



August 17, 2021

Christian Klein, Chairperson Arlington Zoning Board of Appeals

Arlington Town Counsel  
50 Pleasant Street  
Arlington, MA 02476

**Re: Thorndike Place - Arlington, MA  
Requested Waivers**

Chairperson Klein and Board Members:

BETA Group, Inc. (BETA) continues to perform peer review of the environmental, traffic, civil and stormwater related elements of the site plans and supporting engineering documents for the above-referenced project. As part of this review, BETA considered the Applicant's August 3, 2021 *Thorndike Place - List of Requested Waivers* to "Local Requirements and Regulations" including waivers from Bylaws of the Town of Arlington (the Bylaws), including the Town of Arlington Zoning Bylaw, as amended, and other Local Requirements and Regulations as defined under 760 CMR 56.02 of the Chapter 40B Regulations. Recommendations and further descriptions and discussion are provided in the summary tables.

Waiver request considerations were based on the following materials:

- ***Thorndike Place List of Requested Waivers***, Arlington MA – revised through August 3, 2021, preparer not specified;
- ***Thorndike Place Comprehensive Permit*** stamped plans Dorothy Road, Arlington MA – Sheets C-103, and C-105 - dated March 13, 2020, revised August 2, 2021 prepared by BCS Group;
- Response to Comments letter from BSC Group dated August 3, 2021
- Town of Arlington Zoning Bylaw with Amendments through April 2016;
- Town of Arlington Wetland Protection Bylaw, Article 8 (Wetland Bylaw) and Regulations for Wetland Protection (Wetland Regulations), June 4, 2015;
- Town of Arlington Title III: Article I, Sections 1 and 2
- Town of Arlington Title III: Article I, Section 20

**PROPOSED PROJECT – Current**

The proposed project, as revised, includes the construction of a 124-unit 4-story senior living building with parking below, and six (6) duplex townhouse units located along Dorothy Road. Also included are associated access driveways, surface parking areas, utilities, infrastructure, stormwater management and mitigation measures. The current project design involves limited site improvement in the AURA outer 75' Restricted Zone including a small section of the multi-unit building, access circulation, and stormwater management discharge. Resource area mitigation and habitat restoration is also proposed in the AURA. The 25' No Disturb Zone will remain intact.

**REQUESTED WAIVERS**

The Applicant provided a *Thorndike Place List of Requested Waivers* to “Local Requirements and Regulations” including waivers from Bylaws of the Town of Arlington (the Bylaws), including the Town of Arlington Zoning Bylaw, as amended, and other Local Requirements and Regulations as defined under 760 CMR 56.02 of the Chapter 40B Regulations. According to the *List of Requested Waivers* revised through August 3, 2021, in addition to the waivers listed in the Table titled List of Waivers/Exceptions, the Applicant requests an exception from such provision or requirement of all Local Requirements and Regulations issued by a “Local Board” defined under the Chapter 40B Regulations. No hardships on the project resulting from compliance with the cited regulatory sections were provided.

Table 1 – Waiver Request Summary for Arlington’s Zoning Bylaw Provisions that Related to Civil and Site Design and Table 2 – Waiver Request Summary for Arlington’s Wetlands Protection Bylaw and Regulations below provides a summary of the Applicant’s requests for waivers from specific sections and paragraphs found in the cited regulations and standards. BETA further described the sections and provided a recommendation for granting of the waivers.

**Table 1 – Waiver Request Summary for Arlington’s Zoning Bylaw Provisions that Relate to Civil and Site Design**

Proposed Provisions to be Waived	Summary of Request by Applicant	Comments on Waiver Request
Title III: Article I, Sections 1 and 2  Use of Streets for Construction or Demolition Materials	Waiver from section, except Applicant to comply with all bonding requirements as required by applicable bylaw provisions	<b>BETA:</b> We defer to the Board but note that the Applicant should provide a Construction Management Plan indicating project phasing and staging areas and anticipated impact to the public right of way.
Town of Arlington Bylaw, Title V (Regulations Upon Use of Private Property): Article 15, Section 1-5  Stormwater Mitigation	Full waiver of section. Stormwater will be managed in accordance with the MassDEP’s Stormwater Policy and Technical Guidance, unless otherwise exempt. Stormwater to also be managed in accordance with a US EPA Stormwater Construction Permit for Massachusetts.	<b>BETA:</b> We believe this waiver is appropriate as the stormwater management system has been designed in accordance with MassDEP requirements and peer reviewed for compliance. Waiving this section means that the Applicant would not need separate approval for Stormwater from the Engineering Department prior to obtaining building permits. The ZBA decision would provide the approval.

**Table 2 –Waiver Request Summary for Arlington’s Wetlands Protection Bylaw and Regulations**

Proposed Provisions to be Waived	Summary of Request by Applicant	Comments on Waiver Request
<p>Wetland Bylaw, Title V: Article 8, Section 2</p> <p>and</p> <p>Wetland Regulations, 2(A)(5), 4(3) and 4(7)</p>	<p>Waiver of Sections 2(A)(5), 4(3) and 4(7). Specifically:</p> <p>Section 2(A)(5) Waiver of Adjacent Upland Resource Area (AURA) as a Resource Area subject to Jurisdiction.</p> <p>Section 4(3) Definition. Waiver from defining AURA.</p> <p>Section 4(7) Definition. Waiver from defining Area Subject to Protection Under the Bylaw.</p>	<p><b>BETA:</b></p> <p><u>Section 2(A)(5).</u> BETA does not recommend waiving AURA as a Resource Area Subject to Protection. The current design meets the intent of the AURA’s presumption of significance and performance standards. Compliance with the regulations can be met. Therefore, a waiver is not required.</p> <p>The project and mitigation proposed in the <i>Thorndike Place Comprehensive Permit</i> plan set last revised August 2, 2021 and statements provided in their 8/3/21 <i>List of Requested Waivers</i> document acknowledge the AURA’s presumption of significant through providing the required 25-foot No Disturbance Zone and minimizing permanent site alterations in the 75-foot Restricted Zone. Mitigation provided by the proposed 2:1 floodplain compensation area located in the AURA that will include the restoration of native vegetation through elimination of invasive species and planting of native species, will provide a benefit to the AURA’s ability to protect the presumed interests it provides.</p> <p><u>Section 4(3) Definition.</u> Waiver from defining AURA. BETA does not recommend granting the waiver of this section. See comments above.</p> <p><u>Section 4(7) Definition.</u> Waiver from defining Area Subject to Protection Under the Bylaw. BETA does not recommend granting the waiver of this section. See comments above.</p>
<p>Wetland Regulations, Section 23 – Land Subject to Flooding</p> <p>Definitions and Performance Standards</p>	<p>Section 23 – Land Subject to Flooding (Bordering and Isolated)</p> <p>Waiver from Section 23 Paragraph A. Findings – presumptions of significance; Paragraph B. Definitions; and Paragraphs C through E, the performance standards.</p>	<p><b>BETA:</b> BETA does not recommend granting the waiver of Section 23 – Land Subject to Flooding. The current design meets the intent of the resource areas’ presumption of significance and is in compliance with the performance standard. Therefore, a waiver is not required. Compliance with the regulations can be met.</p>

		The project proposed in the 8/2/2021 Thorndike Place Comprehensive Permit plan set and statements provided in their 8/3/21 <i>List of Requested Waivers</i> document acknowledge the resource areas' presumption of significant by providing the 2:1 floodplain compensation for the proposed filling below the 100-year floodplain elevation.
Wetland Regulations, Section 24 –  Vegetation Removal and Replacement  Performance Standards	Section 24 – Vegetation Removal and Replacement.  Waiver from entire Section including Paragraph A. Findings – presumption of significance; Paragraphs B through D. Performance Standards; and Paragraphs E through H. – Plan and Planting Requirements	<b>BETA:</b> BETA does not recommend granting the Waiver of Section 24 – Vegetation Removal and Replacement.  The Project is providing habitat restoration in the location of the 2:1 floodplain compensation area and also will be providing habitat restoration of the rear acreage that will remain undeveloped. Such restoration efforts should follow the guidance provided by the Regulations in Section 24.
Wetland Regulations, Section 25 –  Adjacent Upland Resource Area  Performance Standards	Wetland Regulations, Section 25 – AURA  Waiver from the entire Section including Paragraph A. Findings – presumption of significance; Paragraph B. Definition and Boundary including the 25' NDZ and 75' Restricted Zone; Paragraph C. No Disturb Zone performance standard; Paragraph D. Restricted Zone presumption of significance and performance standards; and Paragraph E. Use restrictions.	<b>BETA:</b> BETA does not recommend granting the Waiver of Wetland Regulations, Section 25 – AURA. See Waiver of Sections 2(A)(5), 4(3) and 4(7) above.
Wetland Bylaw, Title V: Article 8, Section 11  Bond Requirements	Wetland Bylaw, Title V: Article 8, Section 11.  The applicant is requesting a waiver of the bond requirements in the Bylaw.	<b>BETA:</b> Given the proximity of the protected Bylaw Resource Areas within and adjacent to the Project as proposed, BETA recommends retaining the right of the Conservation Commission to require a performance bond.

Wetland Bylaw, Title V: Article 8, Section 16.B.11.  Wetland Consultant Fees	Wetland Bylaw, Title V: Article 8, Section 16.B.11.  The applicant is requesting a full waiver of the consultant review fee.	<b>BETA:</b> These fees are used by Conservation Commissions to fund review of Projects. BETA defers to the Conservation Commission to comment on whether the request to waive the entire consultant fee would be sufficient for this Project.
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If you have questions about any of these comments, please feel free to contact us. Otherwise, we will be present at the next scheduled public hearing to provide further discussion on the applicant's *Thorndike Place List of Requested Waivers*.

Very truly yours,  
**BETA Group, Inc.**



William P. McGrath, P.E.  
Senior Associate



Marta Nover  
Vice President

cc: Douglas W. Heim, Arlington Town Counsel  
Emily Sullivan, Environmental Planner & Conservation Commission Agent  
Susan Chapnick, Chairperson – Arlington Conservation Commission