



Massachusetts Housing Finance Agency
One Beacon Street Boston, MA 02108

Tel: 617-854-1000
Fax: 617-854-1091

Relay 711
www.masshousing.com

April 28, 2023

Robert M. Sawyer
Harborwood, LLC
P.O. Box 1408
Vineyard Haven, MA 02568

**Re: 3 Uncas Avenue, Oak Bluffs
MassHousing ID No. 1046
Reinstatement and Amendment of Project Eligibility/Site Approval**

Dear Mr. Sawyer:

This letter is in response to your request for reinstatement of the expired Project Eligibility/Site Approval which was issued by MassHousing on February 5, 2020 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 (“FHLBB”). The terms of Project Eligibility/Site Approval originally issued for the above-referenced project stated that Project Eligibility/Site Approval expired on February 5, 2022, with a provision allowing MassHousing to extend Project Eligibility/Site Approval beyond the two (2) year expiration period. The Applicant did not request an extension. An extension of Project Eligibility/Site Approval is considered a material change which requires an amendment to the original Project Eligibility/Site Approval; any reinstatement would also be considered a material change requiring an amendment to the original Project Eligibility/Site Approval.

In support of the request for reinstatement of Project Eligibility/Site Approval, the Applicant submitted information indicating that there are no changes to the original application submitted to MassHousing and submitted an updated proforma. Based on a review of the information submitted by the Applicant, this letter serves as a reinstatement and amendment of the Project Eligibility/Site Approval which issued on February 5, 2020, a copy of which is attached hereto as Exhibit A and incorporated herein by reference.

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the Applicant not apply for a Comprehensive Permit within this period this letter shall be considered to be expired and no longer in effect unless MassHousing extends the effective period of this letter in writing.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

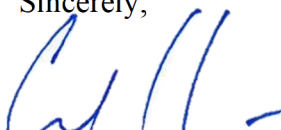
throughout the two-year period: (1) the Applicant applies to the local ZBA for a Comprehensive Permit, (2) the ZBA issues a decision and (3) if applicable, when any appeals are filed.

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,

A handwritten signature in blue ink, appearing to read 'Colin M. McNiece', is written over the typed name.

Colin M. McNiece
General Counsel

EXHIBIT A

Project Eligibility/Site Approval Letter
Dated February 5, 2020



Massachusetts Housing Finance Agency
One Beacon Street, Boston, MA 02108

TEL: 617.854.1000
FAX: 617.854.1091 | www.masshousing.com
Videophone: 857.366.4157 or Relay: 711

February 5, 2020

Robert Sawyer
Harborwood, LLC
P.O. Box 1408
Vineyard Haven, MA 02568

**Re: 3 Uncas Avenue
Project Eligibility/Site Approval
MH ID No. 1046**

Dear Mr. Sawyer:

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 to build eight (8) condominium units, including two (2) affordable units (the “Project”) on a 7,404 square foot site located at 3 Uncas Avenue (the “Site”) in Oak Bluffs (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. In response to a request from the Municipality, this review period was extended by an additional thirty (30) days. The Town of Oak Bluffs submitted letters from the Board of Selectmen, the Planning Board, the Copeland Plan District Review Committee and members of the community on October 21, 2019.

Municipal comments identified the following areas of concern:

- 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 potential traffic and public safety impacts.
- The Municipality expressed concerns about the sufficiency of the sewer system to handle the anticipated quantity of additional flow from the proposed Project.
- The Municipality stated that the proposed Site is not suitable or feasible as a designated 40B Project since there is an outstanding order issued by the Copeland District Commission which prevents the demolition of the building currently occupying the Site.

Community Comments

In addition to the comments from town officials, MassHousing received six (6) letters from members of the community which expressed opposition to the Project. Although the letters from the community generally echoed the concerns identified by local officials, the concerns are summarized below:

- Additional traffic volume generated by the proposed development will result in unsafe public safety conditions for residents;
- Architectural design is incompatible with the surrounding neighborhood;
- Lack of proposed trash and recycle plan; and
- Concerns regarding the proposed drive-thru bank location.

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.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”) 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 Site and design review, and in light of feedback received from the Municipality, the following issues should be addressed in your application to the ZBA, and you 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 floodplain management, wetland protection, river and wildlife habitats/conservation areas, stormwater management, wastewater collection treatment, hazardous waste safety, and public water supply. The Applicant should be prepared to provide evidence of such compliance.
- The Applicant should be prepared to confirm adequacy of and/or access to all proposed utilities including water, sewer, gas, and electricity.
- 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 roadway design and public safety considerations, raised by local boards and officials.
- The Applicant should be prepared to provide a detailed traffic study assessing potential impacts of the Project on area roadways. The traffic study or other professional site design process should address proposed on-site circulation and parking to ensure compliance with public safety standards and good design practice relative to drive-aisle widths, turning radii and sight distances. The Applicant should be prepared to address concerns about provisions for safe pedestrian access and pedestrian/vehicular separation within the Site, sufficiency of resident and guest parking, and plans for snow storage.
- The Development of the Site will require resolution of the outstanding order issued by the Copeland District Commission which prevents the demolition of the building currently occupying the Site. The Applicant should expect that the Municipality will require resolution of that matter prior to the issuance of a Comprehensive Permit for the Project.

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 approval is expressly limited to the development of no more than eight (8) homeownership units under the terms of the Program, of which not less than two (2) 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 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 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,



Chrystal Kozmegay
Executive Director

cc: Jennifer Maddox, Acting Undersecretary, DHCD
The Honorable Julian Cyr
The Honorable Dylan A. Fernandes
Brian Packish, Chair, Board of Selectmen
Andrea Rogers, Chair, Zoning Board of Appeals

Attachment 1

760 CMR 56.04

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

3 Uncas Avenue, MH ID No. 1046

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 Oak Bluffs is \$77,600. A letter expressing interest for Project financing was provided by Cape Cod Five, a member bank of the FHLBank 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 Oak Bluffs has a DHCD-approved Housing Production Plan. According to DHCD’s Chapter 40B Subsidized Housing Inventory (SHI), updated through December 18, 2019, Oak Bluffs has 119 Subsidized Housing Inventory (SHI) units (5.57% of its housing inventory), which is 95 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 Site is located in the Cottage City Historic District of Oak Bluffs, which is known for whimsical Victorian homes. The Applicant’s design plan draws on the history of the surrounding architectural

style referred to as “Carpenter Gothic,” a picturesque format that employs fanciful scrollwork applied to the façade of wood structures. The height is generally proposed to be 25 feet with tops of gables and intersecting roof elements extending as much as four additional feet. Traditional shingles, clapboards and board-and-batten siding will be separated by trim bands.

Relationship to Adjacent Streets

The Site is located on the corner of Uncas Avenue and Circuit Avenue. Circuit Avenue is the main tourist/business area in Oak Bluffs and leads northeasterly to the ferry terminals connecting to the island to the mainland. The relationship of the proposed Site access and egress on Circuit Avenue does not present any discernable public safety impacts. There appears to be adequate lines of sight for vehicles entering and exiting the proposed Site. The proposed development is able to successfully integrate with existing development patterns.

Density

The Applicant proposes to build eight (8) units on 7,404 square feet, all buildable. The resulting density is 50 units per buildable acre, which is acceptable given the proposed housing type and patterns of development within the region.

Conceptual Site Plan

The site plan is straightforward, consisting of one condominium building with surface parking to the front and side of the building. The building footprint covers much of the Site, wrapping around three sides of the property with parking at the rear of the Site. The residential building contains two floors, with the top floor partially contained within gables and dormers. All ground floor units facing Uncas Street have private entrances, similar to many local single-family dwellings.

Topography

The Site is irregular in shape but is generally level throughout. 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.

Environmental Resources

The subject property is not located within any significant defined resource area and does not include any unique environmental features that 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 for market rate homes in the Town of Oak Bluffs submitted by the Applicant. Additional information received by MassHousing from the Applicant confirmed the market demand for studio-style housing units.

(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 16.50%. 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 \$320,000.

(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 owns the Site via Deed from Trustees of Larkin B. Reeves Family Trust dated November 19, 2018 and registered with the Dukes County Registry of Deeds in Book 1484, Page 1097.