



TOWN OF ARLINGTON

MASSACHUSETTS

## CONSERVATION COMMISSION

October 14, 2021

Zoning Board of Appeals  
Town of Arlington  
730 Massachusetts Avenue  
Arlington, MA 02474

**RE: Thorndike Place – Application for Comprehensive Permit  
Joint Comment Letter: ACC & BETA [Eight (8<sup>th</sup>) Set of Comments from ACC]**

Dear Chairman Klein and Members of the Board:

The Arlington Conservation Commission (ACC) and BETA have coordinated to provide this comment letter to the ZBA on the Thorndike Place Comprehensive Permit Application. The ACC and BETA are providing this comment letter, as discussed during the public hearing on October 5, 2021, to assist the ZBA as it moves forward with a draft decision for the permit application, which includes the Town of Arlington Wetlands Protection Bylaw (the Bylaw) regulations. This comment letter is based on:

- Thorndike Place Comprehensive Permit Draft Decision, September 30, 2021 (as posted on the ZBA website as of October 5, 2021), "*Draft Decision*"
- ZBA Decision\_Draft\_Thorndike Place(00206500xBC4F6) (PJH revisions 9-29-21)+MNBeta, transmitted to ACC for review on October 5, 2021, "*BETA Draft*"
- Waiver Request Comments, prepared by BETA, dated August 18, 2021
- ACC Seventh Comment Letter to ZBA, Thorndike Place, dated August 23, 2021

### **Waiver Requests – Wetlands**

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" and as documented in our seventh (7<sup>th</sup>) Comment Letter to the ZBA. As several of these Waivers were granted in the Draft Decision reviewed, where both BETA and the ACC recommended to deny them, we provide the following specific recommendations.

### **DECISION ON WAIVERS**

**#4. *Town of Arlington Wetlands Regulations, Section 24 "Vegetation Removal and Replacement."***

**ACC Recommendation: *Deny Waiver.***

**Justification:** The Project is providing habitat restoration in the location of the 2:1 floodplain compensation area and also some grading/re-vegetation of the outer AURA. Such restoration and re-

vegetation efforts should follow the guidance provided by the Regulations in Section 24 for protection of the resource areas. Establishment of a healthy diversified native plant community within the 2:1 floodplain compensation area will provide a resilient habitat within a resource area that protects the interests it must replicate including protection of flood control, groundwater, and wildlife habitat. The guidance found in Section 24 Vegetation Removal and Replacement is critical to the long term success of this mitigation area, whereby providing important public benefit.

**#5. *Town of Arlington Wetlands Regulations, Section 25 “Adjacent Upland Resource Areas.”***

ACC Recommendation: repeat same response as per Waiver #3 “Waiver Granted to allow work within the AURA as shown on the Approved Plans. The request to waive the AURA as a resource area in general is denied.”

Justification: this is similar to #3 Waiver Request of the AURA for work in the outer AURA as per the Project Plans; therefore, the ACC recommends the same language that the Board already listed in response to #3.

**#6. *Town of Arlington Bylaws, Title V (Regulations Upon Use of Private Property), Article 8, Section 11 “Bond to Secure Corrections of Flooding Conditions.”***

ACC Recommendation: **Deny Waiver.**

Justification: 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.

**#7. *Town of Arlington Bylaw, Title V, Section 8, “Wetland Consultant Fees.”***

ACC Recommendation: **Deny Waiver.**

Justification: these funds should be retained for potential peer review and technical assistance needs during project construction, due to the complexity of the project and uncertainty in several aspects of the proposal, including uncertainty in groundwater elevations throughout the site.

**III. FACTUAL FINDINGS – Wetlands and Flooding**

ACC Recommendation Paragraph #31 (former Paragraph #29):

The ACC agrees to the wording presented in Paragraph #31 (former Para #29) only if the ZBA agrees to all our Waiver Recommendations provided in our letter to the Board dated August 23, 2021 and herein.

ACC Recommendations Paragraph 33 (former Paragraph #31):

The ACC recommends that the following statement be added at the end of the finding:

“However, the ACC is not satisfied that the Compensatory Flood Storage Area design will sustain a natural diverse vegetative community that will result in a sustainable habitat that will provide important wildlife habitat.”

**IV. CONDITIONS - Section C. Submission Requirements**

ACC Recommendation:

The ACC recommends that the following be included as Submission Requirements.

- **Compensatory Flood Storage Mitigation Plan.** The Applicant shall provide a Compensatory Flood Storage Mitigation Plan for the proposed compensatory flood storage area to mitigate the negative environmental impacts associated with vegetation removal and grading to create this

new flood storage area. The goal of the Compensatory Flood Storage Mitigation Plan is to provide a temporary storage area for floodwater as well as provide important wildlife habitat functions including important food source, shelter, migratory or overwintering areas, and breeding areas for wildlife. This flood storage area shall rectify the current adverse impact of the floodplain by providing a better replacement resource area. The Mitigation Plan shall provide the following:

- a) A minimum ratio of 2:1 cubic feet of compensatory flood storage of a volume not previously used for flood storage and shall be incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project.
- b) At least a 3-year monitoring schedule with a 80% survival rate at the end of the 3<sup>rd</sup> year.
- c) Only native species shall be planted on the site to establish a diverse community of ground cover and native woody shrubs and trees.
- d) Plants shall be installed and maintained in accordance with standards of the American Association of Nurserymen (AAN).
- e) A monitoring report shall be submitted annually in June during 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.

*\* This change to 80% survivability is for consistency with the 1165R Mass Ave 40B and in understanding the survivability of native plantings.*

- **Landscape Plan.** As stated in Section 24. A. of the Commission's Wetland Regulations, an adequate quantity of vegetation must be maintained so that resource areas protected by the Bylaw can provide the resource area values protected by the Bylaw. Section 24.B. further states no vegetation in a resource area protected by the Bylaw shall be damaged, extensively pruned, or removed without written approval by the Commission and in-kind replacement. Given the extent of vegetation proposed to be removed within a resource area (here, BLSF and AURA), the Applicant shall provide a Landscape Plan as described in Section 24 and should include the elements described in Section 24.E. as follows:
  - a) Narrative describing existing conditions, proposed plantings, list of existing and proposed species, size of existing species and proposed species, quantity plants before and after revegetation and the rationale the removal and maintenance plan.
  - b) Affirmation of the proposed Revegetation Activities - all plans must be accompanied by written testimony and scale diagram from a certified arborist or wetland scientist or landscape architect saying vegetation removal is necessary, the surface area of vegetation to be removed, and the number of plants to be removed by species.
  - c) Planting Plan – drawn to scale, properly identified resource area and buffer zone and the project site, location of replacement species, comply with AAN, erosion controls, estimated tree canopies after 15 years of growth, name, sizes and locations of trees to be planted, and total area of SF of the area shaded by the canopies.
  - d) Existing species list - including number and type of trees and other vegetation (Latin names).
  - e) Replacement species list - including number and type of trees and other vegetation (Latin names).
  - f) Rationale for Removal.
  - g) Maintenance Plan, which may also reference the ISMP.

- h) The Plan shall include monitoring reports submitted annually in June during the three-year monitoring period. The reports shall include photo documentation, the health of new plantings and any mitigation. This report can be combined and submitted with the ISMP report.
- **Invasives Species Management Plan.** The Applicant shall submit an Invasive Species Management Plan (ISMP) for work in the AURA, BLSF and other resource areas if any that exist within the project's work limit. The ISMP shall identify the location of invasive species management, species and quantities of invasive plants to be managed, and methods of removal and control of each species. Monitoring Reports shall be submitted to the ZBA detailing any invasive species and recommendations for control and removal. The invasive species certified specialist shall evaluate the restoration areas for evidence of colonization by invasive species during prescribed monitoring site visits. Monitoring Reports submitted to the ZBA shall include a listing of any invasive species, and recommendations for control/removal.

#### **IV. CONDITIONS - Section I. Wetlands/Floodplain/Environmental Conditions**

**ACC Recommendation:** accept all of BETA's edits in this Section I ("BETA Draft" of October 5, 2021) with the following edits/comments.

**Justification:** The revisions documented by BETA ("BETA Draft") were generated based on discussion with ACC, BETA, and the Applicant and have reduced repetitions, clarified conditions, added back in several Conditions that were deleted by the Applicant, and added specific requirements where necessary to ensure resource area protections.

I1 through I4: Accept as edited by BETA.

I5. Accept as edited by BETA with the following edit:

"The foregoing does not apply to the clean snow removed from the emergency access road as long as no sand or non-approved de-icing materials are used and the snow is clear of all foreign debris. An alternative de-icing product such as magnesium chloride (MgCl) may be used as recommended in the Winter Parking Lot and Sidewalk Maintenance Manual published by the Minnesota Pollution Control Agency <https://www.pca.state.mn.us/sites/default/files/p-tr1-10.pdf>."

I6. Accept as edited by BETA for dewatering.

I7 & I8. Accept as edited by BETA for requirement of Environmental Monitor and reporting during construction.

I10 & I11. Accept as edited by BETA.

I13. Accept as edited by BETA.

I15. Accept as edited by BETA for specific requirements for determining seasonal high groundwater.

I16. Accept as edited by BETA.

I17. There was a public comment about the use of other fertilizers. The ACC has been consistent in allowing only slow-release Nitrogen fertilizer because we don't want additional fertilizers, especially

ones that contain phosphorus, in the wetland. Accept as edited by BETA – add the following to this Condition:

“This shall be a continuing condition in perpetuity that survives the expiration of this permit.”

I18. There was a public comment about the potential need to use herbicides to control invasives. This issue is addressed in the “BETA Draft.” Accept as edited by BETA – add the following to this Condition:

“This shall be a continuing condition in perpetuity that survives the expiration of this permit.”

I21. This is the requirement for Compensatory Flood Storage Plan – it should be consistent with and reference the Conditions Section C. Submission Requirements, as edited above. – add the following to this Condition:

“Maintenance of the Compensatory Flood Storage restoration area shall be a continuing condition in perpetuity that survives the expiration of this permit.”

I22. This is the Invasive Species Management Plan - it should be consistent with and reference the Conditions Section C. Submission Requirements, as edited above. – add the following to this Condition:

“Invasive Species Management shall be a continuing condition in perpetuity that survives the expiration of this permit.”

I24. Update survival rate to 80% at the end of the 3-year monitoring period. *This change is for consistency with the 1165R Mass Ave 40B and in understanding the survivability of native plantings.*

Add the following Condition to this Section, consistent with the Condition in 1165R Mass Ave:

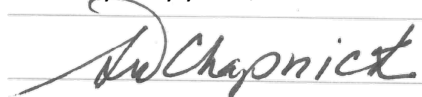
“The Applicant shall submit the contact information of the party responsible for monitoring and maintaining the planted vegetation within the Compensatory Flood Storage area to the ZBA. Should any changes be made to this party, the ZBA shall be notified. This shall be a continuing condition in perpetuity that survives the expiration of this permit.”

I25. & I34 (numbering wrong): Accept as edited by BETA to allow for disturbance in the AURA only as shown on approved Plans.

I26. Accept as edited by BETA.

The ACC & BETA hope the ZBA finds the above comments helpful in providing clarity and recommendations for the protection of our wetland resources through application of the Town Bylaw and Wetlands Regulations, which provide for flood control, storm damage prevention, and other interests of local concern. Please contact us should you have questions.

Very truly yours,



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