



Massachusetts Housing Finance Agency
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August 10, 2021

The Lovendale Company, LLC
279 Old Oaken Bucket Road
Scituate, MA 02066
Attention: Daniel Lovendale

**Re: The Cottages at Old Oaken Bucket Road
Project Eligibility/Site Approval
MassHousing ID No. 1112**

Dear Mr. Lovendale:

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”).

The Lovendale Company, LLC has submitted an application with MassHousing pursuant to Chapter 40B. You have proposed to build thirty-four (34) homeownership units (the “Project”) on 11.22 acres of land located at 279 Old Oaken Bucket Road (the “Site”) in Scituate, MA (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. The Select Board submitted a letter summarizing comments from municipal departments and members of the community identifying specific concerns with the proposed Project:

The following concerns were identified in their comments:

- The Municipality expressed concerns about the sufficiency of the existing water supply and its ability to provide ‘sufficient, safe, clean’ drinking water to the Site. The Municipality notes that the Site is located in the Water Resource Protection District which triggers a number of requirements necessary to protect the Town’s water supply.
- The Municipality requests that the Applicant use the existing cleared areas in a manner that will maintain forested buffers to neighboring properties.
- The Municipality expressed concern about potential drainage and stormwater management impacts on abutting properties.
- The Municipality also provided comments from the Scituate Fire Department. The Fire Department emphasized that the Project must be designed to ensure the maximum level of emergency access and fire protection. They outlined a variety of requirements for the Project including fire lanes, sufficient roadway widths, sufficient spacing between buildings to accommodate public safety vehicles and a system of hydrants on a looped water main.
- The Municipality has noted the lack of any usable open space for residents and has recommended that the site plan include additional areas left for open space features.
- The Municipality expressed concern with various aspects of the site plan. Of greatest concern was the lack of a secondary or emergency access point. They also noted that the project design featured building density levels significantly higher than those found at other properties located nearby.
- The Municipality expressed concern that additional traffic generated by the Project would result in increased congestion on area roadways and pose heightened risks to drivers and pedestrians. They requested that the Applicant provide a traffic study to allow them to fully assess Project traffic and public safety impacts.

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.¹ 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:

¹ 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.

- 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 be prepared to provide sufficient data to assess potential traffic impacts on area roadways and intersections, including the safety of proposed site access and egress, and to respond to reasonable requests for mitigation.
- The Applicant must comply with Title V regulations regarding the design and construction of individual wells, septic systems and wastewater treatment plants. The Applicant should provide evidence of such compliance prior to the issuance of a building permit for the Project.
- The Applicant should be prepared to provide detailed information relative to proposed water use, potential impacts on existing capacity, and appropriate mitigation.
- The Applicant be prepared to provide detailed information regarding the management of the open space elements of the Project.

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-four (34) homeownership units under the terms of the Program, of which not less than nine (9) 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 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 in order 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 Patrick M. O'Connor
The Honorable Patrick J. Kearney
The Honorable Joan Meschino
Karen Canfield, Chair, Scituate Select Board
Anthony J. Bucchere, Chair, Scituate Zoning Board of Appeals
James Boudreau, Scituate Town Administrator

Attachment 1

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

The Cottages at Old Bucket Road, Scituate, MA #1112

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 Scituate is \$101,050.

The Applicant submitted a letter of financial interest from Rockland Trust, 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 cited by the Municipality include:

- Completion of a DHCD-approved Housing Production Plan (HPP), effective December 16, 2020 and expiring December 15, 2025; and
- Approved a 78-unit apartment Project with 12 affordable units under the Town's Mixed-Use Zoning By-law.

According to DHCD's Chapter 40B Subsidized Housing Inventory (SHI), updated through June 24, 2021, Scituate has 365 Subsidized Housing Inventory (SHI) units (5.1% of its housing inventory), which is 351 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 proposal consists of 34 homeownership units, in 14 duplex buildings and 6 detached single-family homes sited around a cul-de-sac off Old Oaken Bucket Road. An existing home on Old Oaken Bucket will be retained and integrated into the new neighborhood. Sidewalks and front porches connect each of the homes to one another and a series of small community spaces. The homes are designed to be in keeping with the scale, character, and massing of the existing single-family community. All units are one-and-a-half to two stories in height, and exterior materials will be primarily a mix of cementitious siding and synthetic trim. Each home will also include a two-car garage.

Relationship to adjacent streets/Integration into existing development patterns

The Site is in a semi-rural residential district that is characterized by single-family homes, significant wetlands and wooded areas as well as agricultural activities (cranberry bogs). The Site is northwesterly to the rotary at the intersection of Route 3A (Chief Justice Cushing Highway) and Route 123. Route 3 runs through neighboring Norwell. There are two MBTA Commuter Rail Stations in the town, one is in North Scituate and the other, Greenbush Station, is two miles southeast of the Site.

Density

The Applicant proposes to build thirty-four (34) homeownership units on approximately 11.22 acres, of which 8.74 acres are buildable. The resulting density is 3.89 units per buildable acre, which is acceptable given the proposed housing type.

Conceptual Site Plan

At the entry to the proposed neighborhood, a small green space will serve as a point of arrival, featuring a gazebo, entry signage and landscaping. A short way into the neighborhood, the proposal includes an access path back to the reserve septic area. The character of this space will be a wildflower meadow, allowing it to also serve as a natural habitat for a range of small wildlife. The primary open space area of the proposed development is the central lawn that also does double duty as the primary septic area. Trees are not possible because of the septic use, but smaller clusters of plantings will be included around the edges to help delineate this area. At the rear of the cul-de-sac is a meadow overlook, which will include a communal pavilion that will be surrounded by newly planted trees and will provide a covered space for future residents.

Environmental Resources

Development of the Site will require careful attention to current Best Management Practices to avoid any adverse impacts to the protected wetland resource areas. Wetland resources in these areas will be subject to further review by the local Conservation Commission under a Notice of Intent.

Topography

The Site is generally level with mild sloping towards the rear portion of the Site. The topographic features of the Site have been considered in relationship to the proposed Project 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 18.69%. 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 \$900,000.

(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 Site consist of two contiguous tax parcels improved by residential properties. Lovendale, LLC acquired 270 Old Oaken Bucket Road in 2019 and has 281 Old Oaken Bucket Road under a Purchase and Sale Agreement between Shawn M. Harris and Donna Wright, Trustees of D.C.S. Realty Trust and Salt Meadow Development, dated July 31, 2020 with an expiration date of October 15, 2021.