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October 16, 2022

Re: Testimony Opposing 40B Project a 1021-1025 Massachusetts Avenue (Please Include the attached letter of October 10 sent to MassHousing as part of this Testimony

Dear Chairman Klein and Members of the Board;

A major reason that this 40B application for award of a Comprehensive permit should be rejected is that MassHousing's Site Approval should be rescinded due to unacceptable procedural matters and lack of honesty. It is questionable that Arlington ZBA's Comprehensive Permit hearings can be legitimate in view of the problems of the Plan as follows:

- **In violation of legal requirements the Project has not been made known to the public.** Although required by law and requested by MassHousing in their letter of April 29, 2022 to Select Board (SB) Chair Diggins NO comment from any residents, committees or commissions was sought or provided except that of the Conservation Commission and Redevelopment Board. NO Project information or request for comment was made via the *Arlington Advocate* newspaper or by Select Board Chair Diggins (while officially representing the SB) at Arlington's Town Meeting with 252 members and its large television audience. Residents were deprived of knowledge of this Project and of the deadline for submission of comments.
- **The June 14 letter of Select Board (SB) Chair Diggins to MassHousing made an untruthful statement that the Project "is consistent with the goals and recommendations of the Arlington Master Plan, ... Open space and Recreation Plan, and the Mill Brook Corridor Report."** That is NOT the case as can be easily verified and is an outrageous statement concerning the hundreds of pages of these reports almost all of which are antithetical to the Project plan. Reading original source material clearly bears this out—e.g, Arlington's *Master Plan*: <https://www.arlingtonma.gov/departments/planning-community-development/master-plan>
- **The Applicant lied in the Site Information provided by denying that the Project involved a Landmark building.** There was no outreach by the developer/landowner to the Town, or to the Arlington Historical Commission or to the State authorities overseeing designated landmark buildings about the presence of and their intention to demolish this historic building at 1021 Massachusetts Avenue.

- **Responsible Climate parameters, laws and regulations of Arlington and Massachusetts for new construction are ignored.** The Project is not NetZero and its energy choices highly unacceptable.
- **Clear-cutting of 80 trees including a huge legacy Sycamore tree is irresponsible in view of climate change issues**
- **A letter from MassHousing to Select Board (SB) Chair Diggins described incorrectly the size of the site as being 22.98 acres. The site is actually 1.08 acres.** This erroneous statement remains on Arlington’s website with no statement of correction

Details of the Project Plan and Notice of Intent (NOI) are outrageous attempts to ignore, among other things, Arlington’s careful plans to mitigate climate change damage and follow its chosen path of Green Communities. This dreadful project has many aspects that will be detrimental to Arlington and will benefit only the developer/landowner’s financial gain.

SITE CONSIDERATIONS

In an attempt to accommodate the building’s massive footprint, the natural water storage ability of the site with its gradual slope and deep tree root penetration would be replaced by a totally artificial system requiring disruption of the ecosystem with clear cutting of trees and building of a forbidding 7 foot high retaining wall to accommodate water storage equipment. Tree loss would be huge including a magnificent Sycamore tree. Obviously the Project proponents chose to ignore warnings in Arlington’s *Hazard Mitigation Report* of the danger to health of heat islands. This site would be transformed to a heat island if its trees are clear cut. (Described waste and rubbish on the site should be removed by the landowner whether or not a Project is built.) The site is currently part of a pristine section of Massachusetts Avenue containing several historic houses (one of which would be destroyed by demolition if a Comprehensive Permit is awarded) and several other Landmark structures close enough to be endangered by the massive clearing, earthworks and construction planned. These include the beautifully renovated First Baptist Meeting House (1790) and the Highland Fire Station.

LEC consultants of Wakefield, MA wrote the *Local Order of Conditions (Notice of Intent – NOI)* document and *Impact Analysis of the Natural and Built Environment* for the developer/landowner. They have listed many of the unfortunate actions planned for the site with rose colored descriptions that essentially try to put lipstick on this Pig of a Project but the Project remains a Pig.

Without any mention of the historic Landmark status of one of the buildings which the Project would demolish the NOI states “Comprehensive Permit application to demolish two (2) structures and construct a 50-unit, 5-story affordable housing condominium building with ... retail space.” But it is legally dubious that Landmark buildings protected by the Commonwealth’s listing can be destroyed at the whim of a developer. Also the Project is not an “affordable housing condominium building.” Rather it is a market rate apartment building of 50 units 13 of which are barely “affordable” and ZERO units are affordable to very low income families –those most in danger of homelessness and for which Arlington has the greatest need. There is great need in Arlington for increasingly scarce houses like the two the

developer/landowner wishes to demolish. Arlington Housing Authority has need for these to house needy tenants who require some supportive services – such as at their very successful Donnelly House on Massachusetts Avenue. These houses could probably have provided affordable residence to a greater number of residents than the thirteen 40B planned units. It is sad to see these homes being used for speculative exploitation. Regarding the allegation of intention to have retail space the Project does not include building structures necessary for restaurants or even a coffee shop and provides no listing of prospective tenants. Essentially the building is a large apartment building masquerading as “Mixed Use.” Also stated in the NOI – “Portions of the proposed project are located within the outer portion of Riverfront Area associated with Mill Brook. Site grading, a retaining wall, erosion controls, invasive species management and native revegetation, meadow establishment, and storm water management are proposed.” However, there is nothing in the Project proposal which indicates or guarantees that the very intrusive and destabilizing landscape plan can be successful in the changed light and growth conditions planned. Nor is there any suggestion for plans for a fund to help occupants with assessments for repair or maintenance of the water management systems.

ENERGY AND CLIMATE SUSTAINABILITY CONSIDERATIONS

The Project opposes Arlington’s plans as a Green Community - established as such in 2010 - and its adoption of the Stretch Energy Code. This 40B Project is not Net Zero and will be detrimental to the Town’s energy efficiency goals. The loss of embedded energy in the destruction of the two houses would be very significant. The planned clear cutting of trees is detrimental to climate control. In 2020 the Clean Energy Future Committee (CEFC) supported a proposed bylaw that would, under certain circumstances prohibit fossil fuel infrastructure in new construction. This bylaw passed as part of Warrant Article 5 at the November 2020 Town Meeting. Warrant Article 5 also authorized a home rule petition and now must await is approval. But it is very clear that Arlington expects newly constructed projects to eschew the use of fossil fuel. The developer/landowner proposing his 40B Project need to come up with energy plans avoiding fossil fuels and a Project which is Net Zero. The CEFC’s mission is to guide the Town of Arlington to a future where, by 2050, net emissions of carbon dioxide and other greenhouse gases attributable to all sources in town are zero. Allowing Projects as inefficient and wasteful as the proposed 40B at 1021 Mass. Av. would make this goal impossible. Arlington would remain in the dark ages as regards its climate resiliency.

ARLINGTON'S PROBABLE SAFE HARBOR STATUS

To reach safe harbor protection from 40B Arlington would probably achieve the statutory requirement that 1.5% area of its relevant area as being affordable if the SB were to request the ARB/Planning Department to redefine areas with institutional buildings etc.as no longer being included in Residential District. More appropriately, as Winchester has done they should be included in a Special District – Conservancy-Institutional District.

WAIVER REQUESTS

The requests to reduce the:

Front Yard Setback: from 20ft -- to 11.8 ft

And Side Yard Setback: from 10 ft -- to 8.7 ft

should be **DENIED**. The building is massive and inconsistent with the Town's established concepts for the B1 District. These requested setback reductions would create discordance and possibly set very undesirable precedent.

The requests to increase the:

Maximum Height: from 35 ft or 3 stories -- to 61ft 8" or 5 stories

Maximum FAR: from .75 -- to 2

Should be **DENIED**

Arlington residents participating in the hundreds of hours of testimony for the Master Plan expressed approval for more mixed use buildings. However, their approval was for mixed use establishments like those of the Capitol Theater block or Arlington Center. In my experience (I attended all the Master Plan meetings) there was never any approval expressed by residents at any of the Master Plan meetings for nearly doubling or tripling the height and mass of such developments as these waiver requests essentially would do. (That suggestion could have been made by the consultant for the Master Plan who happens to be a 40B proponent and expert.)

The request for waivers for:

Tree Protection and Preservation (Title V; Article 16)

- Waiver of Tree Fund payment
- Comprehensive permit to include Tree Plan approval

Should be **DENIED**

These requests are outrageous and would be extremely detrimental to Arlington's admirable efforts to protect its tree canopy as strongly advised by many state and local documents such as Arlington's *Hazard Mitigation Report* and by Arlington's Tree Committee

The request for the:

Arlington Historical Commission • Regarding 1021 Massachusetts Avenue, a determination as part of the comprehensive permit that the demolition of the building would not be detrimental to the historical or architectural heritage or resources of the Town or in the alternative, waiver of the demolition delay.

Should be **DENIED**

Not only would it represent a loss to Arlington of a Landmark building, it unethically is requesting that the Commission would condone a lie in that it would wrongfully deny that the loss of the historic building certainly is detrimental to the historical or architectural heritage or resources of the Town

For these and other reasons I respectfully request that a Comprehensive Permit be denied for the 40B project at 1021-1025 Massachusetts Avenue.

Yours very truly,

Patricia B. Worden, Ph.D.
Former Chair, Arlington Housing Authority

Former Chair, Arlington School Committee

Member, Housing Plan Implementation Committee

Former Charter Member, Arlington Human Rights Commission

Member, Town Meeting, pct. 8