

E. Project Eligibility Letter

Attached hereto is the Applicant's Letter of Project Eligibility as issued by the Massachusetts Housing Finance Agency ("MassHousing")





Massachusetts Housing Finance Agency
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December 20, 2023

Thoreau Residences LLC
275 Forest Ridge Road
Concord, MA
Attention: Malachy Burke

**Re: The Residences at Thoreau
Project Eligibility/Site Approval
MassHousing ID No. 1206**

Dear Mr. Burke:

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 Executive Office of Housing and Livable Communities (“EOHLC”) (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”).

Thoreau Residences LLC (the “Applicant”) has submitted an application with MassHousing pursuant to Chapter 40B. You have proposed to build two hundred and sixteen (216) units of rental housing (the “Project”) on approximately 13.08 acres of land located at 275 Forest Ridge Road (the “Site”) in Concord (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 Municipality submitted a letter dated November 22, 2023 identifying comments and concerns with the Proposed Project. In summary, the Municipality expressed concerns regarding the location of the Site away from local business and transit centers, and the overall suitability of the proposed Project’s design with smart growth planning and sustainability goals in town. Specifically, the following comments and concerns were identified by the Municipality:

- The Municipality is concerned that the proposed Project does not align with Smart Growth and transit-oriented planning and development goals, and that the proposed Project will contribute to shifting the locus of the Town’s population away from its town centers.
- The Municipality highlighted the following concerns related to traffic and safety on area roadways:
 - Increased traffic volumes on Route 62. Additional information to assess whether a traffic control device may be required to manage traffic flow in and out of Forest Ridge Road was requested.
 - Limited access to public transit, and consideration for multimodal infrastructure at the proposed Project such as a bus shelter, bus service, and/or improved bicycle facilities to assist with connections to the West Concord MBTA station and other area amenities.
 - Inadequate pedestrian infrastructure between the Site and the West Concord MBTA station and other area amenities.
- The Municipality noted that the Town has adopted the new MA Specialized Stretch Code for residential and commercial buildings (effective January 1, 2024) and is seeking to participate in the MA Department of Energy Resource’s Fossil Fuel Free Building Demonstration program (application pending). The Municipality encourages the Applicant to incorporate systems that enable fossil fuel free building design.
- The Municipality is concerned with the extent of grading and tree removal that will be required for the proposed Project, and how the resulting change in topography and loss of forested habitat will impact the surrounding context, including stormwater infiltration in the area.
- The Municipality highlighted the following concerns with the proposed site layout and Project design:
 - The height of the proposed multifamily buildings.
 - The location of the proposed parking areas in between the building courtyards, and related safety concerns for pedestrians navigating the Site.
 - The location of the proposed driveway as it relates to the capacity and safety of the rotary located on Forest Ridge Road.
- The Municipality is concerned about the proposed Project’s location partially within the Groundwater Conservancy District, particularly as it relates to the addition of impervious coverage to the Site and the relocation of existing onsite septic infrastructure within the district.

Community Comments

In addition to comments submitted by the Municipality a letter was submitted by the Riverbend Condominium Board of Directors, outlining several concerns about the operations of Forest Ridge Road. The letter noted that Forest Ridge Road is currently a private road and located in a HOA known as the Forest Ridge Association (“FRA”), of which Riverbend Condominium is a member. Riverbend Condominium expressed concern that the Thoreau Club (of which the Applicant is a related entity) voted against the FRA’s efforts to have the road taken over by the Town of Concord as a public way. Particular concern for the cost burdens of the private roadway on the HOA and traffic and safety impacts from additional cars entering and exiting the Site were noted.

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 provide a detailed traffic study assessing the proposed Project’s potential traffic impacts on area intersections and respond to reasonable requests for mitigation. Safe access and egress to the Site should be confirmed. Consideration should be given for incentivizing alternative modes of transportation.
- The Applicant is encouraged to work with its design team to address concerns related to pedestrian circulation and open space elements within the Site. Appropriate infrastructure for pedestrian safety should be provided. A play area for children is recommended to be incorporated into the site plan.
- The Applicant should collaborate with the Municipality to maximize energy and sustainability features in the proposed Project’s design and construction.
- The Applicant must demonstrate the ability to manage the grading required to construct the proposed Project and respond to concerns raised in connection with changes in topography and stormwater impacts.
- The Applicant should provide a detailed landscaping plan. Consideration should be given to incorporating pervious materials, protecting tree canopy, and augmenting vegetative buffers.

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.

- The Applicant should be prepared to provide detailed information to address concerns related to the location of the proposed Project partially within the Groundwater Conservancy District, particularly as it relates to septic infrastructure.

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 two hundred and sixteen (216) rental units under the terms of the Program, of which not less than fifty-four (54) 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 Kat Miller at (617) 854-1217.

Sincerely,



Colin M. McNiece
General Counsel

cc: Ed Augustus, Secretary, EOHLIC
The Honorable Michael J. Barrett
The Honorable Simon Cataldo
Henry Dane, Chair, Concord Select Board
Theo Kindermans, Chair, Concord Zoning Board of Appeals
Kerry Lafleur, Concord Town Administrator
Elizabeth Hughes, Town Planner

Attachment 1

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

The Residences at Thoreau, Concord, MA #1206

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 Concord is \$118,450.

Proposed rent levels of \$2,221 for a one-bedroom affordable unit, \$2,666 for a two-bedroom affordable unit and \$3,080 for a three-bedroom affordable unit, less utility allowances for the area, are within current affordable rent levels for the Boston-Cambridge-Quincy HMFA under the NEF Program.

The Applicant submitted a letter of financial interest from Berkshire 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.

The Town of Concord has an EOHLIC-approved Housing Production Plan. According to EOHLIC’s Chapter 40B Subsidized Housing Inventory, updated through December 20, 2023, Concord has 716 (SHI) units (9.98% of its housing inventory), which is 2 units below the statutory minima requirement of 10%. While the Municipality indicated that unlike the recent NOVO Riverside Commons 40B proposal, the proposed Project’s location is not identified in Concord’s Housing Production Plan, it would enable to Town to exceed the 10% statutory minima. Furthermore, the Municipality indicated that together, both projects could qualify the Town for Housing Choice Designation.

(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);

Relationship to adjacent streets/Integration into existing development patterns

The Site is located off Route 62 in the western portion of Concord near the Acton and Maynard borders. Access to the proposed Project is at 275 Forest Ridge Road, a private roadway off Route 62. Surrounding the Site on Forest Ridge Road is an office building, a single-family residential neighborhood (Black Birch Lane) and an industrial equipment supply building (Hayes Pump, Inc.). The Site is otherwise bordered by undeveloped town-owned wooded land to the north and east, and The Thoreau Club, a private wellness center and fitness club, to the south. The Prescott at Concord, a 350-unit multifamily 40B development, is also located nearby on Old Powder Mill Road to the west. Route 62 is a 2-lane state route that serves as Concord's Main Street and as a connector to nearby Maynard. West Concord Village is located approximately 2.7 miles to the east of the subject property, where there is access to MBTA commuter rail service providing direct access to North Station in Boston. The station features 146 parking spaces, as well as available spaces for bikes. The closest highway is Route 2, approximately 3 miles east of the Site. Overall, the site is well-positioned to support the proposed multifamily residential use.

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

The proposed Project consists of three 3-story buildings defined by classical elements and proportions to mirror the local vernacular. Broad pillars, large shuttered windows, beveled clapboard siding, dormers and chimneys mimic the prevalent colonial and colonial revival elements seen in the town's historic structures. The main arrival building is centered on an axis created by the entry drive, with its massing defined by a pedimented doorway and a continuous porch that wraps the front façade and splaying wings on either side to create a horseshoe shaped building. Overall, the building facades include a series of pedimented pavilions, balconies, and columns and pillars to highlight the various entries, break down the massing, and enhance access and views to surrounding green.

Density

The Developer intends to build 216 homes on approximately 13.08 acres, all of which are buildable. The resulting density is approximately 16.5 units per acre. The proposed density is acceptable given the proposed housing type and similar patterns of development found within neighborhood and surrounding regional context.

Conceptual Site Plan

The Site is currently part of a larger 33.20-acre parcel that contains The Thoreau Club facilities and summer camp grounds. The parcel will be subdivided to create the subject 13.08-acre 40B Site. A new access road is proposed to be constructed off the rotary on Forest Ridge Road to provide access to the Site. A drainage easement will need to be obtained to facilitate this access. The boulevard-style road extends east into the Site from Forest Ridge Road to access the three U-shaped buildings, which are configured to create a series of courtyards in the center of the Site. Parking and drive aisles wrap around the three buildings, and walkways provide pedestrian connections throughout the Site. The site plan shows several large subsurface infiltration areas underneath the courtyards and along the edges of the Site. Wastewater infrastructure is proposed in the far east portion of the Site, to the rear of the buildings. All other utilities will be extended to the Site from Forest Ridge Road.

Environmental Resources

Information provided by the Applicant indicates that no significant natural or cultural resources, endangered species habitat, or areas of flood hazard are present on the Site. However, the Applicant

acknowledged that the Site is partially located within the Groundwater Conservancy zoning district established in the Town of Concord zoning bylaws (Section 7.6).

Topography

The Site is cleared and level in the center portion where the proposed buildings are located due to its current use as a summer camp. The Site otherwise contains upward sloping wooded topography around this previously disturbed area. The Applicant will need to demonstrate the ability to manage the grading for the proposed project, particularly where the roadway is proposed. The siting of the building in the low area of the Site will mitigate the visual impact of the buildings on adjacent properties.

(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);

According to market data for the region, the residential real estate market appears stable, with home prices showing year-over-year increases, and an overall upward trajectory in rents. The Route 2 multifamily submarket has an overall vacancy rate of 2.9%. Rents have increased 2.7% over the last year, with a cumulative increase of 22.5% over the past three years.

The Applicant proposes 216 rental apartments to be financed under the NEF Program. There will be 162 market-rate units with proposed average rent levels of \$2,664 for the one-bedroom units; \$3,681 for the two-bedroom units; and \$4,332 for the three-bedroom units. MassHousing's Appraisal and Marketing team (A&M) performed a market analysis and found that proposed market rents for each unit type are above the range comparable market rents. A more in-depth market study would be required prior to marketing/lease up of the proposed project.

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

MassHousing has commissioned an as "As-Is" appraisal which indicates a land valuation of \$5,200,000. Based on a proposed investment of \$95,368,294 in equity and permanent financing the development pro forma appears to be financially feasible and within the limitations on profits and distributions.

(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.

A related entity to the Applicant controls the Site by virtue of a Quitclaim Deed recorded at the Middlesex South District Registry of Deeds in Book 80075; Page 249.