

September 2, 2021

Via Email

Rick Vallarelli  
Arlington Zoning Board of Appeals  
51 Grove Street  
Arlington, MA 02476

Attn: Christian Klein, Chair

**RE: ZBA Docket #3515 /Thorndike Place, Arlington, MA  
Response to ACC's Seventh Comment Letter, dated August 23, 2021**

Dear Mr. Chairman and Members of the Board:

On behalf of the Applicant, Arlington Land Realty LLC, we are providing the following response to the Arlington Conservation Commission's ("ACC") comment letter dated August 23, 2021. Throughout the course of the Board's review of the Comprehensive Permit application, the Applicant has continued to improve the Project's design to minimize and mitigate potential wetland impacts and appreciates the ACC's comments given during this process.

To assist in the Board's review, the Applicant's response is provided in italicized text following the specific ACC comment, which is in bold text.

ACC Comments on Waiver Requests – Wetlands

**Comment: The ACC agrees with BETA's Waiver Request Comments as presented in "Table 2 –Waiver Request Summary for Arlington's Wetlands Protection Bylaw and Regulations" of their comments.**

*Response: Applicant repeats and incorporates by reference its September 2, 2021 Response to BETA's Waiver Review correspondence.*

**Comment: The ACC recommends that these waivers be denied for the reasons that BETA documented.**

**The Applicant should consider withdrawing the Wetlands Bylaw and Wetland Regulations waivers as they pertain to the AURA, Land Subject to Flooding, and Vegetation Removal and Replacement because the project as proposed (including 2:1 compensatory flood storage, vegetation mitigation, and habitat restoration), is in compliance with these Regulations.**

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Arlington Zoning Board of Appeals  
September 2, 2021

*Response: The Applicant agrees with the Commission's statement that the Project is compliant with the Arlington Wetland Protection Bylaw and Regulations for the local regulatory provisions pertaining to work in the AURA<sup>1</sup>, Land Subject to Flooding<sup>2</sup> as well as the regulations on Vegetation Removal and Replacement<sup>3</sup>.*

**Comment:** In reference to the *Wetland Bylaw, Title V: Article 8, Section 11 Bond Requirements*, the ACC agrees with BETA to deny this waiver request. Given the proximity of the project to the onsite Resource Areas and the potential for the project to impact resource area values if the proposed mitigation, compensatory flood storage, and habitat restoration is not implemented as planned, the ACC agrees with BETA's recommendation to retain the right to require a performance bond for this project.

*Response: The Applicant refers the Board to its September 2, 2021 written response to the BETA Peer Review letter.*

**Comment:** In reference to the *Wetland Bylaw, Title V: Article 8, Section 16.B.11 Wetland Consultant Fees*, the ACC recommends to deny this waiver request so that we retain the funds for potential peer review needs, due to the complexity of the project and uncertainty in several aspects of the proposal (including uncertainty in groundwater elevations throughout the site as discussed further, below).

*Response: The Applicant refers the Board to its September 2, 2021 written response to the BETA Peer Review letter.*

**ACC Comments on BETA Thorndike Place Civil Wetlands Peer Review**

**Comment:** The ACC agrees with BETA's comments included in their response dated August 18, 2021 with several clarifications. We have used the identical numbering system for ease of reference back to BETA's comments.

**#5. Compensatory Flood Storage Area**

***ACC Comment: Our former agent, Emily Sullivan, performed a site visit of the proposed Compensatory Flood Storage Area in July 2021 and presented her findings to the ACC. The ACC is satisfied that the proposed Compensatory Flood Storage Area is appropriate for the 2:1 compensatory flood storage, planned vegetation mitigation and habitat improvement opportunities.***

<sup>1</sup> Wetland Bylaw, Title V: Article 8, Section 25 and the definitional section of AURA as a protected resource area under Section 2.

<sup>2</sup> Wetland Bylaw, Title V: Article 8, Section 23.

<sup>3</sup> Wetland Bylaw, Title V: Article 8, Section 24.

Arlington Zoning Board of Appeals  
September 2, 2021

*Response: No response required.*

**#6. Stormwater Management**

**ACC Comment:** In addition to BETA's comment that a detail should be provided in the final plan set, ACC recommends that the sump infrastructure also be included in the Operations & Maintenance (O&M) plan.

*Response: Applicant agrees to include detail on sump infrastructure will be included within the O&M plan.*

**#12. Rain Garden**

**ACC Comment:** The proposed rain garden plans should be reviewed/approved by the ACC to ensure that it will function as intended.

*Response: The ACC's comments on the proposed rain garden should be made to the Board within the public hearing process. Pursuant to Chapter 40B case law, conditions of approval requiring subsequent approval are not valid conditioning. The rain garden is shown on the BSC updated plan set submitted to the Board on August 31, 2021. See Sheets C-104 and L-100.*

**#13. Groundwater Elevation**

**ACC Comment:** The ACC agrees with BETA's response and goes further to recommend field data collection to establish seasonal high groundwater elevations at the site. Note that the ACC recommended field data collection last Spring 2021, which the Applicant did not perform. Due to the magnitude of rainfall this summer, this field program could be performed now. The Applicant shall provide thorough documentation establishing seasonal high groundwater elevations at the site to ensure that there is a minimum of a two foot separation between the bottom of the stormwater management infiltration chambers and the seasonal high groundwater table. The design of the field data collection program, including location and number of test pits and wells, shall be submitted to the ZBA for approval. After site specific field data collection by a competent professional, the Frimpter Method or other methodology acceptable to Arlington shall be used to compare data to USGS data for nearby groundwater monitoring wells.

*Response: As the Board may recall, in November 2020, BSC performed three soil test pits on site, which confirmed soils mapping and previously performed borings with regard to seasonal high groundwater. Please see Appendix D of updated Stormwater Report. In Spring 2021, BSC had intended to install additional borings to further confirm these findings, but was unable due to the dry Spring conditions.*

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Arlington Zoning Board of Appeals  
September 2, 2021

*Applicant confirms that it will provide additional onsite testing for groundwater levels prior to the submission of the building plan set as a condition of approval. Wells will be monitored in spring conditions when groundwater is highest and results compared to nearby monitoring wells monitored by USGS to estimate whether regional groundwater is below normal, normal or above normal in accordance with the MassDEP Stormwater Handbook. It is noted that the Stormwater Handbook does not require the use of the Frimpter Method, nor is the Frimpter method required by any existing local regulation.*

We look forward to discussing these matters further with the Board at the hearing on September 9, 2021.

Sincerely,



Stephanie A. Kiefer

cc: Paul Haverty, Esq.  
Jenny Raitt, Director of Planning and Community Development