



ARLINGTON REDEVELOPMENT BOARD

TOWN HALL ARLINGTON, MASSACHUSETTS 02476

TELEPHONE 781-316-3090

June 1, 2010

James N. Duncan
Senior Vice President
JPI
8300 Greensboro Dr.
Suite 400
McLean, VA 22102

Dear Mr. Duncan:

Thank you for talking with us last week. We understand that you will continue to market the Symmes property in Arlington. As you know, the property is the site of the Symmes, Arlington, Conservation Improvement Project, an Urban Renewal project as defined in Massachusetts General Law, Chapter 121B and is the subject of an Urban Renewal Plan. The project is under the jurisdiction of the Arlington Redevelopment Board (ARB) and is subject to a Land Disposition Agreement (LDA) between the owner and the ARB. As, I'm sure you also know, the ARB must approve any new equity partner or new owner. We wish to make specific some of the Town's interests that we believe are of significance to prospective buyers as they consider making offers, and to you as you evaluate any offers you receive. Therefore, we request that you share this letter with any prospective buyers.

- The Urban Renewal Plan is adopted by the Arlington Town Meeting and generally describes what development can take place on the Symmes site.
- The Land Disposition Agreement is a negotiated contract between the land owner (developer) and the Arlington Redevelopment Board, a redevelopment authority.
- The Special Permit is issued by the Arlington Redevelopment Board in its capacity as the Town's planning board and special permit granting authority. The existing special permit approves a particular 200 unit development. Any development of the property must receive a special permit from the ARB.

The Symmes project involved several years of community process and an eventual agreement on the project's program. Any project going forward on that site must meet these same requirements. The Symmes project is defined by the LDA and the Urban Renewal Plan. In addition a particular 200 unit residential development has received a Special Permit issued by the ARB. Prospective developers must address their compliance with the LDA and may take advantage of the Special Permit as a baseline for moving forward with a development proposal.

If a prospective developer were to propose a development that differs from that which has been approved, the developer would need to apply for either a new Special Permit or an Amended Special Permit, either of which would require notice and a public hearing under the Town's Zoning Bylaw. There are a number of key issues, elements of the LDA and Special Permit, that should be fully considered by prospective developers to ensure that proposals have undergone appropriate due diligence and should be considered in the evaluation of a development team and proposal. The ARB is interested in working constructively with a qualified development team where the overall development strategy is fully considered and a clear financing path is demonstrated.

We suggest that to facilitate any future review process, any proposed developer should be prepared to explain how the following requirements/issues will be addressed.

I. Affordable and Middle Income Housing Requirements

Affordable and middle income housing requirements are part of the Arlington Zoning Bylaw and the LDA. Affordability requirements in the current Special Permit are consistent with the Zoning Bylaw before it was changed in 2007 and are summarized as follows:

1. Ownership or rental: 15% of units priced to be affordable to households at 80% of median income in the Boston area.
2. Rental: At the time that the ARB agreed to allow rental units an additional \$150,000 was pledged by Symmes Redevelopment Associates to further subsidize the units if rental units were constructed.

In 2007, the Town of Arlington amended its Zoning Bylaw, establishing affordability requirements as follows:

1. 15% of units to be affordable housing:
Ownership: units priced to be affordable to households at 70% of median income
Rental: units priced to be affordable to households at 60% of median income in the Boston area.

The ARB is in the process of consulting with its outside counsel to determine whether these new requirements apply to the previously issued special permit. Regardless of which requirements apply, changing them would necessitate changing the Town's Zoning Bylaw, and we believe it is unlikely Town Meeting would approve any such changes.

Beyond the requirements of the Zoning Bylaw, the LDA requires that an additional 5% of the housing is to be priced to be affordable to middle income households – those earning 120% of the median income

II. Changes to the Plans

1. The Plans were approved by the Special Permit and follow the requirements of the LDA. Any modifications to the plans (including site plan, landscape, and building plans), will be subject to an amendment or a new special permit. In such a case, an amendment to the LDA may also be required.

2. Appellant process: the Special Permit was appealed by a group of Arlington residents. The appeal was settled but the appellants will monitor project compliance. A new developer who wishes to build the permitted project must comply with the settlement agreement. The existing permit and the LDA comply with the settlement.

3. Rental Units vs. Condominiums: The Town has subsidized the project by devoting several years of property tax payments exclusively to project expenses. When the condominium market collapsed, the LDA was amended to allow for rental units at great cost to the town because of significantly reduced tax payments. Though not explicitly required by the LDA, the understanding was that, because the units were so large, the project would eventually convert to ownership. The Town would like to see as much condominium development as financially feasible. A developer interested only in rental units would not be consistent with Town's goals for this project.

4. Medical Office building (MOB) site: Should the developer not be prepared to move forward with the MOB site, the developer should address the disposition of the MOB site including monetary penalty for return of MOB ownership to the Town. The ARB asked the 2010 Town Meeting to expand the uses that would be permitted on the site and the Town Meeting gave the ARB permission to allow all uses that comply with zoning. The ARB will therefore consider development proposals for the MOB site that do not include a medical office building. It should be carefully noted that the MOB site has not been paid for and the ARB holds the first mortgage on the property. The existing price, specified in the LDA, is based on the site's use for a medical office building. Any other use will require a renegotiation of the price of the MOB parcel.

III. Environmental Issues

The property experienced an oil spill under a previous owner/operator of the site. The responsible party has monitoring the oil levels in monitoring wells in hopes of closing out the remediation of the site. Some of the required environmental monitoring wells on the site were destroyed by JPI's contractor during its work. The monitoring of these wells is part of the agreement with the Lahey Partnership (former owner and responsible party) as required by the Massachusetts Department of Environmental Protection. The monitoring was interrupted for more than a year. The wells have been replaced at the Town's expense to facilitate the closing out of this issue. The chosen developer must have a plan that allows the Lahey Partnership to complete the remediation of these known environmental conditions. All associated costs related to replacement of the wells are costs to the developer and the Town expects to be reimbursed. The cost is estimated to be less than \$10,000 for replacement of the wells, but professional service charges will add to this amount.

IV. Liens

Currently, the title to the Symmes land is encumbered by several mechanic's liens securing amounts due to contracts and subcontractors who have performed work at or delivered materials to the site. Technically, the liens are a violation of the LDA. It is essential that the removal of the liens on the property be addressed as part of the land sale. In addition, there are outstanding municipal taxes on the property accruing interest and penalties, which the Town cannot waive.

V. Symmes Neighborhood Advisory Committee (SNAC), and the Neighborhood Protection Plan (NPP)

1. SNAC: This citizens group, formed by the Arlington Town Meeting, is charged with creating the interface between the developer and the neighbors. They will pay particular attention to compliance with the Neighborhood Protection Plan. The developer must commit to working cooperatively with the group. 2. NPP: A set of guidelines for the protection of neighborhood interests and communication with the developer and builder during pre-construction and construction. The NPP requirements are typical for a major construction project in close proximity to residences but nonetheless, the prospective developer needs to be made aware of these requirements. The special permit requires that the developer comply with the NPP.

VI. Profit Sharing

Because of the price concessions the Town made in the sale of the property, the LDA requires profit sharing after the developer has earned a 21% return on investment. The current LDA is written to accommodate a rental project, but can be revised depending on the form the final development takes, such as condominiums rather than a rental development.

VII. Open Space Covenants

The LDA and Special Permit require that specific portions of the site be permanently preserved and improved as publicly-accessible open space. Prospective developers should pay close attention to Exhibits A and B of the Special Permit, and the Management Plan referenced therein. It is essential that they acknowledge these covenants.

We appreciate your attention to these issues and know that you appreciate their importance. Please remember that we remain willing to discuss these with you or any prospective developers at any time. You may contact the ARB through Arlington’s Director of Planning and Community Development, Carol Kowalski, who is the Secretary ex-officio of the ARB, at (781) 316-3092 and CKowlaski@town.arlington.ma.us.

Yours truly,

Christopher P. Loreti,
Chair, Arlington Redevelopment Board

cc: Elizabeth Paulson, Senior Vice President, PNC Bank