular access, the Select Board believes the cumulative revisions to access and ingress/egress to and from the site are both substantial and in conflict with the bases for your grant of preliminary site approval/project eligibility. The end sum is a revised project in which all automotive, bicycle, and foot traffic must utilize a single residential street for access to 172 units rather than the highway, multi-street, and walking path connections originally proposed for eligibility purposes.

Conclusion

As set forth in 76 CMR 56.04, this body has the responsibility and authority to comment upon a Notice of Revision where in its judgment changes to the project preliminary afforded site approval by you are substantial. The dramatic alteration of several of the core elements of this project – elements that assured your approval was appropriate – are both substantial and incongruous with your findings for eligibility purposes. As such, the Arlington Select Board urges MassHousing to first find that the revision proposal includes substantial changes, and second that absent remediation, those changes disqualify the project from the eligibility you previously granted. Please contact us should you have any questions or if you would like any additional support for our comments above.

Respectfully submitted, On behalf of the Arlington Select Board as its Chair,

John V. Hurd

cc: Stephanie Kiefer, Esq., Counsel for the Applicant

Arlington Zoning Board of Appeals

Sen. Cindy Friedman

Rep. Sean Garballey

Rep. David M. Rogers



Town of Arlington, Massachusetts

NEW BUSINESS



Town of Arlington, Massachusetts

Next Scheduled Meeting of Select Board March 22, 2021

Summary:

You are invited to a Zoom webinar. When: Mar 15, 2021 07:15 PM Eastern Time (US and Canada) Topic: Select Board Meeting Register in advance for this webinar: https://town-arlington-ma-us.zoom.us/webinar/register/WN_GZ78T0XxS-ao_bvhdf6PLg After registering, you will receive a confirmation email containing information about joining the webinar.

Notice to the Public on meeting privacy In the interests of preventing abuse of videoconferencing technology (i.e. Zoom Bombing) all participants, including members of the public, wishing to engage via the Zoom App must register for each meeting and will notice multi-step authentication protocols. Please allow additional time to join the meeting. Further, members of the public who wish to participate without providing their name may still do so by telephone dial-in information provided above.

Documents regarding agenda items will be made available via Novus Agenda and the Town's Website. https://www.mass.gov/doc/open-meeting-law-order-march-12-2020/download