



Massachusetts Housing Finance Agency  
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January 9, 2023

Fenix Partners Greenwood Street Development, LLC  
177 Lake Street  
Sherborn, MA 01770  
Attn: Bob Murchison

**Re: Greenwood Homes  
Project Eligibility/Site Approval  
MassHousing ID No. 1162**

Dear Mr. Murchison:

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 submitted an application with MassHousing pursuant to Chapter 40B. You have proposed to build four (4) homeownership units (the “Project”) on approximately 3.67 acres of land located on Greenwood Street (the “Site”) in Sherborn (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. At the request of the Municipality, this time was extended an additional 30 days, for a total of 60 days. The Sherborn Select Board submitted a letter generally supporting the proposed development. The following comments and concerns were identified in the letter:

- The Municipality is concerned about the Project’s public health and environmental impacts related to water resources in the town, noting that Sherborn’s hydrogeologic conditions and reliance on septic may require more stringent standards than Title 5.
- The Energy and Sustainability Committee noted they will advocate for the following features in all proposed homes regardless of affordability: all-electric power sources, built-in EV charging capability, energy-efficient appliances and rooftop solar panels where appropriate.
- The Municipality noted an interest in maintaining as many existing trees as possible and adding additional plantings as needed to create a visual buffer between the Project, the road and the abutters.
- The Municipality acknowledged the presence of the adjacent Sherborn Homes rental 40B proposal by the same developer and noted it will be important to understand the collective environmental and groundwater impact of both projects.

### **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. To the extent feasible, the Applicant should engage with the Municipality to discuss the Project’s ability to meet local wastewater standards.
- The Applicant should continue to engage with the Municipality in a good-faith effort to maximize energy and sustainability features in the homes’ design and construction.

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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 should be prepared to discuss the impact of the Project on water resources and private wells in the area and respond to reasonable requests for mitigation.
- The Applicant is encouraged to maintain as many existing trees on the Site as possible. Existing vegetation should be augmented with new landscaping to integrate the development into the existing environment and provide privacy for both abutters and residents.
- The Applicant should be prepared to discuss the cumulative impacts of this Project and the adjacent proposed Sherborn Homes 40B development.

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 four (4) homeownership units under the terms of the Program, of which not less than one (1) 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.

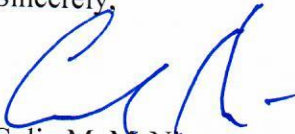
Should a comprehensive permit be issued, please note that prior to (i) commencement of construction of the Project or (ii) issuance of a building permit, the Applicant is required to submit to MassHousing a request for Final Approval of the Project (as it may have been amended) in accordance with the 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,



Colin M. McNiece  
General Counsel

cc: Jennifer Maddox, Undersecretary, DHCD  
The Honorable Rebecca L. Rausch  
The Honorable David P. Linsky  
Jeff Waldron, Chair, Select Board  
Richard S. Novak, Chair, Zoning Board of Appeals  
Jeremy Marsette, Town Administrator

## Attachment 1

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

### Greenwood Homes, Sherborn, MA #1162

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 Sherborn is \$111,850.

The Applicant submitted a letter of financial interest from Fidelity 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 Municipality include:

- The Town of Sherborn has a Housing Production Plan (HPP) originally approved by DHCD in 2017 and recently updated and re-approved in May 2022.
- In 2019, Town Meeting approved a zoning bylaw change that encourages accessory apartment units in single family homes or farms.
- In 2020, Town Meeting approved an “inclusionary zoning” bylaw that requires 15% affordable units when building two or more units.
- The Town of Sherborn established an Affordable Housing Trust in 2020 to manage funds generated by the inclusionary zoning bylaw and other affordable housing investments by the Town.
- The Town of Sherborn recently approved a Comprehensive Permit for a 120-unit Local Initiative Project that would access MWRA water & sewer from an adjacent community.

However, the project is currently on hold pending required applications, approvals, and negotiations (MWRA approvals, inter-municipal agreements with adjacent communities, legislative approval, as well as developer commitments).

MassHousing commends the Municipality's progress towards creating a range of diverse housing options to meet its affordable housing needs, however, according to DHCD's Chapter 40B Subsidized Housing Inventory, updated through September 26, 2022, Sherborn has 48 Subsidized Housing Inventory (SHI) units (3.25% of its housing inventory), which is 100 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 streets/Integration into existing development patterns**

Sherborn is located south of the Mass. Pike between Framingham and Natick and is midway between I-495 to the west and I-95 to the east. Local arteries connecting Sherborn to nearby communities include State Routes 27, 16 and 115 at its southeast corner. The subject property is approximately 1.25 miles west of Sherborn's town center, where Greenwood Street branches off Route 16 or Washington Street. Access to the Site is limited to vehicular access, however nearby Routes 27 and Western Avenue are main thoroughfares providing access to Framingham and Natick Center where there is Commuter Rail access.

The Site is located in a quiet, rural neighborhood which primarily consists of single- family homes and undeveloped woodland/conservation land. The Site is currently vacant, wooded, and adjacent to the Bailey Trail easement held by the Sherborn Conservation Commission. It will also be contiguous with a proposed LIHTC project on fourteen adjacent acres fronted on Washington Street, to be built by an affiliate of the developer. The surrounding uses along Greenwood Street are otherwise single-family homes and wooded areas.

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

The proposed site layout includes four contiguous house lots each containing one single family home. Lot frontages are approximately 200 feet, in close keeping with frontage and lot width requirements for the surrounding Residential B zoning district. Each home is 2.5 stories in height, including pitched roofs, detailing, and materials in keeping with the traditional, residential, New England character of the surrounding community. All homes include front porches that face Greenwood Street.

#### **Density**

The Applicant proposes to build four (4) homeownership units on approximately 3.67 acres, all of which are buildable. The resulting density is 1.08 units per buildable acre, which is acceptable given the proposed housing type.

### **Conceptual Site Plan**

The proposed site layout includes four contiguous house lots each containing one single-family home. Each lot is served by its own individual driveway which leads to a two-car garage and the home's front entryway. The four homes will be served by private wells and septic systems, also on each individual property. The adjacent Bailey Trail easement, while located off-site, provides opportunities for recreation and connections to potential proposed trails in connection with the LIHTC development proposed to the north of the Site along Washington Street.

### **Environmental Resources**

There are no wetlands located on the Site. The wetland area located to the north of the site has been surveyed and flagged by the Applicant. None of the proposed single-family homes are located within the buffer zones.

### **Topography**

The topography is generally level, with minor slopes upward off the Greenwood Street frontage and then downward toward the off-site wetland area. The topography is not a significant factor contributing to the proposed development.

***(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 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 10.44%. 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 \$575,000.

***(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***

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.***

The Applicant controls the entire Site by virtue of an Option to Purchase Agreement between AB Realty Trust (Owner) and Robert W. Murchison (Option Holder and managing partner of Applicant entity) dated February 10, 2022, with an expiration date of July 30, 2023, and one one-year option to extend to July 30, 2024.