

ATTACHMENT B



Massachusetts Housing Finance Agency
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July 10, 2023

41 Tusnua LLC
67 Dunboy Street
Brighton, MA02135
Attn: Joseph A. Keegan

**Re: 41 Washington Street
Project Eligibility/Site Approval
MassHousing ID No. 1167**

Dear Mr. Keegan:

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”).

41 Tusnua LLC (the “Applicant”) has submitted an application with MassHousing pursuant to Chapter 40B to build sixteen (16) homeownership units (the “Project”) on approximately 0.6 acres of land located at 41 Washington Street (the “Site”) in Newton (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. An additional comment period of fifteen (15) days was provided to review project revisions that were submitted by the Applicant. The Municipality submitted initial comments in a December 9, 2022 letter. Supplemental comments were provided in response to project revisions on April 27, 2023. While generally supportive of housing on the Site, the Municipality noted that the application represents a significant change from the single- and two-family neighborhood, detailing the following concerns regarding the proposal:

Maura Healey, Governor
Kim Driscoll, Lt. Governor

Jeanne Pinado, Chair
Carolina Avellaneda, Vice Chair

Chrystal Kornegay, Executive Director

- While the Municipality supports the revised plan's consolidation of the proposed Project within one addition to the Site's existing dwelling, they recommended the Applicant explore ways to further subordinate the addition and reflect the historic architectural details and materials of the existing structure.
- The Municipality is concerned that the proposed site layout leaves little room for active and passive open space. The Municipality requested a landscape plan and consideration for the following:
 - Landscaping to screen the Site for privacy for future occupants as well as for abutters.
 - Retention of as many trees as possible due to concerns about flooding in the area.
 - Reduction in the amount of parking spaces and impervious paving on the Site.
 - Areas for children to play.
- The Municipality requested additional information on how the Applicant plans to improve upon existing walking and biking conditions around the Site, including incorporating bicycle facilities on-site and exploring the elimination of one of the two curb cuts to minimize interruption to the sidewalk and potential conflicts between vehicles and pedestrians. In general, the Municipality supports minimizing parking to the extent feasible and incentivizing alternative modes of transportation.
- The Municipality noted that the Site is known to have high groundwater and that the project will require further review by the City's Engineering Division to discuss the engineering components needed to manage water on the Site.
- The Municipality requests that the Applicant provide a detailed site lighting plan to ensure that lighting does not negatively impact neighboring properties. HVAC and other equipment and their locations should be selected carefully in order to minimize sounds heard by residential abutters. A construction management plan should be prepared to give assurance to the neighborhood that the contractor will mitigate the impacts of construction, including noise and vibration.

Community Comments

In addition to comments submitted by the Municipality, MassHousing received approximately seventy-nine (79) letters from area residents expressing comments and concerns regarding the proposed Project. Seventy (70) of these letters were submitted in connection with the original project design. Nine (9) were submitted in connection with project revisions, one of which was a joint response from abutters and neighbors to the Site. While letters submitted in connection with project revisions acknowledged several positive improvements, and a few letters indicated an openness to a workable solution for the development of affordable housing on the Site, overall, the letters expressed opposition to the proposed Project. The following concerns were detailed by area residents:

- Traffic impacts from additional cars entering and exiting the Site.
- The scale of the proposed Project, including massing, height, and related impacts such as shadows and privacy for abutting properties.
- Trash management and removal.
- Construction impacts, including noise, pollution, and the potential for structural damage to nearby homes, particularly as it relates to groundwater concerns.

- Environmental concerns, particularly high groundwater and potential flooding as a result of construction and new impervious area.
- Insufficient parking.
- Tree removal, in connection with concerns about water retention as well as loss of vegetative buffer.
- Pedestrian Safety on Washington Street, particularly as it relates to schoolchildren.
- Developer qualifications.

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:

- 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 work closely with its design team and the Municipality’s Urban Design Commission to address concerns regarding building size, massing, and architectural details.
- The Applicant should provide a detailed landscaping plan. Consideration should be given to incorporating pervious materials, enhancing open space for recreation, depicting vegetative buffers, and identifying areas for trash management and snow storage.
- The Applicant is encouraged to work with its design team to incorporate pedestrian improvements and bike facilities into the site plan. As a part of this, consideration should be given to reducing the parking ratio to mitigate unnecessary impervious areas.
- The Applicant should be prepared to provide detailed information regarding soil and groundwater conditions at the Site, including for groundwater management and dewatering

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.

during construction, and work with the City's Engineering Division and its geotechnical engineer to design a solution to related site constraints.

- The Applicant should be prepared to provide detailed information relative to light, noise, and construction impacts, and respond to reasonable requests for mitigation.

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 sixteen (16) homeownership units under the terms of the Program, of which not less than four (4) 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.

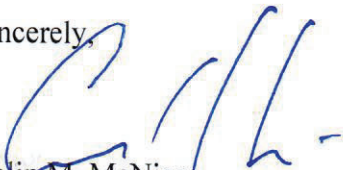
This approval will be effective for a period of two (2) years from the date of this letter. Should the Applicant not apply for a comprehensive permit within this period this letter shall be considered to be expired and no longer in effect unless MassHousing extends the effective period of this letter 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 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 Kat Miller at (617) 854-1217.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. McNiece', written over the word 'Sincerely,'.

Colin M. McNiece
General Counsel

cc: Ed Augustus, Secretary, EOHLIC
The Honorable Ruthanne Fuller, Mayor, City of Newton
The Honorable Cynthia Stone Creem
The Honorable Ruth B. Balsler
Barney Heath, Director, City of Newton Planning and Development
Jennifer Caira, Deputy Director, City of Newton Planning and Development