



Massachusetts Housing Finance Agency
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November 8, 2023

The Gutierrez Company
200 Summit Drive, Suite 400
Burlington, MA
Attention: Israel Lopez

**Re: Residences at Spot Pond
Project Eligibility/Site Approval
MassHousing ID No. 1196**

Dear Mr. Lopez:

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”).

The Gutierrez Company (the “Applicant”) has submitted an application with MassHousing pursuant to Chapter 40B. You have proposed to build three hundred seventy-eight (378) units of rental housing (the “Project”) on approximately 10.02 acres of land located at 5 Woodland Road (the “Site”) in Stoneham (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. At the request of the Municipality, this time was extended an additional 30 days, for a total of 60 days. A letter was provided by the Stoneham Select Board dated September 18, 2023, identifying comments and concerns with the proposed Project. The letter expressed opposition to the proposed Project based on legal issues related to restrictive covenants from prior permitting for adjacent parcels that restrict residential development on the Site. Additional comment letters were provided by other boards and departments in Town,

including a letter of support from the Stoneham Municipal Affordable Housing Trust. The Municipality's comments and concerns are detailed below:

- The Municipality referenced the Irrevocable Waiver Agreement dated January 12, 2017, between the Applicant and the Town of Stoneham waiving the right to file for a comprehensive permit and noted that in order for the proposed Project to proceed for a comprehensive permit, Stoneham must agree to terminate the restriction.
- The Fire Department raised concerns regarding Fire/EMS response times due to the increased number of housing units potentially needing emergency response, current insufficient staffing levels, and highlighted the need for a substation in the South End of town in order to improve capacity.
- The Stoneham Municipal Affordable Housing Trust expressed support for the proposed Project, noting that it aligns with their mission to support affordable housing choice, diversity, and opportunity.
- The Planning Board is concerned about the proposed density, potential impacts on local traffic conditions, and on various town services.
- The Planning Board expressed an interest in incorporating commercial and retail space at the Site.

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 by community members, identifying issues that are not within the scope of our review:

- Possible impacts on the capacity of local schools
- Possible impacts to nearby property values

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

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.

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 address the resolution of legal issues related to restrictions affecting the Site prior to filing for a Comprehensive Permit.
- The Applicant should engage with the Stoneham Fire Department to review public safety concerns and ensure the plans address issues concerning emergency response as it may pertain to site circulation and building access in case of emergency.
- The Applicant should be prepared to provide sufficient data to assess the proposed Project's potential traffic impacts and respond to reasonable request for mitigation.
- Should the Applicant consider incorporating commercial and retail space within the proposed Project, pursuant to 760 CMR 56.02, all non-residential uses must be ancillary, and designed to: (a) complement the primary residential uses; and (b) help foster vibrant, workable, livable, and attractive neighborhoods consistent with applicable local land use plans.

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 seventy-eight (378) rental units under the terms of the Program, of which not less than ninety-five (95) 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, EOHLC
The Honorable Jason M. Lewis
The Honorable Michael S. Day
David P. Pignone Jr. Chair, Stoneham Select Board
Tobin Shulman, Chair, Stoneham Zoning Board of Appeals
Dennis Sheehan, Stoneham Town Administrator
Erin Wortman, Director of Planning and Community Development

Attachment 1

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

Residences at Spot Pond, Stoneham, MA #1196

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 Stoneham is \$118,450.

Proposed rent levels of \$2,073 for a studio affordable unit, \$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 of \$113 for the studio affordable units, \$140 for the one-bedroom affordable units, \$185 for the two-bedroom affordable units, and \$222 for the three-bedroom affordable units, 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 Cambridge Savings 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 Stoneham has an EOHLC-approved Housing Production Plan. According to EOHLC’s Chapter 40B Subsidized Housing Inventory, updated through June 29, 2023, Stoneham has 497 Subsidized Housing Inventory (SHI) units (4.91% of its housing inventory), which is 516 units below 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 streets/Integration into existing development patterns

The proposed Project is located at 5 Woodland Road in Stoneham, on the Site of the vacant former Boston Regional Medical Center. The Site of the proposed Project is one of several parcels at 5 Woodland Road that are serviced by the Executive Drive loop road. This area represents the Town's Medical/Office/Residential Zoning District. The district contains an existing three-building multifamily rental apartment complex, a two-building residential condominium, a rehabilitation and assisted living facility, and a medical office facility. An MWRA storage facility is also located within the district. The district is otherwise bounded by the Middlesex Fells Reservation, with trail access and other points of interest including Spot Pond, a visitor center, and boathouse along Woodland Road. Woodland Road is a DCR parkway connecting to various other parkways and roads throughout the Middlesex Fells. It runs parallel with Interstate 93, with north- or southbound access located approximately 2 miles west of the Site. MBTA Orange Line and commuter rail access is located approximately 2.5 miles southeast of the Site at Oak Grove Station in Malden. MBTA Route 99 Bus service provides direct access between the Site and Wellington Station in Medford. Given its transit-oriented location within a mixed-use area, the Site is able to successfully integrate into existing development patterns and is well positioned to support the proposed multifamily residential use.

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

The developer intends to build two 4- to 6-story apartment buildings containing a total of 378 units on the Site. The two buildings are designed with a series of wings that are punctuated with corner tower elements to highlight the Site and building entries and create transitional moments throughout the Site. The building wings create a series of U-shapes that face each other to create courtyards and a central axis for the development where the lobbies, building amenities, and leasing areas are proposed to be accessed from. The building forms respond to the sloped features of the Site, with building heights varying, appearing lower where the structures are nested into the hill, and incorporating podium parking to take advantage of this topography. The buildings' materiality and facades are designed to further break down the scale of the proposed Project, utilizing a combination of warm and cool tones throughout the fiber cement panel facades, metal panel canopies at building entries, and mixture of fully accessible residential balconies and look-out juliet balconies.

Density

The Developer intends to build three hundred seventy-eight (378) rental apartments in two (2) multifamily building on 10.02 acres of land, all of which are buildable. The resulting density is 37 units per buildable acre. The proposed density is acceptable given the proposed housing type and the proximity of the Project to other multi-family housing development of a similar scale.

Conceptual Site Plan

The proposed site layout consists of two 4- to 6-story buildings that will be accessed via curb cut from Executive Drive. A central driveway acts as the primary access, extending from Executive Drive into the Site to lead residents, visitors, and deliveries to the buildings' main entrances. The two residential structures are located on either side of the central driveway, their wings oriented to create central courtyards around the main access. Access to 155 spaces of structured podium parking is provided from this entrance. The remaining parking for the proposed Project is provided in 434 parking spaces located around the perimeter of the two buildings and in several auxiliary lots, some within parking easement areas. Additionally, there are nine residential garage buildings containing 54 parking spaces located throughout the surface parking areas. A total of 643 parking spaces results in a parking ratio of 1.7 spaces per residential unit. Sidewalks are proposed throughout the Site. Open space and amenities on

the Site otherwise consist of a swimming pool and in-building amenities. All utilities will be provided to the proposed Project via connections from Executive Drive.

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. The Applicant reported that a Phase I Environmental Assessment conducted in 1993 revealed soil contamination from an underground fuel storage tank (UST) at the power plant located at the northern end of the Site. The power plant building will be demolished as part of the site's redevelopment and the affected area is being managed in accordance with MassDEP regulations.

Topography

The topography slopes upward in an easterly direction towards the abutting developments on Executive Drive, having an overall grade change of approximately 35 feet. The design makes effective use of this grade change by cutting the buildings into the slope, so that the height will be mitigated for the abutting properties. 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);

The Applicant proposes 378 rental apartments to be financed under the NEF Program. There will be 95 market-rate units with proposed average rent levels of \$2,424 for the studios; \$3,075 for the one-bedroom units; \$3,864 for the two-bedroom units; and \$4,534 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 fall above comparable market rent averages. An 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 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 indicated a nominal land valuation, based on anticipated costs for demolition and remediation of the existing improvements exceeding the as if vacant as of right value of the Site. Based on a proposed investment of \$168,300,934 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.

The Applicant controls the Site through a Quitclaim Deed recorded at the Middlesex South District Registry of Deeds in Book 31133; Page 173.