



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

November 4, 2020

Cottage Advisors MA, LLC
C/O Howard Johnson Hall
25 Storey Avenue
Newburyport, MA 01950

**RE: The Cottages at Rolling Hills–West Newbury, MA
Project Eligibility/Site Approval
MassHousing ID No. 1002**

Dear Mr. Hall:

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”).

Cottage Advisors, LLC submitted an application to MassHousing pursuant to Chapter 40B on April 1, 2020 for the construction of 152 single-family homes on 73.34-acres of land located at 28 Coffin Street and 566 Main Street (the “Site”) in West Newbury (the “Municipality”). On June 30, 2020, MassHousing and the Municipality received revised site plans, showing modifications made by the Applicant in response to feedback from MassHousing and the Municipality regarding the number of units proposed. Revisions to the site plan included a reduction from 152 single-family homes to a combination of 92 duplex-style homes and single-family homes.

In accordance with the Comprehensive Permit Rules, this letter is intended to be a written determination of Project Eligibility (“Site Approval”) 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. In response to a request from the Town Manager, and in light of COVID-19 restrictions in place, this review period was extended by an additional forty-five (45) days for a total of seventy-five (75) days. The Board of Selectmen submitted comments to MassHousing on June 16, 2020, summarizing comments from municipal officials and members of the community.

Following receipt of the revised site plan, The West Newbury Board of Selectmen requested additional time and were granted an additional 30 days to review the revised plans. On August 7, 2020, MassHousing received a second comment letter from the West Newbury Board of Selectmen stating that the revised proposal did not address their initial concerns. The Municipality stated that it remains in opposition to the Project and affirmed that all comments included in the initial comment letter remained unchanged.

The following concerns were identified in the Municipality's comments:

- The Municipality believes that the scale of the proposed development is inappropriate for the Site and inconsistent with surrounding development patterns and the rural character of the area. The Municipality further notes that the proposal does not reflect the sustainable design standards or planning practices set out in the Town's Housing Production Plan.
- The Municipality is concerned that additional traffic generated from this development may negatively impact the existing traffic patterns and has suggested that a traffic study be prepared for consideration
- The Municipality is concerned about pedestrian safety due to the lack of existing sidewalks in the area and notes that there is no public transportation available.
- The Municipality is concerned that the proposed development will place an additional strain on the existing water supply.
- The Municipality notes that a significant portion of the Site is subject to the jurisdiction of the West Newbury Conservation Commission pursuant to the Wetlands Protection Act. The Municipality expressed concern that the Project would have negative impacts on area wetlands, both on- and off-site, and associated impacts on adjacent properties. Further, the Municipality believes the two proposed wetlands crossings are not authorized as a matter of right under the Wetlands Protection Act.
- The Municipality expressed concern about potentially negative environmental impacts of the Project and believes that Project grading could result in erosion and flooding impacts on adjacent properties. In addition, the Municipality expressed concern that the Site supports a large and diverse wildlife population and that the proposed development may result in harm to wildlife and its associated habitat.

- The Municipality notes there are potentially two uncertified vernal pools on the Site and requests that the Applicant initiate a vernal pool certification process for the Site.
- The Municipality requests that the Applicant provide an adequate stormwater management plan for the Site, including erosion control measures during and after construction.
- The Municipality emphasized that the Project must be designed to ensure the maximum level of emergency access and fire protection. Municipal comments outlined a variety of requirements for the Project, including fire lanes, sufficient roadway widths and intersection radii to accommodate public safety vehicles and placement of hydrants.
- The Municipality requests that the Applicant create a formal easement or right of way through the Site to allow the Myopia Hunt Club's annual fox hunt through the Town.
- The Municipality believes the proposal will diminish open space in the Town and threaten an important and safe recreation area and questions the value and plausibility of the open space purported in the Application. The Municipality believes much of the proposed open space will be needed to support drainage infrastructure for the Project.

Community Comments

In addition to the comments from town officials, MassHousing received letters from Attorney Daniel Hill, representing neighbors and abutters, and several community members expressing opposition to the Project. Their concerns are summarized below:

- Area residents voiced concern with existing traffic congestion on Coffin Street and Main Street, and the possibility that the Project would exacerbate traffic volumes and further reduce the level of service at area intersections. Letters expressed the concern that increased traffic volume on area roadways would result in unsafe conditions for residents traveling onto area streets.
- Residents are concerned about the potential negative impact on existing water resources.
- Residents believe the overall density of the proposed Project is incompatible with the surrounding neighborhood.
- Residents are concerned with the Applicant's proposed open space plan.
- Residents expressed concerns regarding the proposed stormwater management plan.

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. As a result of our review, we have made the findings as required for a determination of eligibility 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 consideration of comments received from the Municipality and its site and design review, 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:

- 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 provide detailed information relative to proposed water and sewer treatment plant use, potential impacts on existing capacity, and appropriate mitigation.
- A landscape plan should be provided to address Municipal concerns, including a detailed planting plan as well as paving and sidewalk plans. In addition, the Municipality requests that you avoid clear cutting the Site and preserve as many existing trees as possible.
- 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.
- As the Applicant and its design team move towards refining the Project's site plan, architectural plans and specifications, they are encouraged to collaborate with the Municipality to better articulate the design approach and evaluate its potential for successfully integrating open space into the Project design.
- The Applicant should be prepared to address concerns about provisions for safe pedestrian access and pedestrian/vehicular separation within the Site and sufficiency of resident and guest parking.

- The Applicant should be prepared to discuss a local preference when selecting tenants for the affordable units.

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 ninety-two (92) homeownership units under the terms of the Program, of which not less than twenty-three (23) 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 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.

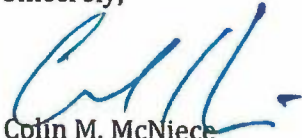
Should a Comprehensive Permit be issued, please note that prior to (i) commencement of construction of the Project or (ii) issuance of a building permit, the Applicant is required to submit to MassHousing a request for Final Approval of the Project (as it may have been amended) in accordance with the 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 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 a 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: Jennifer Maddox, Undersecretary, DHCD
The Honorable Bruce E. Tarr
The Honorable Leonard Mirra
David W. Archibald, Chairman, Board of Selectmen
Paul O. Kelly, Chairman, Zoning Board of Appeals

[The Cottages at Rolling Hills–West Newbury, MA – Project Eligibility/Site Approval]

Attachment 1

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

Cottages at Rolling Hills, West Newbury, MH ID No. 1002

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, 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 West Newbury is \$78,400. A letter of interest regarding project financing was provided by Lowell 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.

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 cited by the Municipality include:

- Adoption of an Inclusionary Housing Bylaw (IHB) which requires 10% affordable housing in developments of three or more units. Through the IHB, the Municipality has generated 13 affordable units and \$201,200 in funds since 2005.
- Adoption of provisions in its Open Space Preservation Development Bylaw which encourages the production of smaller, more affordable units.

- Collaborated with the Merrimack Valley Planning Commission to update its Housing Production Plan (HPP) in 2018.
- Negotiated with Cottage Advisors (Applicant) for the creation of four duplex-style units with a moderate initial sales price at Drakes Landing.
- Adoption of a bylaw allowing for mixed-use developments by special permit in the Business District.

The Town of West Newbury does have a DHCD-approved Housing Production Plan. According to DHCD's Chapter 40B Subsidized Housing Inventory (SHI), updated through October 8, 2020, West Newbury has 43 Subsidized Housing Inventory (SHI) units (2.76% of its housing inventory). An additional 113 units would be required for the Town to achieve the 10% threshold of 156 units.

(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 an 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 surrounding neighborhood is comprised primarily single-family homes on large parcels of land. The revised Project site plan includes a mix of single-family homes and duplex-style units with a total of 13 new single-family homes and 39 duplex-style homes. The Applicant proposes to develop housing at a higher density than the surrounding single-family house lots and introduces a different building type to the area, but these differences are mitigated by incorporating a design theme that takes cues from the prevailing architectural context. The Applicant's objective is to use the single-family footprint for half of the duplex-style homes creating additional open space opportunities.

Relationship to Adjacent Streets

The Site is immediately serviced by Main Street (Route 113), which runs east to west through the town. The nearest on-ramps to Interstates 95 and 495 are within five miles of the subject and provide access to major employers, shopping centers, and other institutions and services based along these roadways. The closest MBTA Commuter Rail station is 6.3 miles east in Newburyport and is a 65-minute train ride to North Station in Boston.

The nearest commercial centers to the site are located 5.0 miles south of the subject in Groveland as well as Port Plaza, 3.7 miles to the east in Newburyport. The areas offer a variety of services including pharmacies, medical centers, retail shopping, grocery supermarkets,

banks, among other institutions. There is also a small commercial corner located 1.5 miles west of the site along Main Street featuring a general convenience store, a pizza shop, a brewery, bank, and several religious institutions.

The Site will be accessed via Main Street to the south and Coffin Street to the east. The Applicant informed us that the emergency access point via Cortland Avenue to the north has been removed from the revised plan. The proposed Site access and egress does not present any discernable public safety impacts. There appear to be adequate lines of sight for vehicles entering and exiting the proposed Site.

Density

The Applicant proposes to build ninety-two (92) homes on 73.34 acres, of which approximately 58.04 acres are buildable. The resulting density is 1.58 units per buildable acre, which is acceptable given the proposed housing type and similar uses found in the surrounding context.

Conceptual Site Plan

The Applicant has taken into consideration the site constraints, wetlands and topographical features of the Site to provide safe access and egress for future residents. The Site consists of 73.34 acres of land, and 58.04 acres are buildable. The site plan largely concentrates development at the Site's central core, leaving large vegetated open areas and some uplands undeveloped. The homes will be clustered together in several areas to create a village-style community and allow for the use of a proposed common sewage disposal system. The wetland resources are predominant features of the Site that may create open space opportunities, such as trail connections to adjacent tracts of protected open space including Long Hill, Riverbend and Mill Point. All residences will have private driveways for off-street parking, suitable for up to two additional cars and individual parking garages.

Environmental Resources

Wetland resources found throughout the Site will limit the development to upland areas identified by the Applicant. Development of the Site will require careful attention to current best management practices to avoid any adverse impacts to the protected wetland resource areas. These resource areas will ultimately serve to break down the perceived massing of the Site, provide visual screening, and surround the residential portions of the Site with natural features. Wetland resources in these areas will be subject to further review by the local Conservation Commission under a Notice of Intent.

Topography

The Site generally slopes from south to north and is impacted by wetlands and overhead utility lines. The topographic features of the Site have been considered in relationship to the proposed development plans and do not constitute an impediment to the 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);

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 13.52%. 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 \$1,490,000.

(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.

(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 a portion of the Site (566 Main Street) via Deed from Andrew J. & Kathryn A. Alsop to Cottage Advisors MA, LLC, dated July 31, 2020 and recorded with the Essex Registry of Deeds in Book No. 38771 and Page No. 333. The Applicant controls the remainder of the Site (28 Coffin Street) under a Purchase and Sale Agreement from John E. Beaucher, Trustee of the Beaucher Family Irrevocable Trust with an expiration date of November 30, 2020.