



Massachusetts Housing Finance Agency  
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July 5, 2023

O'Brien Homes, Inc.  
18 Cassimere Street  
Andover, MA 01810  
Attention: Kevin O'Brien

**Re: Murphy's Farm, Dracut  
Project Eligibility/Site Approval  
MassHousing ID No. 1171**

Dear Mr. O'Brien:

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").

O'Brien Homes, Inc. submitted an application with MassHousing pursuant to Chapter 40B. You have proposed to build three hundred (300) units of rental housing (the "Project") on approximately 50 acres of land located at 5 Poppy Lane (the "Site") in Dracut & Methuen (the "Municipalities").

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 from Dracut**

Pursuant to the Regulations, the Town of Dracut was given a thirty (30) day period in which to review the Site Approval application and submit comments to MassHousing. The Dracut Community Development Director submitted a letter expressing several concerns raised by local officials. The comments identified the following areas of concern:

- The Municipality requests that the Applicant provide a comprehensive traffic study to review impacts to area roadways. Road capacity, sight lines, snow conditions and other safety issues

should be considered. Dangerous intersections already exist where Wheeler Road and Wheeler Street meet and where Wheeler Street ends at Route 113 in Methuen. Improved configurations and signalization may be needed at these locations.

- The Municipality notes that the Site includes and abuts a number of valuable wetland and conservation areas. In particular, a portion of the proposed Project is within the 100-foot buffer of the wetland system associated with Cherry Brook. The Applicant will be required to file a Notice of Intent with the Conservation Commission.
- The Municipality expressed concern about potential drainage and stormwater management impacts on abutting properties.
- The Municipality states that the proposal is significantly denser than the surrounding neighborhood which could negatively impact the character of the area. Further, the Municipality believes the Applicant's proposal to include 4-bedroom homes should be readdressed to more thoughtfully fit into the surrounding context.

### **Municipal Comments from Methuen**

Pursuant to the Regulations, The City of Methuen was given a thirty (30) day period in which to review the Site Approval application and submit comments to MassHousing. The Director of Economic & Community Development submitted a letter expressing several concerns raised by local officials. The comments identified the following areas of concern:

- The Municipality expressed concern regarding the significant impact that this Project will have in Methuen regarding increased traffic, pedestrian/public safety, wetlands protection, stormwater management, and road wear and tear.
- The Municipality states the proposed development design exploits nearly all of the site for development and fails to protect and/or restore any of the environmentally sensitive lands or wetlands and water resources presently existing on the site.
- The Municipality is concerned that the Applicant has not identified or provided any appreciable amount of undeveloped space for the creation or preservation of any open space or passive recreational facilities in either the Methuen or Dracut.

### **Additional Comments**

- State Senator Edward Kennedy provided a letter dated April 4, 2023, expressing concerns about the potential impacts of the Project on area traffic, wetlands, schools, and the adjacent neighborhoods.

### **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 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). The following comments were submitted to MassHousing identifying issues that are not within the scope of our review:

- The Town of Dracut is concerned about potential school related costs and the need to rapidly and dramatically expand the capacity of many town services including Police and Fire capacity.

MassHousing carefully considered 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 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.<sup>1</sup> 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 potential impacts of the Project on area roadways, including traffic volumes, crash rates, and the safety and level of service (LOS) of area intersections, and identifying appropriate traffic mitigation in compliance with all applicable state and local requirements governing site design.
- 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 along the Site drive and the parking areas through which it passes. The Applicant should be prepared to address concerns about provisions for safe pedestrian access and pedestrian/vehicular separation within the Site.
- A landscape plan should be provided to address Municipal comments concerning open space elements, including a detailed planting plan as well as paving, lighting and signage details.

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<sup>1</sup> 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 is encouraged to work with its design team to address concerns related to pedestrian circulation, open space elements and providing safe connections to existing sidewalks.

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 three hundred (300) rental units under the terms of the Program, of which not less than seventy-five (75) 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: cc: Jennifer Maddox, Undersecretary, Executive Office of Housing and Livable Communities  
The Honorable Neil Perry  
The Honorable Pavel Payano  
The Honorable Edward J. Kennedy  
The Honorable Colleen M. Garry  
The Honorable Ryan M. Hamilton  
The Honorable Francisco E. Paulino  
The Honorable Estela A. Reyes  
Alison Genest, Chair, Dracut Board of Selectmen

## Attachment 1

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

### **Murphy's Farm, Project #1171**

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 Dracut and Methuen is \$89,400. Proposed rent levels of \$1,832 for a four-bedroom affordable unit accurately reflect current affordable rent levels for the Lowell HMFA under the NEF Program.

The Applicant submitted a letter of financial interest from Haverhill 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.

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 undertaken by the Town of Dracut include:

- Drafting a Zoning Bylaw that will create additional opportunities for affordable housing development in designated areas. This process is recommended in the Town of Dracut's Housing Production Plan and Master Plan documents.
- The Centre School has been sold to Coalition for a Better Acre to create 9 units of Affordable housing for veterans. Town Meeting voters approved \$680,500 of housing reserve and \$530,500 of historic reserve for this project. Construction on this project is complete and a ribbon cutting was held over the summer.

- 144 Greenmont Ave./1530 Bridge St. is a 17+ acre site under lease agreement to Common Ground to create 56 units, all affordable, for residents over 62 years of age. Town Meeting voters have approved borrowing of \$3 million in support of this project, nearly a million dollars to purchase the land and the Town has received a MassWORKS grant of \$650,000 for design and construction.

MassHousing commends the Town's progress towards creating a range of diverse housing options to meet its affordable housing needs. According to DHCD's Chapter 40B Subsidized Housing Inventory, updated through April 26, 2023, Dracut has 606 (SHI) units (5.35% of its housing inventory), which is 526 units below the statutory minima requirement of 10%.

According to DHCD's Chapter 40B Subsidized Housing Inventory, updated through April 26, 2023, Methuen has 1,982 (SHI) units (10.85% of its housing inventory), which exceeds 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);*

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

The Applicant proposes 45 residential buildings, with a mix of four-bedroom flats and townhouses along with two clubhouses for community use and ten covered pavilion structures. Proposed buildings are designed to offer green common spaces between them for community recreation. Three different types of buildings will give the feeling of an organically evolved community. The smaller scale duplex building will allow a seamless transition from the nearby existing single-family homes, while the larger buildings will be located near open farmlands, wetland buffers and the quarry south of the property. The architectural style of all proposed building types is based on traditional, vernacular New England residential architecture. The buildings will be clad in a mixture of clapboards and shingles and feature divided lite windows. Traditional classical details and decorative moldings are used for exterior building trim and porch elements.

**Relationship to adjacent streets/Integration into existing development patterns**

The site is located in the East Dracut section of Dracut. The neighborhood is bounded by Pelham, NH town line to the north, Methuen town line to the east, the Merrimack River to the south, and Jones Ave & Parker Road to the west. The area is suburban in nature. Within the immediate area of the subject property, transportation access helps define the character of its development. Major travel and commuter routes within the area of the subject property include Wheeler Road and Wheeler Street. The property is about five miles to the north and east of the Lowell MBTA commuter rail station and five miles to the north and west of the Andover MBTA Commuter real station. Access to the area is considered average. There appear to be adequate lines of sight for vehicles entering and exiting the proposed Site. The proximity to existing residential uses on adjacent streets underlies the appropriateness of the proposed Project within the existing context.

**Density**

The Applicant proposes to build three hundred (300) rental units on approximately 45 acres of buildable land. The resulting density is 6.6 units per buildable acre, which is acceptable given the proposed housing type.

**Conceptual Site Plan**

The site will be accessed through two existing neighborhood roadways. These existing neighborhoods are comprised of single-family homes of similar design, style, and height (2 ½ stories) to the proposed homes. A small Portion of the proposed buildings will be adjacent to the backyards of one of the existing neighborhoods. A network of meandering walking paths will connect the residences with recreational spaces, while the pavilions scattered throughout the site provide residents with shade and outdoor seating.

**Environmental Resources**

The property does not contain any area of critical concern or areas of estimated or priority habitat of rare species, wildlife or vernal pools.

**Topography**

The site is irregular in shape and considered rolling. 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.

***(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 the appraisal report for the Site, Dracut's residential market appears stable and strong, with an overall upward trajectory in sales volume and prices in the last decade. MassHousing's Appraisal and Marketing team (A&M) performed a Competitive Market Analysis and found that proposed market rents for each unit type fall within the range of adjusted comparable market rents.

***(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;***

MassHousing has commissioned an as "As-Is" appraisal which indicates a land valuation of \$3,600,000. Based on a proposed investment of \$150,303,004 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 entire 50+/- acre Site through a Purchase and Sale Agreement between O'Brien Homes, Inc. and The Homes at Murphy's Farm, LLC. A Purchase and Sale Agreement was dated September 16, 2022, and recorded with the Middlesex North Registry of Deeds in Book 31624 at page 254.