



Massachusetts Housing Finance Agency
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December 6, 2019

Louis Petrozzi, President
Wall Street Development Corporation
2 Warthin Circle
Norwood, MA 02062

**Re: Diamond Hill Estates
Project Eligibility/Site Approval
MassHousing #1036**

Dear Mr. Petrozzi:

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 have proposed build to twelve (12) units, including three (3) affordable units, of homeownership housing (the “Project”), on a 1.22-acre site located on Dupee Street (the “Site”) in Walpole, 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, which local boards and officials were invited to attend, 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 Board of Selectmen submitted a letter on July 19, 2019, summarizing comments from municipal officials and staff.

On October 16, 2019, MassHousing and the Municipality received revised site plans from the applicant, showing modifications made by the Applicant in response to feedback from the Municipality regarding the site layout and public safety access issues for emergency vehicles. The number of units was reduced from sixteen (16) units to twelve (12) units, and revisions were made to the original site plan, including the addition of a turnaround easement at the end of Dupee Street.

Following receipt of the revised Site Plan, the Walpole Board of Selectmen asked for and were granted an additional thirty (30) days to review the revised plans. On November 13, 2019, MassHousing received a second comment letter from the Board of Selectmen identifying additional concerns.

The following concerns were identified in their comments:

- The Board of Selectmen believe the proposed addition of twelve (12) units of housing will not only change the character of the area, they also anticipate added burdens and challenges on the existing neighborhood such as increased traffic, potential for increased noise and light pollution and stormwater management challenges.
- The Fire Department stressed that the Project must be designed so as 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 to accommodate public safety vehicles, hydrant placement and interior fire suppression systems.
- The Board of Selectmen expressed concerns regarding the sufficiency of the existing water supply and encouraged the implementation of water-saving facilities at the Project. They also questioned the capacity of the Town's sewer system to handle the anticipated quantity of additional flow and noted that a determination on this matter would require further investigation.
- The Police Department expressed concern over the lack of sidewalks and street lighting near the Site. Additionally, the Police Department requests that the Applicant consider partnering with Walpole Emergency Management's CERT program to provide for proper emergency planning, evacuation and sheltering plans on Site.
- The Board of Selectmen has requested that no less than 100% of the proposed units be designated as affordable. Additionally, the Board of Selectmen has requested that the proposed development consist of only two-bedroom units.¹

Comments Outside of the Findings

While Comprehensive Permit Rules require MassHousing, acting as Subsidizing Agency under the Guidelines, to "accept written comments from Local Boards and other interested parties" and

¹ The Subsidizing Agency's core programmatic matters (including affordability requirements and the number of bedrooms per unit), rather than traditional matters of local concern (including public health, safety, land use, and construction), are outside the authority of the Zoning Board of Appeals. This position has been confirmed by the Massachusetts Supreme Judicial Court. *Amesbury v. Housing Appeals Committee*, 457 Mass 748 (2010).

to “consider any such comments prior to issuing a determination of Project Eligibility”, they also limit MassHousing to specific findings outlined in 760 CMR 56.04(1) and (4). MassHousing identified issues that are not within the scope of our review including possible impacts on classroom size, resources, staff and budgetary constraints on the Walpole Public Schools.

MassHousing carefully considered all of the Municipality’s concerns and, to the extent appropriate within the context of the Site Approval process, has offered responses in the following “Recommendations” section of this letter.

MassHousing Determination and Recommendations

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”) of the Municipality 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 consideration of comments received from the Municipality, and its site and design review, the following issues should be addressed in your application to the local ZBA for a Comprehensive Permit and fully explored in the public hearing process prior to submission of your application for Final Approval under the Program:

- Development of this Site will require resolution of all environmental conditions per laws, regulations and standards applicable to existing conditions and to the proposed use, including but not limited to compliance with all applicable regulatory restrictions relating to floodplain management, the protection of wetlands, river and wildlife habitats/conservation areas, as well as local and state environmental protection requirements relating to the protection of the public water supply, storm water runoff, wastewater treatment, and hazardous waste safety. The Applicant should provide evidence of such compliance prior to the issuance of a building permit for the project.
- The Applicant should provide a detailed traffic study assessing potential impacts of the project on area roadways and identifying appropriate mitigation in compliance with all applicable state and local requirements. The traffic study should also review on-site parking and circulation to ensure compliance with industry standards.
- A landscape plan should be provided to address Municipal comments concerning open space, including a detailed planting plan as well as paving, lighting, and signage details and the location of outdoor dumpsters or other waste receptacles.

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.

- The Applicant should be prepared to provide detailed information relative to proposed water and sewer use, potential impacts on existing capacity, and appropriate mitigation.
- The Applicant should consider partnering with Walpole Emergency Management's CERT program to help prepare residents for emergency planning, evacuation and sheltering in place plans.
- The Applicant should be prepared to address the Walpole Fire Department's concerns regarding on-site circulation to ensure compliance with public safety standards and good design practice relative to drive-aisle widths, turning radii and sight distances along the site drive and the parking areas through which it passes.

MassHousing has also reviewed the application for compliance with 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 twelve (12) homeownership units under the terms of the Program, of which not less than three (3) 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, a reduction in the size of the Site, 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 or should MassHousing not extend the effective period of this letter in writing, this letter shall be considered to have expired and no longer be in effect. 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 FHLBB, 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,



Chrystal Komegay
Executive Director

cc: Janelle Chan, Undersecretary, DHCD
The Honorable Paul R. Feeny
The Honorable John H. Rogers
James O'Neil, Chairman, Board of Selectmen
John Lee, Chairman, Zoning Board of Appeals

Attachment 1

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

Diamond Hill Estates, Project #1036

After the close of a 30-day review period MassHousing hereby makes the following findings, based upon its review of the application, and in consideration of 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 (AMI), 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 Walpole is \$89,200. A letter expressing interest for Project financing was provided by Needham Bank, a member bank of the Federal Home Loan Bank of Boston.

(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 directly address the local need for housing.

The Town of Walpole has a DHCD-approved Housing Production Plan. According to DHCD's Chapter 40B Subsidized Housing Inventory (SHI), updated through November 18, 2019, Walpole has 484 (SHI) units (5.39% of its housing inventory), which is 414 units short of the statutory minima requirement 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 surrounding neighborhood is generally residential in character and is predominantly made up of single-family, duplex and multi-family homes. The proposed buildings are designed to reflect a consistent massing, scale and character of single-family residential homes. The "street" facades will feature a mixture of roof shapes and configuration, building materials and entry types. The proposed buildings will be approximately 2.5 stories reflecting the prevailing height of neighboring homes.

Relationship to Adjacent Streets

The Site is located at the end of a residentially developed dead-end street close to Route 1 and Route 27. A paper road extends from the end of pavement on Dupee Street through the subject property to Summit Avenue. The relationship of the proposed Site access and egress to Dupee Street and Summit Avenue does not present any discernable public safety impacts. There appear to be adequate lines of sight for vehicles entering and exiting the proposed Site. Views into the Site from Dupee Street are similar to those found throughout the existing neighborhood and are able to create an appropriate relationship to the proposed Project.

Density

The Applicant proposes to build twelve (12) units on 1.22 acres, all buildable. The resulting density is 9.83 units per buildable acre, which is acceptable given the proposed housing type and the uses found in the surrounding context.

Conceptual Site Plan

The Applicant proposes to develop six (6) duplex style buildings for a total of twelve (12) units in a condominium form of ownership. The proposed site layout considers the pattern of the existing street frontage by siting the buildings with front yards facing Dupee Street. The site plan is typical of other small single-family subdivisions found throughout the Walpole area. All residences will feature a one-car garage and have additional space for off-street parking. The site plans indicate that the Applicant will provide a sufficiently sized cul-de-sac for turnarounds and emergency vehicular access at the end of Dupee Street. The Project will be serviced by municipal water and sewer, with all utilities servicing the Project installed underground.

Topography

The subject property is long and narrow but generally level throughout 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.

Environmental Resources

The subject property is not located within any significant defined resource area and does not include any unique environmental features that further enhance or restrict the proposed use.

(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 MassHousing finds 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 17.62%. 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 \$350,000.

(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

The Applicant must be organized as a Limited Dividend Organization prior to applying for Final Approval. 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 1.22-acre Site under a purchase and sale agreement.