



Massachusetts Housing Finance Agency
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November 2, 2022

Robert Murchison
177 Lake Street
Sherborn, MA 01770

**Re: Farm Road Homes
Project Eligibility/Site Approval
MassHousing ID No. 1151**

Dear Mr. Murchison:

This letter is in response to your application as “Applicant” for a determination of Project Eligibility (“Site Approval”) pursuant to Massachusetts General Laws Chapter 40B (“Chapter 40B”), 760 CMR 56.00 (the “Regulations”) and the Comprehensive Permit Guidelines issued by the Department of Housing and Community Development (“DHCD”) (the “Guidelines” and, collectively with Chapter 40B and the Regulations, the “Comprehensive Permit Rules”), under the New England Fund (“NEF”) Program (“the Program”) of the Federal Home Loan Bank of Boston (“FHLBank Boston”).

You submitted an application with MassHousing pursuant to Chapter 40B. You have proposed to build thirty-two (32) homeownership units (the “Project”) on approximately 14 acres of land located on Farm Road (the “Site”) in Sherborn (the “Municipality”).

In accordance with the Comprehensive Permit Rules, this letter is intended to be a written determination of Project Eligibility by MassHousing acting as Subsidizing Agency under the Guidelines, including Part V thereof, “Housing Programs In Which Funding Is Provided By Other Than A State Agency.”

MassHousing has performed an on-site inspection of the Site and has reviewed the pertinent information for the Project submitted by the Applicant, the Municipality and others in accordance with the Comprehensive Permit Rules.

Municipal Comments

Pursuant to the Regulations, the Municipality was given a thirty (30) day period in which to review the Site Approval application and submit comments to MassHousing. At the request of the Municipality, this time was extended an additional 30 days, for a total of 60 days. The Sherborn Select Board submitted a letter expressing areas of concern regarding the proposed development.

The following areas of concern were identified in the letter:

Charles D. Baker, Governor
Karyn E. Polito, Lt. Governor

Jeanne Pinado, Chair
Carolina Avellaneda, Vice Chair

Chrystal Kornegay, Executive Director

- The Municipality is concerned about potential impacts of the proposed Project on water supply and wastewater management. Considering the town's reliance on private wells and private septic, the Municipality notes that undeveloped land, conservation land, and wetlands are critical for the replenishment of the town's aquifers, and that development of the proposed Project may impose drastic point loads on these resources, threatening the supply of safe drinking water for area residents. The Municipality expressed additional concern with the potential for ledge blasting during construction to contaminate private water supply in the area, particularly as it relates to construction of the wastewater management facility.
- The Municipality states that the proposed Project is significantly denser than the surrounding neighborhood which could negatively impact the character of the area. Further, the Municipality believes the siting of the buildings and the overall architectural style should be readdressed to fit into the surrounding context more thoughtfully.
- The Municipality is concerned that the entire site is subject to a deed restriction that limits the Applicant's right to subdivide the land.¹
- The Municipality commends the Applicant for proposing a net-zero energy Project but requests that the solar panels be on rooftops not on undisturbed land.
- The Municipality notes the need for improved pedestrian access into and out from the Site and recommend that the Applicant consider a sidewalk connection along Farm Road.
- The Municipality expressed concern about potential drainage and stormwater management impacts on abutting properties.

Community Comments

In addition to comments from Municipal staff and officials, MassHousing received several letters from area residents and other interested parties, expressing various concerns for the proposed Project. While letters from the community largely echoed the concerns identified by Municipal officials, the letters received are summarized below:

- Area residents are concerned that the size and scale of the proposed Project is not in keeping with the modest nature of surrounding neighborhood residences of mostly single-family homes.
- Area residents are concerned about the proposed stormwater management plan.
- Area residents are concerned about water supply and wastewater management of the proposed site.
- Area residents are concerned that the entire site is subject to a deed restriction that limits the Applicant's right to subdivide the land.

¹ The existence of a Deed Restriction does not preclude a Subsidizing Agency from issuing a Determination of Project Eligibility. However, a Restriction may not be overridden by a Municipality's Zoning Board of Appeals or the Housing Appeals Committee. 135 Wells Avenue, LLC v. Housing Appeals Committee 478 Mass. 346 (SJC 2017)

MassHousing Determination and Recommendation

MassHousing staff has determined that the Project appears generally eligible under the requirements of the Program, subject to final review of eligibility and to Final Approval.² As a result of our review, we have made the findings as required pursuant to 760 CMR 56.04(1) and (4). Each such finding, with supporting reasoning, is set forth in further detail on Attachment 1 hereto. It is important to note that Comprehensive Permit Rules limit MassHousing to these specific findings in order to determine Project Eligibility. If, as here, MassHousing issues a determination of Project Eligibility, the Applicant may apply to the Zoning Board of Appeals ("ZBA") for a comprehensive permit. At that time local boards, officials and members of the public are provided the opportunity to further review the Project to ensure compliance with applicable state and local standards and regulations.

Based on MassHousing's site and design review, and considering feedback received from the Municipality, the following issues should be addressed in the application to the ZBA, and the Applicant should be prepared to explore them more fully during the public hearing process:

- Development of this Site will require compliance with all state and federal environmental laws, regulations and standards applicable to existing conditions and to the proposed use related to building construction, stormwater management, wastewater collection and treatment, and hazardous waste safety. The Applicant should expect that the Municipality will require evidence of such compliance prior to the issuance of a building permit for the Project.
- The Applicant should continue to engage with municipal officials in a good-faith discussion regarding design review matters and other Site-related concerns, including, but not limited to issues regarding solar panel use, sidewalk connections on Farm Road and duplex siting along Farm Road.
- The Applicant should be prepared to discuss the impact of the Project on water resources and private wells in the area and respond to reasonable requests for mitigation.
- The Applicant should be prepared to discuss certain deed restrictions that may apply to the Site, specifically any progress on whether the Applicant is subject to the restriction.

MassHousing has also reviewed the application for compliance within the requirements of 760 CMR 56.04(2) relative to Application requirements and has determined that the material provided by the Applicant is sufficient to show compliance.

This Site Approval is expressly limited to the development of no more than thirty-two (32) homeownership units under the terms of the Program, of which not less than eight (8) of such units shall be restricted as affordable for low- or moderate-income persons or families as required under the terms of the Guidelines. It is not a commitment or guarantee of financing and does not constitute a site plan or building design approval. Should you consider, prior to obtaining a comprehensive permit, the use of any other housing subsidy program, the construction of additional units or a reduction in the

² MassHousing has relied on the Applicant to provide truthful and complete information with respect to this approval. If at any point prior to the issuance of a comprehensive permit MassHousing determines that the Applicant has failed to disclose any information pertinent to the findings set forth in 760 CMR 56.04 or information requested in the Certification and Acknowledgment of the Application, MassHousing retains the right to rescind this Site Approval letter.

size of the Site, you may be required to submit a new Site Approval application for review by MassHousing. Should you consider a change in tenure type or a change in building type or height, you may be required to submit a new site approval application for review by MassHousing.

For guidance on the comprehensive permit review process, you are advised to consult the Guidelines. Further, we urge you to review carefully with legal counsel the M.G.L. c.40B Comprehensive Permit Regulations at 760 CMR 56.00.

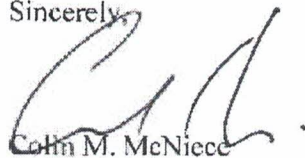
This approval will be effective for a period of two (2) years from the date of this letter. Should the Applicant not apply for a comprehensive permit within this period this letter shall be considered to be expired and no longer in effect unless MassHousing extends the effective period of this letter in writing. In addition, the Applicant is required to notify MassHousing at the following times throughout this two-year period: (1) when the Applicant applies to the local ZBA for a Comprehensive Permit, (2) when the ZBA issues a decision and (3) if applicable, when any appeals are filed.

Should a comprehensive permit be issued, please note that prior to (i) commencement of construction of the Project or (ii) issuance of a building permit, the Applicant is required to submit to MassHousing a request for Final Approval of the Project (as it may have been amended) in accordance with the Comprehensive Permit Rules (see especially 760 CMR 56.04(07) and the Guidelines including, without limitation, Part III thereof concerning Affirmative Fair Housing Marketing and Resident Selection). Final Approval will not be issued unless MassHousing is able to make the same findings at the time of issuing Final Approval as required at Site Approval.

Please note that MassHousing may not issue Final Approval if the Comprehensive Permit contains any conditions that are inconsistent with the regulatory requirements of the New England Fund Program of the FHLBank Boston, for which MassHousing serves as Subsidizing Agency, as reflected in the applicable regulatory documents. In the interest of providing for an efficient review process and to avoid the potential lapse of certain appeal rights, the Applicant may wish to submit a "final draft" of the Comprehensive Permit to MassHousing for review. Applicants who avail themselves of this opportunity may avoid significant procedural delays that can result from the need to seek modification of the Comprehensive Permit after its initial issuance.

If you have any questions concerning this letter, please contact Michael Busby at (617) 854-1219.

Sincerely,



Colin M. McNiece
General Counsel

cc: Jennifer Maddox, Undersecretary, DHCD
The Honorable Rebecca L. Rausch
The Honorable David P. Linsky
Jeff Waldron, Chair, Select Board
Richard S. Novak, Chair, Zoning Board of Appeals

Attachment 1

760 CMR 56.04 Project Eligibility: Other Responsibilities of Subsidizing Agency
Section (4) Findings and Determinations

Farm Road Homes, Sherborn, MA #1151

MassHousing hereby makes the following findings, based upon its review of the application, and taking into account information received during the site visit and from written comments:

(a) that the proposed Project appears generally eligible under the requirements of the housing subsidy program, subject to final approval under 760 CMR 56.04(7);

The Project is eligible under the NEF housing subsidy program and at least 25% of the units will be available to households earning at or below 80% of the Area Median Income, adjusted for household size, as published by the U.S. Department of Housing and Urban Development (“HUD”). The most recent HUD income limits indicate that 80% of the current median income for a four-person household in Sherborn is \$111,850.

The Applicant submitted a letter of financial interest from Fidelity Bank, a member bank of the FHLBank Boston under the NEF Program.

(b) that the site of the proposed Project is generally appropriate for residential development, taking into consideration information provided by the Municipality or other parties regarding municipal actions previously taken to meet affordable housing needs, such as inclusionary zoning, multifamily districts adopted under c.40A, and overlay districts adopted under c.40R, (such finding, with supporting reasoning, to be set forth in reasonable detail);

Based on a site inspection by MassHousing staff, internal discussions, and a thorough review of the application, MassHousing finds that the Site is suitable for residential use and development and that such use would be compatible with surrounding uses and would address the local need for housing.

Section IV-A (3) (a) of the Guidelines provide guidance to Subsidizing Agencies for evaluating a municipality’s actions intended to meet affordable housing needs. MassHousing carefully reviewed the information provided by the Municipality describing previous municipal actions intended to provide affordable housing. Specific examples undertaken by the Municipality include:

- The Town of Sherborn has a Housing Production Plan (HPP) originally approved by DHCD in 2016 and recently updated and approved in May 2022.
- In 2018, Town Meeting approved a zoning bylaw change that encourages accessory apartment units in single family homes or farms.
- In 2020, Town Meeting approved an “inclusionary zoning” bylaw that requires 15% affordable units when building two or more units.
- The Town of Sherborn established an Affordable Housing Trust in 2020 to manage funds generated by recent initiatives.

- The Town of Sherborn recently approved a Comprehensive Permit for a 120-unit Local Initiative Petition that would access MWRA water & sewer from an adjacent community.

MassHousing commends the Municipality's progress towards creating a range of diverse housing options to meet its affordable housing needs, however, according to DHCD's Chapter 40B Subsidized Housing Inventory, updated through September 26, 2022, Sherborn has 48 Subsidized Housing Inventory (SHI) units (3.25% of its housing inventory), which is 100 units short of the statutory minima of 10%.

(c) that the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns (such finding, with supporting reasoning, to be set forth in reasonable detail);

In summary, based on evaluation of the site plan using the following criteria, MassHousing finds that the proposed conceptual Project design is generally appropriate for the Site. The following plan review findings are made in response to the conceptual plan, submitted to MassHousing:

Relationship to Adjacent Building Typology (Including building massing, site arrangement, and architectural details)

The proposed site layout includes a range of two-and three-bedroom unit types meant to help address the needs of a range of households and income levels. Each home is 1.5 to 2 stories in height, including pitched roofs, detailing, and materials in keeping with the traditional, residential, New England character of the surrounding community. All homes include front porches that face the shared walks and green spaces of the neighborhood, helping foster a sense of community between residents.

Relationship to adjacent streets/Integration into existing development patterns

The town is located south of the Mass Pike and Framingham and Natick and is midway between I-495 to the west and I-95 to the east. Local arteries connecting Sherborn to nearby communities include State Routes 27, 16 and 115 at its southeast corner. The subject property is in the north central part of town along Route 27 east of its intersection with Route 16. The neighborhood is sparsely developed with mostly residential homes and wooded/conservation land. Access to the subject property is relatively good, given its location in Sherborn. North Main Street is Route 27, has one lane of travel in each direction, and is one of two main thoroughfares providing access to nearby communities.

The site is currently vacant and partially wooded and is surrounded on three sides by 167 acres of Sherborn Town Forest (and 70 acres of private undevelopable land). The surrounding uses along Farm Road are single family homes and woods.

Density

The Applicant proposes to build thirty-two (32) homeownership units on approximately 14 acres, of which, 12.97 acres are buildable. The resulting density is 2.47 units per buildable acre, which is acceptable given the proposed housing type.

Conceptual Site Plan

The Applicant proposes to have on site walking paths that connect to town forest trails that are a short walk to the Pine Hill School and other town center locations. The Project will be served from Farm Road by pole mounted utilities for electricity/cable tv, telephone and other communications which will be brought to the entrance of the site and placed underground. The site will also be served by seven rows of solar panels which are planned on the northern portion of the site. The Applicant hopes to meet net-zero energy standards. Furthermore, the applicant will seek to make the project fossil fuel free by working with Mass. Save to adopt an all-electric heating system. In addition, the homes will be served by private water and a shared onsite septic system.

Environmental Resources

The site is a 14-acre parcel with a pond and extensive trails. Wetlands in the southern portion of the site will limit the development to upland areas identified by the Applicant.

Topography

The site has slopping and hilly areas as well as a pond on a portion (1.03-acres) of the site. The topographic features of the Site have been considered in relationship to the proposed development plans and do not constitute an impediment to development of the Site.

(d) that the proposed Project appears financially feasible within the housing market in which it will be situated (based on comparable rentals or sales figures);

The Project appears financially feasible based on a comparison of sales submitted by the Applicant.

(e) that an initial pro forma has been reviewed, including a land valuation determination consistent with the Department's Guidelines, and the Project appears financially feasible and consistent with the Department's Guidelines for Cost Examination and Limitations on Profits and Distributions (if applicable) on the basis of estimated development costs;

The initial pro forma has been reviewed for the proposed residential use, and the Project appears financially feasible with a projected profit margin of 14.89%. In addition, a third-party appraisal commissioned by MassHousing has determined that the "As Is" land value for the Site of the proposed Project is \$1,720,000.

(f) that the Applicant is a public agency, a non-profit organization, or a Limited Dividend Organization, and it meets the general eligibility standards of the housing program; and

MassHousing finds that the Applicant must be organized as a Limited Dividend Organization. MassHousing sees no reason this requirement could not be met given information reviewed to date. The Applicant meets the general eligibility standards of the NEF housing subsidy program and has executed an Acknowledgment of Obligations to restrict their profits in accordance with the applicable limited dividend provisions.

(g) that the Applicant controls the site, based on evidence that the Applicant or a related entity owns the site, or holds an option or contract to acquire such interest in the site, or has such other interest in the site as is deemed by the Subsidizing Agency to be sufficient to control the site.

The Applicant controls the entire Site by virtue of a deed of ownership in two separate transactions from two separate sellers. 55 Farm Road, which includes a house, was acquired by the Applicant on 1/11/2021 for \$1,130,000. The property at 65 Farm Road, vacant land, was acquired on 10/1/2021 for \$775,000. Both deeds are recorded at the Middlesex South Registry of Deeds in Book 76660, Page 253 and Book 78824, Page 317.