

April 8, 2021

William Fuchs
7 Cleveland Street
Arlington, MA 02474

Town of Arlington
c/o Christian Klein
Zoning Board of Appeals
730 Massachusetts Avenue
Arlington, MA 02476
zba@town.arlington.ma.us

Re. Comments on draft Decision on Application for Comprehensive Permit for Arlington Land Realty, LLC's proposed development Thorndike Place.

Dear Mr. Klein,

Thank you and the other board members for the extensive and rigorous review of this project. While I continue to believe that this is an unfortunate site for this development, the draft comprehensive permit and revised plans will result in a substantially better project than the original proposal.

There are clauses in the draft comprehensive permit that I please accept my comments on the draft comprehensive permit for the proposed Thorndike Place development (please see the five comment pages below).

Should you or other members of the review team wish to contact me for further discussion of any of my comments, please reach out to me at (508) 789-9070 or billfuchs3@aol.com.

Best wishes,

/Bill Fuchs/

Compensatory Flood Storage Mitigation. Page 6-7, 23.b and e. currently read “b. With at least a 3-year monitoring schedule with a 100% survival rate” and “e. A monitoring report shall be submitted annually in June for the three-year monitoring period. The report shall include the health of the new plantings and the success of the invasive plant management. The report shall include photo documentation and yearly recommendations for future success.”

Suggested changes/additions are shown in bold italics below:

b. With at least a 3-year ***vegetation*** monitoring schedule with a ~~100%~~ ***95% planting*** survival rate.”

e. A monitoring report shall be submitted ***[to the ZBA]*** annually in June for the three-year monitoring period. The report shall include the health of the new plantings and the success of the invasive plant management. The report shall include photo documentation and yearly recommendations for future success.

f. If the survival rate of the plantings is less than 100% dead and failing plantings will be replaced with healthy plants of identical species of similar size.

g. If monitoring shows that plant survivorship and health is less than 95% in the third-year report annual monitoring and replanting will continue until target plant survivorship and health goals are achieved.

h. If target invasive species management goals are not achieved and documented in the third-year report invasive plant management and annual reporting will continue until invasive plant management goals are met.

Note: 100% planting survival rate is unrealistic and unlikely to survive challenge. Vegetation in the flood storage area should be maintained in perpetuity so flood storage capacity is maintained. Invasive plants in the flood storage area should be managed in perpetuity or they will displace native species over time.

Page 7, 24 reads “The Board finds that the Applicant must provide adequate quantity of vegetation and that said vegetation shall be maintained to provide the resource area values protected by the Bylaw. Further, the Applicant shall submit an Invasive Species Management Plan for work in the AURA and other resource areas which identifies the location of invasive species management, species and quantities of invasive plants to be managed, and methods of removal and control of each species.”

I agree with this statement and suggest that the applicant should be required to set and meet specific annual and final goals for invasive species management and be required to maintain the treated area under those goals in perpetuity.

Page 14.X. Construction details reads “All plantings shall consist of native, non-invasive, drought-tolerant species. Plantings installed along drives and walkways shall also be salttolerant. The final landscaping plans shall preserve the existing perimeter tree cover to the greatest extent practicable. Twelve (12) months after completion of plantings, the Applicant shall remove and replace any dead or diseased plantings and trees serving as screening. The contract with the Management Company shall address ongoing maintenance of landscaping features.”

Plantings by the applicant described on Page 6.23 include a monitoring and replacement period of three years. I suggest that the three year monitoring and replacement period be applied to this section also.

Page 22-24.F3-F19. The proposed measures to limit automobile ownership (limited number of parking spaces, fee for parking...), permit convenient electric vehicle charging, and promote the use of alternative transportation (bicycle storage, blue bike station, providing Charlie Cards...), etc. are innovative and well conceived.

Wetlands. Page 26-31. The proposed measures and requirements including the requirement that the applicant permit through the Arlington Conservation Commission are well conceived and appropriately protective of wetland resources and adjacent buffer zones, AURAs, etc.

Page 29.I.24states “ The application of plant nutrients shall comply with 330 CMR 31.00. No other herbicides or treatment methods may be utilized on the Property. No pesticides or rodenticides shall be used to treat pest management issues within resource areas.”

Effective initial control of most invasive plant species is difficult or impossible without the use of herbicides. Herbicides are frequently useful in maintaining control of invasive plants. Cutting is rarely an effective control, pulling creates significant soil disturbance that is often rapidly colonized by invasive plant species, tarping leaves bare soils that are frequently colonized by invasive plants.

I suggest modifying the absolute prohibition on the use of herbicides within resource areas to a requirement that herbicides only be used following the submission of a Notification of Intent to the Arlington Conservation Commission and receipt of an Order of Conditions from the Arlington Conservation Commission permitting herbicide use. Herbicide use is permitted under the Massachusetts Wetland Protection Act under an order of conditions.

Page 30.I.30-.I31 discuss invasive plant management and native species planting.

These sections refer to invasive Management...”. The correct term is “invasive plant management”.

Section I.30 describes the invasive management plan. The plan should include measurable goals for both initial control and, once invasive plant populations have been reduced below threshold levels, goals for maintenance invasive plant management to maintain invasive plant populations below threshold levels.

Invasive plant management should continue in perpetuity or the site will eventually revert to having invasive plants dominate the site.

Section I.31 asks for a planning survival rate of 100%. Even under ideal conditions a 100% rate is virtually impossible to achieve. I suggest a lower survival goal with a requirement that any dead or unhealthy plants be replaced.

Page 31.I-36-I.37 read “. I.36 The Applicant shall revise the Long-Term Pollution Prevention & Operations and Maintenance Plan to include requirements for inspection and cleaning of trench drains and the roof stormwater outlet to ensure these are functional prior to significant rain events. I.37 The Applicant shall revise the Long-Term Pollution Prevention & Operations and Maintenance Plan to include provisions for maintenance and cleaning of compensatory flood storage areas to ensure these remain functional.”

These plans and maintenance activities should be in perpetuity to ensure that their functions are maintained in perpetuity. A monitoring/inspections schedule should be included in the plans which should include inspection following flooding and extreme storm events.

Inspection and maintenance activities should be logged. These logs should be available for inspection and copies of these logs should be submitted to the board or the conservation commission annually.

I suggest that the board require that these plans be updated and reviewed by the town periodically. Revisions should be based on the efficacy of past inspection and maintenance activities.

Installing visible, permanently mounted gauges/measuring posts within the sediment collection structures facilitates inspection and maintenance of these structures.

Waivers. Page 35.

There is no draft text indicating if the waivers listed as numbers 4-6 are to be granted, granted with conditions, or denied. Please see comments in bold text following the original text of the request from the draft decision document:

4. Town of Arlington Wetlands Regulations, Section 24 “Vegetation Removal and Replacement”: This section requires an application process in which the Applicant must list all species existing and all proposed replacement species within resource area, including specific requirements for deciduous trees, evergreen trees and shrubs. The Applicant requests a waiver to allow for the Applicant to provide a detailed re-vegetation plan of all areas not otherwise permanently altered for emergency access road or those portions of the southerly side of the building within the floodplain, and to allow a revegetation plan acceptable with industry standards.

Board Action:

The request to reduce planning/reporting requirements to “industry standards” is contrary to requirements listed in earlier sections of the draft decision document (page 5.21 and 5.21.a, 6.21.h, pages 13-14.d). The detailed documentation is also required to permit the applicant to report on the health and survivorship of plantings as required in the draft decision document (page 30.I.29) and

should be denied or approved the condition that planning and reporting required in the decision document must be provided.

5. Town of Arlington Wetlands Regulations, Section 25 “Adjacent Upland Resource Areas”: This section regulates the 100-foot buffer zone to resource areas. The Applicant requests a waiver to allow for grading and compensatory flood storage as shown on the Approved Plans, and for limited permanent impacts to the outer AURA area for emergency access road, and portions of the garage structure. No alteration will occur within 25’ to a state-listed wetland resource area.

Board Action:

Consistent with other waiver decisions made in the draft decision document I suggest the following:

Board Action: Waiver Denied. To the extent that this waiver request constitutes a request for a waiver of the procedural requirements under the Wetlands Bylaw and Wetlands Regulations, this request is denied as unnecessary, as the procedural requirements of other local permitting processes are subsumed into the comprehensive permit process.

6. Town of Arlington Bylaws, Title V (Regulations Upon Use of Private Property), Article 8, Section 11 “Bond to Secure Corrections of Flooding Conditions”: This section requires an applicant to post a bond where a structure in excess of 6,000 square feet in area is proposed within two hundred yards of an existing stream or wetland to post a proper bond sufficient in the opinion of the Commission to secure performance of measures necessary to correct any flooding conditions resulting from the construction. The Applicant requests a waiver of this provision.

Board Action:

If the storm water storage and infiltration structures proposed by the developer are not maintained, there is a high likelihood that this development will substantially contribute to off-site flooding. The bond should be required both to mitigate potential off-site flooding damage and to encourage good on-site facilities maintenance.

Page 36.9. Town of Arlington Bylaw, Title V, Article 15, Sections 1-5 “Stormwater Mitigation” – Board Action:

No text describing the waiver request or any potential board action is included in this draft. Effective stormwater mitigation is one of the most locally and regionally significant issues addressed in this draft permit.

Page 38.20. Arlington Zoning Bylaws, Article 6, Section 6.30 “Open Space Regulations for Planned Unit Developments”: This section sets forth a minimum requirement of 10% landscaped and 10% useable open space for apartments in the PUD Zoning District. The Applicant requests a waiver to allow for less than 10% useable open space. Board Action:

Open space is a key requirement of both the human environment and natural areas. If the board chooses to approve the waiver for this site, I suggest requiring the applicant to provide compensatory new public open space proximal to the property.