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730 MASSACHUSETTS AVENUE
TELEPHONE
781-316-3020
781-316-3029 FAX

TOWN OF ARLINGTON
MASSACHUSETTS 02476-4908

March 16, 2021

By Electronic and First Class Mail

Ms. Jessica Malcolm
Manager of Planning and Programs
Massachusetts Housing Finance Agency
One Beacon Street
Boston, Massachusetts 02108

**Re: Notice of Proposed Revisions to "Thorndike Place," Arlington, MA
(MassHousing ID #778/ #779)**

Dear Ms. Malcolm,

The Select Board of the Town of Arlington is in receipt of the March 8, 2021 Notice of Project Revision submitted to you by Arlington Land Realty, LLC (hereinafter "the Applicant") relative to the Thorndike Place project proposed in Arlington. For the reasons set forth herein, the Board respectfully submits that the revisions to the project are both substantial and incongruous with MassHousing's December 4, 2015 Site Approval/Project Eligibility determination. As such, this Board requests MassHousing determine that: 1) the changes submitted to you are substantial; and 2) that such changes materially and negatively impact your prior preliminary site approval.¹

The Board is aware of MassHousing's stated policy that it will not normally revise or revoke a project eligibility letter in the interim period between the project eligibility and final approval stages. The Board believes such action is necessary here, however, in light of the material revisions the Applicant is now proposing in contradiction of the project eligibility findings.

¹ For the purposes of this letter, "site approval" and "project eligibility" are used interchangeably. A copy of your December 4, 2015 Project Eligibility/Site Approval Letter is annexed hereto for your convenience as Attachment "A."

760 CMR 56.04(5) sets forth the standard for reviewing “substantial changes” to project which has received preliminary site approval and authorizes the Chief Executive Officer of a municipality (in Arlington, this Select Board) to request review before issuance of a decision on a Comprehensive Permit application. As noted in section 56.04 (5), “[o]nly the changes affecting the project eligibility requirements set forth at 760 CMR 56.04(1) shall be at issue in such review.” The three enumerated requirements are:

- (a) The Applicant shall be a public agency, a non-profit organization, or a Limited Dividend Organization;
- (b) The Project shall be fundable by a Subsidizing Agency under a Low or Moderate Income Housing subsidy program; and
- (c) The Applicant shall control the site.

760 CMR 56.04(1)(a)-(c).

With respect to criteria “(b)” it is important to reference the remainder of section 56.04(1), which states, “[c]ompliance with these project eligibility requirements shall be established by issuance of a *written determination of Project Eligibility by the Subsidizing Agency that contains all the findings required under 760 CMR 56.04(4)*, based upon its initial review of the Project and the Applicant’s qualifications in accordance with 760 CMR 56.04.”(emphasis added). Hence, these criteria include an examination of whether or not the Applicant’s proposed revisions are consistent with your previous findings of December 4, 2015 in order for the Project to continue to be “fundable by a Subsidizing Agency;” (i.e. MassHousing). Applied to this project, there are a wide range of proposed revisions that speak to MassHousing’s initial eligibility determination, which are now reviewable for their substantiality. A review of such revisions will show that they are substantial changes that conflict with the project eligibility findings.

In other words, contrary to the Applicant’s assertion in its notice letter, your examination of their proposed revisions should determine whether or not the Project as revised is substantially different from the one which you evaluated and approved as “fundable” under 760 CMR 56.04(4)(a)-(g). If you find the project is substantially different than the one you approved under such terms, you may then determine whether or not those substantial changes require modification of project eligibility or entirely void project eligibility. The Select Board believes the magnitude of the proposed changes warrants the latter determination; or alternatively, at a minimum the Applicant should be advised that the proposed revisions require modifications consistent with the terms of eligibility.

As applied to the Notice of Proposed Revisions, there are two categories of changes in which the revised project is both substantially changed from the Applicant’s original submissions for eligibility purposes, and further are materially inconsistent with MassHousing’s previous findings under 760 CMR 56.04(4):

- Removal of Six (6) “Transitional Zone” Townhouses from the Project; and
- Reduction of Access Points and Abandonment of Transit-Oriented Site Improvements.

The Select Board appreciates that the 40B hearing process invites alterations and improvements based upon feedback from zoning boards, technical experts, and the public. It also respects the Arlington Zoning Board of Appeals' jurisdiction and hard work to evaluate a complex project under the rubric of c. 40B. In this instance however, these alterations stem from the site constraints highlighted to the Applicant and MassHousing at the outset of this project because of its limited access and proximity to wetland resources. Addressing one area of concern by exacerbating others does not render such proposed changes insubstantial or benign.

I. Appropriateness of Design & Removal of Townhouse Transitional Zone

In both the Applicant's submissions for Project Eligibility and MassHousing's approval thereof, the appropriateness of the project was tied heavily to the construction of six (6) duplex style townhouse buildings containing twelve (12) homeownership units² to serve as a buffer between the single and two family homes in the surrounding residential neighborhood and a four-story, large-scale apartment building proposed for the back of the site.

As proposed initially, the townhouses were to occupy the street frontage on Dorothy Road, providing a necessary buffer to the proposed apartment building to be located approximately 80 feet behind the townhouses and more than 150 feet from the road. These townhouses have been entirely eliminated from the revised project and replaced along the street frontage with a 172-unit apartment building³ that is only 25 feet off of Dorothy Road and which stretches along the road for approximately 450 feet. The foregoing proposed revisions are entirely inconsistent with a foundational premise of MassHousing's Approval.

As the Applicant stated to MassHousing to obtain its approval:

The townhouse units were designed as a transitional zone between the duplex and single family homes of the existing residential neighborhood to the north and east of the project and the larger proposed apartment building to the south. *The proposed two-story town homes are of a similar height, scale and spacing as the other homes along Dorothy Road. To reflect the character of the street, the townhouse units feature lap siding, pitched roofs and a welcoming front porches.*

See Application for Site Approval at 3.3. "Narrative Description to Design Approach."⁴ (emphasis added).

² An added benefit of the townhouses was that they would be developed as homeownership units. Their removal in the revised submission is a change in tenure type as well as building type which, per the initial eligibility letter, provides an independent basis for requiring the submission of a new site eligibility application. (See Project Eligibility Letter, at p. 5).

³ As further evidence of the scope of the proposed structure and its incompatibility with the surrounding neighborhood is, if built, the proposed apartment building would be the single largest apartment structure in the Town of Arlington.

⁴ The Applicant also highlighted the Townhouses as evidence of sustainable development through both the lenses of concentration of development and mixed use, and expansion of housing opportunities.

MassHousing was highly responsive to such claims, noting several times in its Site Approval Letter of December 4, 2015, the importance of the townhouses as a buffer to the proposed apartment building. Such references included the following:

“As stated the Project will include 6 duplex style townhouses and 1, four-story apartment building. Buildings have been sited with the goal of minimizing impacts on the surrounding streetscape, *with the townhouses located along Dorothy Road, closest to the Site entrance, and the larger building set back to minimize its observable bulk.*

Adjacent typology is residential development mainly comprised of one and two-family colonial style homes. *The proposed townhouses are sited along Dorothy Road and will complement the existing residential development of this street, as the townhouses are of a similar height, scale, and spacing as the other homes along Dorothy Road...[and] were designed as a transitional zone between the duplex and single-family homes...[and] reflect the character of the street.”*

See, Project Eligibility/Site Approval Letter, at Attachment “1” p. 8-9.

MassHousing further cited the value of the townhouses as essential for a transitional zone in assessing the Project’s relationship to adjacent streets and integration into existing development patterns. *Id.* at p. 9. As stated, the revised proposal both eliminates this “transitional zone” in its entirety and moves the similarly-scaled four-story apartment building *closer* to Dorothy Road; eliminating both the townhouses themselves and the eighty feet of distance between them and the original planned apartment building.

The Applicant contends that these revisions are the product of feedback meant to address concerns of the Zoning Board of Appeals and others. However, to this Board’s understanding, the extent of such feedback was primarily in the form of universally shared concerns that the original proposal was within wetlands resource areas. To maintain adherence to the project eligibility findings, the foregoing building limitations should have resulted in the Applicant re-scaling the proposed apartment building behind the townhouse transition zone. Instead, the Applicant abandoned adherence to the design requirements contained in Section 56.04(4)(c) and proposed the complete removal of the townhouses with an apartment building having no compatibility with its surrounding neighborhood.⁵ Although it is the Applicant’s prerogative to address one problem by creating or exacerbating another, such alterations taking place in the context of feedback about wetlands impacts or even the overall scope of the project does not

⁵ The Applicant’s asserted justification in its notice letter for the elimination of the townhouses – the removal of driveways – reveals a complete disregard for the legitimate concerns of those living in the neighborhood in which it wishes to build. Moreover, comparison of the prominent language contained in the Applicant’s project application concerning the importance of the townhouses as a transitional buffer with the bare mention in the notice letter within a footnote of the supposed compatibility of the relocated apartment building with the surrounding neighborhood further highlights the shortcomings of the revised proposal and its conflict with the project eligibility findings.

render it immune from being rightly considered a substantial change or contrary to a foundational element of MassHousing's Site Approval.

Indeed, the facts presented here following the removal of the townhouses are similar to those which led to MassHousing's denial of site approval/project eligibility in the 2017 Project Eligibility Application for "Medfield Meadows" (MH# 873). *See* January 31, 2017 Project Eligibility Letter of MassHousing re "Medfield Meadows," (MH#873) annexed hereto as Exhibit "B." In your denial of project eligibility relative to said application you noted that proposed three and four-story apartment buildings were not consistent with nearby existing building typology – single and two story homes in a residential neighborhood which would be overwhelmed by the "height, mass, and scale" of apartment buildings. Germane to the specific changes submitted to you in this matter, you noted that the Medfield Meadows Project did not "make a reasonable transition to this well established residential neighborhood." *Id.*

In your Site Approval Letter for this project you explicitly noted how important the Townhouses were to the relationship with the neighborhood in the same terms discussed in "Medfield Meadows," finding:

"[t]he proposed townhouse units on Dorothy Road were designed as a transitional zone between the duplex and single family homes of the existing residential neighborhood to the North and East of the project and the larger proposed apartment building to the South." *See*, Project Eligibility/Site Approval Letter, at Attachment "1" p. 9.

While this Board questioned whether the Townhouses were sufficient buffers between a long-standing single and two-family residential neighborhood, it cannot disagree with the palpable difference between a project with townhouses and one without.

As submitted by the Applicant, the townhouse transitional zone presented the following in terms of presentation to the street, massing, height, and scale:



However, the revised proposal, which the Applicant urges you to consider an insubstantial change presents in stark contrast as follows⁶:



On its face, this revised proposal presents the very concerns that formed the basis for your denial of eligibility in a near-identical context. Where once were townhomes featuring spacing, height and mass similar to the existing homes in the neighborhood, there is now a large apartment building directly on the street with nothing to transition or buffer direct-abutters living in single

⁶ The Applicant's streetscape rendering, which it included as an attachment to its notice letter, is inaccurate as it fails to show, among other shortcomings, the main entry and the "semi-circular" access drive in the newly proposed apartment building. Moreover, the 3D streetscapes also included in the notice letter package at Attachment "B" significantly overstate the width of Dorothy Road. Such inaccuracies have added significance here given that a primary issue before MassHousing is compatibility with the surrounding neighborhood.

family or two-family homes next to or across the street from the building. Accordingly, we respectfully ask you to deem the removal of these townhouses a substantial change; and further, one material enough that eligibility will require restoration of such townhouses with a re-scaling and re-siting of the apartment building behind the townhouses in a manner that complies with applicable environmental statutes, regulations and bylaws.

II. Site Appropriateness: Traffic & Transportation

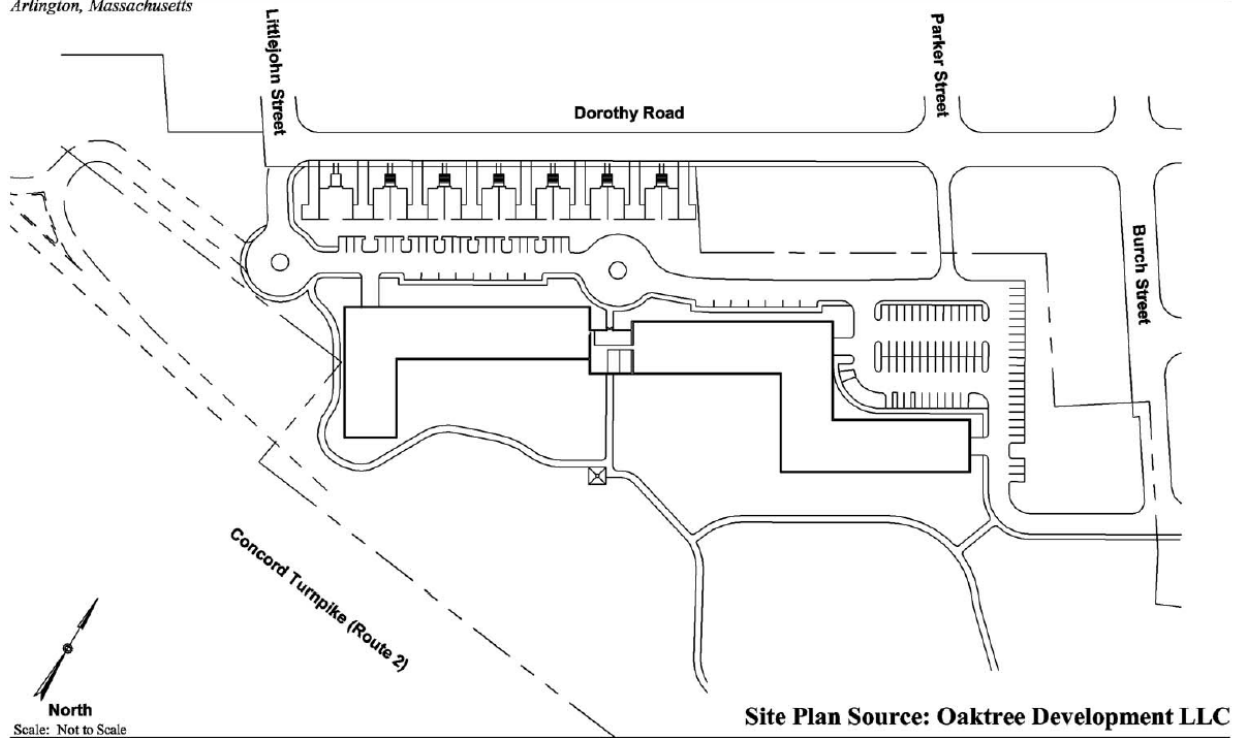
In addition to the foregoing, the project granted preliminary site approval by the revised proposal before you makes no mention of two critical elements to your traffic and transportation assessment and overall evaluation of site appropriateness. First, the site has no access whatsoever to or from Route 2 and no longer features direct access to Parker Street or Burch Street. In its revised form all vehicular access is provided by Little John Street and Dorothy Road, which are essentially the same street for the purposes of this project. Second, the revised project has no walking path improvements to connect the site to a more direct access points to the Alewife T Station or the Minuteman Bikepath. These elements were featured pieces in establishing the appropriateness of a site that still proposes to add parking nearly 200 cars to frequent narrow residential streets. Their abandonment constitutes further substantial and detrimental changes. Four vehicular access points and at least one supplementary pedestrian access point have been reduced to place all vehicular and pedestrian access to a single roadway.

A. Reduced Traffic Access Points & No Access from Route 2

One of MassHousing's principal findings with respect to the general appropriateness of the site for redevelopment was that "[t]he Site is accessible to Route 2, which borders the site." See Eligibility Letter at Attachment "1;" Findings "(b), p. 8. Indeed, both the site plans submitted by the Applicant to MassHousing, and the April 2014 Traffic Impact and Access Study by MDM Transportation Consultants highlighted access to Route 2 a feature for MassHousing given the constraints of the modest neighborhood streets otherwise necessary for ingress and egress. As MDM's report stated:

"The proposed Site programming consists of developing the Site as a 207-unit residential development consisting of 193± rental apartment units and 14± townhouse/ condominium units. On-Site parking is planned for 171 garage spaces and 138 surface spaces for a total of approximately 309 parking spaces. The townhouse apartment units are proposed to have individual driveways directly onto Dorothy Road. Planned Site access/egress for the apartment units includes three unsignalized driveways including a full-access driveway connection to Dorothy Road, a full-access driveway along Burch Street, and a gated emergency-only driveway connection to Parker Street. An additional access/egress driveway that would be restricted to right-in/right-out movements along the Route 2/Lake Street westbound off-ramp is also evaluated as a potential alternative. The preliminary Site layout plan prepared by Oaktree Development LLC is presented in Figure 2"

See MDM Traffic Impact and Access Study at E.1 p. 2; and Figure 2. (emphasis added).



(As can be seen in MDM's "Figure 2," both the Rt. 2 Ramp and Burch Street and Parker Street access were prominent features of the Site Plans submitted for Site Approval to MassHousing)

This proposal was further referenced in Section E.4 "Access Improvements" of the MDM Study, stating:

The alternative driveway connection to the Route 2 westbound off-ramp to Lake Street is being considered as a more direct access to/from Route 2, thereby reducing dependence on local roadways. The Proponent is in consultation with MassDOT to identify land acquisition requirements that involve re-designation of access lines along the Route 2 property frontage and transfer of property to MassDOT that would mutually benefit both parties.

See MDM Traffic Impact and Access Study at E.1 p. 4

Neither the current revised project plan nor any plan submitted to the Arlington Zoning Board of Appeals within the Applicant's Comprehensive Permit have maintained or even proposed an off-ramp or any other direct access to Route 2. Indeed no alternatives whatsoever have been provided to achieve "reduc[ed] dependence of local roadways" by the Applicant in the Revised Project before you, with or without any of the other changes referenced by the Applicant in their recent Notice.

Additionally, as recited above, MDM's Traffic Impact and Access Study and the Applicant's proposal to you included site access and egress via three driveways – one on Dorothy Road, a second on Burch Street (at the intersection of Edith Road), and a third

emergency-only access point on Parker Street, all but one of which have been eliminated in the revised project.

Local traffic congestion concerns were one of the principal concerns raised by this Board in its August 18, 2015 and October 6, 2015 comments to MassHousing given the limitations of the narrow residential streets abutting the proposed site. This Board trusts that such representations to MassHousing were meaningful factors within your decision to grant project eligibility. As such, we strongly urge you to deem the abandonment of *any* alternative means for traffic to access the proposed site and the elimination of two vehicular access points to constitute a substantial change under 760 CMR 56.04(5) that is inconsistent with the bases of your eligibility determination.

B. Removal of Transit-Oriented Walking Path Access

In a similar vein, MassHousing's preliminary site approval was also predicated in part on the ease of access to public transit from the site via "an integrated system of sidewalks and a *path connection* to the nearby Minuteman Bike Path to facilitate bicycle use and accessibility and use of public transportation at the nearby Alewife MBTA station." See MDM Traffic Impact and Access Study at E.3, p. 3; E.5, p. 4; and 3.4, p. 19; and Figure 2. To that end, both the Site Approval Application and the MDM Study included site plans specifically providing a walking bath on the lowland wetland parcels both as an attractive amenity for passive recreation and as a more direct means of connecting the site to the Minuteman Bikepath.⁷ See, e.g., Site Approval Application at 3.1, "Preliminary Site Plan," 3.2 "Preliminary Architectural Plans," and Attachment 2.3 "Site /Context Photographs."

As highlighted in the Preliminary Site Plan submitted to you, the Applicant proposed a connected network of walking paths through the wetlands areas to provide further and more direct connections from the site to the Minuteman Bikepath and Alewife.



⁷ Given the size and scale of Site Plans, full copies previously submitted to MassHousing have not been attached. Full copies can be provided to MassHousing for your convenience at your request.



The foregoing picture was included (Attachment 2.3 to their Application) as an example of what could be achieved to connect the project site more directly to both the existing bikepath and Alewife. However, in the revised proposal, there is only a walking path circling the re-sited apartment building.

It may well be that the Applicant has removed this element of its proposal because it was predicated on eager acceptance of the portions of land in question by the Town and subsequent Town improvements to it using mitigation funds provided by the Applicant. However, at this juncture it cannot be denied that a substantial feature of the project for the purpose of accommodating and encouraging use of public transit from the site has been removed. Especially in concert with the previously noted changes to the vehicular access, the Select Board believes the cumulative revisions to access and ingress/egress to and from the site are both substantial and in conflict with the bases for your grant of preliminary site approval/project eligibility. The end sum is a revised project in which all automotive, bicycle, and foot traffic must utilize a single residential street for access to 172 units rather than the highway, multi-street, and walking path connections originally proposed for eligibility purposes.

Conclusion

As set forth in 76 CMR 56.04, this body has the responsibility and authority to comment upon a Notice of Revision where in its judgment changes to the project preliminary afforded site approval by you are substantial. The dramatic alteration of several of the core elements of this project – elements that assured your approval was appropriate – are both substantial and incongruous with your findings for eligibility purposes. As such, the Arlington Select Board urges MassHousing to first find that the revision proposal includes substantial changes, and second that absent remediation, those changes disqualify the project from the eligibility you previously granted.

Please contact us should you have any questions or if you would like any additional support for our comments above.

Respectfully submitted,
On behalf of the Arlington Select
Board as its Chair,

A handwritten signature in black ink, appearing to read "John V. Hurd". The signature is fluid and cursive, with the first name "John" being more prominent.

John V. Hurd

cc: Stephanie Kiefer, Esq., *Counsel for the Applicant*

Arlington Zoning Board of Appeals

Sen. Cindy Friedman

Rep. Sean Garballey

Rep. David M. Rogers

ATTACHMENT “A”

March 8, 2021

Via Email

Jessica Malcolm, Manager of Planning and Programs
Massachusetts Housing Finance Agency
One Beacon Street
Boston, Massachusetts 02108

Re: Thorndike Place, Arlington (MassHousing ID #778/#779)
Notice of Project Revision Under 760 CMR 56.04(5)

Dear Jessica:

On behalf of the Applicant, Arlington Land Realty LLC, and in accordance with 760 CMR 56.04(5), we are notifying MassHousing, as the Subsidizing Agency, of the desire of the Applicant to change certain aspects of its respective project known as Thorndike Place. As more fully described herein, the revisions come about in light of feedback from the Zoning Board and others within the public hearings on the Applicant's Comprehensive Permit Application.

Original Proposal and Permitting Process Background:

The Applicant was granted a Project Eligibility Letter ("PEL") from MassHousing for Thorndike Place on December 4, 2015. At that time, the Thorndike Place project proposal included a total of 219 dwelling units, twelve (12) of which were townhouse homeownership units together with 207 units of rental housing situated on a triangular parcel consisting of 17.8+/- acres of land (5.6 +/- buildable acres), located on Dorothy Road, in Arlington, Massachusetts. The described project included six (6) duplex-style townhouses (2.5 stories/32 feet) and one (1) multifamily apartment building (4 stories/53 feet). The project's unit mix included 104 one-bedroom units, 92 two-bedroom units and 23 three-bedroom units.

The project locus is within the Planned Unit Development ("PUD") zoning district under the Arlington Zoning Bylaw, for which duplex homes are allowed as of right and multifamily housing is conditionally allowed. In the PUD district, the maximum building height is 85 feet and residential housing is limited to five (5) floors. As described in the Project Eligibility application, the developed portion of the site would be along Dorothy Road and would extend along the length of Dorothy Road, including surface parking and the easternmost third of the four-story apartment building located behind six lots on Dorothy Road. Off-street parking for the apartment building was proposed both via surface parking (102 spaces) and parking under the apartment building (178 spaces). As an amenity, not just to the Thorndike Place community but to the Town itself, the Applicant proposed to set aside approximately 10+ acres of the site as open space.

The original project design included eight driveway entrances off Dorothy Road, seven of which were associated with the townhouse duplexes and a main access drive near the intersection of Littlejohn Street and Dorothy Road, leading to the surface and garage parking associated with the multifamily building. In addition, the original Project included a secondary access drive at the intersection of Burch Street and Edith Street at the eastern boundary of the site.

Mass Housing's PEL was issued on December 4, 2015. On September 1, 2016, the Applicant filed a Comprehensive Permit application with the Arlington Zoning Board of Appeals ("ZBA"). On September 27, 2016, the ZBA opened the public hearing on the Application and by letter dated October 6, 2016, the ZBA notified the Applicant that the ZBA sought protection under the General

Land Area Minimum Safe Harbor, asserting its belief that the Town had 1.5% or more of its General Land Area dedicated to Subsidized Housing Inventory (“SHI”) eligible housing. The Applicant submitted a challenge to the DHCD pursuant to 760 CMR 56.03(8), noting that the Town had double discounted land area associated by water bodies, thereby inaccurately calculating the general land area in performing its calculations. On November 21, 2016, DHCD issued its written determination finding that the ZBA had not achieved safe harbor status. In December 2016, the ZBA filed an interlocutory appeal with the Housing Appeals Committee (“HAC”). The HAC decision was issued on October 15, 2019,¹ again determining that the Town did not establish qualifying for the safe harbor.

Project Revisions

Subsequent to the HAC’s Decision on the interlocutory appeal, the Application was remanded to the ZBA in late fall 2019. Due to Covid19, the ZBA did not conduct public hearings for a number of months and it was not until late September 2020 that public hearings, via Zoom, were reestablished on the application. With input from the ZBA as to the size, scale and location of buildings near or within resource areas, the Applicant presented revised plans to the ZBA in November 2020. The revised plans, reduced the density by removing the standalone duplex buildings and shifting the multifamily building to the north, away from resource areas as defined in the Massachusetts Wetlands Protection Act and the Arlington Wetlands Bylaw.

Since that time, the Applicant and the ZBA have conducted continued public hearings in November, December, January and February together with multiple work sessions with the Applicant’s professional team, the ZBA’s peer review professionals, the Conservation Commission, the Transportation Advisory Committee (“TAC”) and Town staff. As a result of the feedback provided to the Applicant by the ZBA, the Town Planner, Town Engineer, the Conservation Commission and its agent, the ZBA’s Peer Review professionals from BETA Group as well as the public, the current proposal is as follows:

- One multifamily building, which consists of 172 dwelling units, consisting of 88 one-bedroom units, 55 two-bedroom units, 18 three-bedroom units and 11 studios.
- The six 2.5 story duplex-style townhouses, and the associated seven access drives to enter the private garages off Dorothy Road, are no longer included in the project.²

¹ In large part, the length of time (nearly three years) for a decision in the HAC interlocutory appeal was attributable to the ZBA’s request to stay the appeal and subsequent pursuit of a separate civil lawsuit brought by the ZBA against the DHCD, Department of Mental Health and Department of Developmental Services, seeking confidential address information as to special needs housing. Ultimately, the ZBA never sought to use this information within the underlying HAC appeal.

² In other projects, MassHousing has concluded that a change in tenure does not justify revisiting a PEL. For instance, with respect to the Abbyville Commons 40B proposal in Norfolk, subsequent to obtaining site approval for a 48-unit rental project, the Developer notified MassHousing that due to input from the community, the proposal was changed from a rental project located in two buildings to 88 duplex-style condominiums. In response to the Section 56.04(5) notice, MassHousing affirmed that no new project eligibility letter was required, stating, “[i]t is MassHousing’s interpretation of the Comprehensive Permit Regulations that Subsidizing Agencies should normally not update Project Eligibility Letters as a project develops but should rather, consider whether the initial proposal is eligible for a subsidy project at the project eligibility stage and then consider with the final approval is eligible directly before the construction at the Final Approval state. Any other approach could interfere with a Chapter 40B’s goal of expedited permitting. It is for this reason that a Project Eligibility Letter issued pursuant to the comprehensive permit regulations shall, pursuant to 760 CMR 56.04(6) be conclusive evidence that the project and the applicant have satisfied the project eligibility requirements.” A copy of the MassHousing letter is attached as Attachment C (Emphasis added).

- The developed portion of the site is largely confined to an approximately 5.15-acre limit of work, with the balance of the site to remain as open space/conservation land. This is largely consistent with the original proposal, but it is noted that by condensing the overall length of the apartment building and adjusting its location further to the north on the site, the building and all infrastructure are outside of vegetated wetland areas to the east and south, with only limited impacts to the wetland buffer for a small portion of the subsurface garage under the southwest courtyard, grading, stormwater management systems and a portion of the permeable emergency access road around the back of the building.
- Garage parking under the multifamily building for 179 vehicles plus 176 secured bicycle parking spaces. (The original proposal as set out in the Project Eligibility application included garaged parking for 178 vehicles in the multifamily building garage).
- The building adheres to the PUD zoning district use and dimensional regulations; in particular multifamily use is allowed by special permit in the PUD district, the project is far below the maximum height in the PUD district (which maximum height is set at 85 feet/5 floors for residential uses), the project meets or exceeds the setbacks of the PUD district and it is below the allowable FAR for the site (.80 FAR).

Attached hereto, please find the updated site drawings prepared by BSC Group, revised November 3, 2020 and January 21, 2021 (Attachments A.1 and A.2) and updated architectural elevations and perspective drawings by Oaktree/Bruce Hamilton Architects, as presented to the ZBA at the February 16, 2021 hearing (Attachment B).

The present building design retains the four-story apartment building, but has revised its layout such that there is a central building spine set back approximately 90+ feet from Dorothy Road. Extending northerly (toward Dorothy Road) are three separate wings, or building tabs, the width of each approximate the width of the townhomes on the opposite side of Dorothy Road. These front portions of the building will be two stories tall (approximately 25 feet in height) and set back 25 feet from Dorothy Road.³ In between the building's northerly wings are two large courtyards, one which provides access to the building entry and allows temporary parking/drop offs and the other to be landscaped open space. The courtyards further create a less crowded/more open feel along Dorothy Road. The building graduates to three floors and thereafter to four floors along the central building spine and the building wings to the south of the site, substantially removed from Dorothy Road and any abutting property.

As opposed to the eight driveway curb cuts proposed on Dorothy Road under the original proposal, the revised design streamlines the access off Dorothy Road to one main driveway which provides access to the surface parking lot to the west and to the garaged parking under the building.

³ It is noted that the height of the currently revised building wings (25 feet) closest to Dorothy Road are actually lower than the height of the previously proposed townhouses, which were 2.5 stories/32 feet in height. By the use of low, two-story front wings of the building set back 25 feet off Dorothy Road, the architecture of the building is consistent with the setbacks, width and heights of the surrounding townhomes on the opposite side of Dorothy Road and to the east of the site. The revised design has incorporated the municipal input with respect to massing, scale, topography and environmental resources.

For short-term or drop-off/deliveries, there is a second semi-circular access drive located closer to the center of the building at the location of the building's lobby entrance.

Further, in response to requests by the ZBA and the TAC for a reduction in parking, the revised design incorporates a reduced number of parking spaces and corresponding commitments to a number of transportation demand management (TDM) measures, further enhancing the transit-oriented nature of the Project. Representative TDM measures include: a 23-dock Bluebikes station, a transit-screen display in the building entrance lobby, first month MBTA passes to new residents, a designated transportation coordinator as part of building management staff; secured parking for up to 176 bicycles and a bicycle repair area within the garage; and transportation information packages to be provided to all residents.

The revised design not only reduces impervious access drives and parking areas, but also avoids direct impact to wetland areas and limits permanent project improvements to the outer edges of the 100-foot buffer. Further, the revised proposal significantly limits the amount of work within the floodplain as compared to the original application. Impacts to floodplain are limited to two shallow fingers of the floodplain with the revised plans providing for the creation of compensatory storage at a ratio of 2:1, as consistent with the Arlington Wetlands Regulations.

The ZBA has expressed interest in having MassHousing's clarification concerning the process through which these project changes may be handled. In accordance with 760 CMR 56.04(5), the Applicant provides written notification to the Subsidizing Agency of these project changes. As stated in Section 56.04(5), only changes affecting project eligibility requirements as set forth in Section 56.04(1) are to be assessed.⁴ These described changes do not impact the Applicant's qualification as a limited dividend entity under Section 56.04(1)(a). Similarly, as the proposed changes address density, scale and environmental concerns that had been raised within the public review process, the changes are specifically responsive to otherwise enhance the project and its consistency with the existing environmental resources and topography and do not adversely impact the project or its fundability in accordance with Section 56.04(1)(b). Lastly, there has been no change to site control as Applicant continues to own the site. *See* Section 56.04(1)(c).

⁴ The limits of MassHousing's review under 760 CMR 56.04(5) is similarly described in prior requests submitted to the agency directly on behalf of a Zoning Board. For instance, with respect to the Goodridge Brook Estate's 40B proposal in Lancaster (PEL-963) in which the ownership portion of the proposed development (120 apartments/40 duplexes) was revised by developer (from 40 duplexes to 62 four-bedroom homes), the Lancaster ZBA Chair requested MassHousing to review the changes. By letter dated October 29, 2018, MassHousing reaffirmed the conclusiveness of its prior project eligibility determination in writing to the Lancaster ZBA Chair, stating "[s]ince the changes outlined in your letter have been proposed prior to issuance or denial of a Comprehensive Permit, 760 CMR 56.04(5) narrowly limits the Subsidizing Agency's review to changes which affect the project eligibility requirements set forth in Section 56.04(1)." *See* Attachment D (Emphasis supplied).

SMOLAK & VAUGHAN LLP

Jessica Malcolm, Manager
Comprehensive Permit Programs

We thank you for your review of this matter and request that MassHousing reaffirm its prior PEL. Please feel free to contact me should you have any additional questions. Thank you.

Sincerely,

/s/ Stephanie A. Kiefer

Stephanie A. Kiefer

sak/

Encl.

cc: Peter Mugar, Arlington Land Realty LLC
Gwen Noyes/Arthur Klipfel, Oaktree Development
Robert Engler, SEB Housing Consultants
Christian Klein, Chairman, Arlington Zoning Board of Appeals (via email)
John V. Hurd, Chairman, Arlington Board of Selectmen (via first class mail)
Jennifer Maddox, Undersecretary for Housing and Community Development (via first class mail)

ATTACHMENT “B”



Massachusetts Housing Finance Agency
One Beacon Street, Boston, MA 02108

TEL: 617.854.1000 | FAX: 617.854.1091
VP: 866.758.1435 | www.masshousing.com

January 31, 2017

VIA CERTIFIED MAIL

Medfield Meadows LLC
18 Forest Street
Dover, MA 02052
Attention: John Kelly, Principal

RE: Medfield Meadows
Medfield, MA (MH# 873)
Project Eligibility (Site Approval) Application

Dear Mr. Kelly:

This letter is in response to your application for a determination of Project Eligibility ("Site Approval") pursuant to Massachusetts General Laws Chapter 40B ("Chapter 40B"), 760 CMR 56.00 and the Comprehensive Permit Guidelines issued by the Department of Housing and Community Development ("DHCD") (the "Guidelines" and, collectively, the "Comprehensive Permit Rules"), under the following program (the "Program"):

- New England Fund ("NEF") Program of the Federal Home Loan Bank of Boston.

The original application proposed to build two hundred (200) units of rental housing in two (2) buildings on individual parcels separated by North Meadow Road (Route 27) (the "Project") at 39-41 Dale Street and 49 Dale Street (the "Site") in Medfield, Massachusetts (the "Municipality"). Subsequent to an initial review of the Site and the proposed plans and comments from the Municipality regarding the site plan, MassHousing requested that the applicant reconsider the Project and its compatibility with adjacent uses and compliance with 760 CMR 56.04(4)(c), the applicable regulations that govern the design elements of a 40B proposal.

On January 5, 2017 the Applicant submitted a revised proposal to MassHousing that purported to respond to concerns regarding the original site plan, reduced the proposed height of the buildings and the number of units from two hundred (200) to one hundred eighty two (182) rental apartments units in three separate three and four-story buildings on a total of 6.24 acres of land, which only reduced the density from 32 units per acre to 29.17 units per acre on the Site.

MassHousing staff has performed an on-site inspection of the Site, which local boards and officials were invited to attend, then revised the Site in connection with the revised application, and has reviewed the pertinent information from both the original and the revised applications for the Project submitted by the Applicant, and comments submitted by the Municipality and others in accordance with the Comprehensive Permit Rules.

As a result of MassHousing's evaluation of the information that was presented, and the Agency's evaluation of the Site, MassHousing is unable to approve your application for a determination of Project Eligibility. While it is expected that a Project proposal submitted in accordance with the zoning and regulatory relief available under Chapter 40B will differ from the surrounding context in many fundamental ways, the Subsidizing Agency must also address matters regarding the Project's relationship to existing development patterns in the surrounding area. This Site appears to be generally appropriate for residential development and while municipal actions to date have not yet resulted in the production of housing required, "to meet the municipality's need for affordable housing as measured by the Statutory Minima"; nevertheless MassHousing has determined that the conceptual project design for the proposed development is not appropriate for this Site.

The reasons for MassHousing's denial of your applications are as follows:

MassHousing considers the design of the building and the proposed site layout to be inconsistent with the design requirements outlined in 760 CMR 56.04(4)(c) and the related Guidelines dated May, 2013. Specifically:


- The proposed apartment structure is inconsistent with nearby existing residential building typology. This is particularly true for the rear portion of the north parcel and the proposed building's relationship to the existing neighborhoods closest to the Site along Joseph Pace Road, John Crowder Road and Dale Street. The applicant's revised site plans do not adequately mitigate the impact of the proposed building's connection to the existing neighborhood from the initial proposal; the Project still fails to make a reasonable transition to this well established residential neighborhood.
- The proposed three to four-story apartment structures are not compatible with nearby structures in terms of height, mass and scale. Building elevations indicate that the proposed buildings (the three proposed buildings range in height from 60' to 77.5' tall depending on the topography of the Site) are at least triple the height of most surrounding 1-2 story structures. The building massing in the original submission was entirely inappropriate for both the Site and its relationship to the adjacent residential neighborhood. While the revised site plan, particularly that of the north parcel, has addressed some of the most glaring impacts to its closest abutters, the overall perception of the massing has not been adequately reduced to make the findings required under the regulations. The proposed massing on the south parcel is not significantly improved by the revised site plans and the presence of wetlands on that portion of the overall development Site is a constraint to a more logical relationship to the Grove Street neighborhood.

- Appropriate density of residential development depends on a number of different factors, and must be reviewed on a case by case basis. In this case, however, it appears that the Project is simply too dense for the lot on which it is located; nearly the entire Site is occupied by the proposed building program and the limited areas for open space are not sufficient to mitigate the project's effective density. While there are no maximum density thresholds, it is advisable to develop at a density that takes some cues from the existing community context. The nearest rental development is the Parc at Medfield which has a considerably lower density of approximately 10 units/acre as compared to the almost 30 units/acre proposed for this Project.
- The site plan does not provide a satisfactory design treatment of the edge between the Site and the surrounding streetscape and does little to enhance the visual quality of the streetscape. The northern and southern building facades face Route 27, which is the principal access to downtown Medfield, and create a poor visual relationship to this adjacent roadway.

In MassHousing's review of any application for Site Approval under Chapter 40B, the Agency does not consider any one factor in isolation. Rather, the site as a whole is considered as well as whether the development proposal is consistent with applicable Regulations and Guidelines. After a thorough review of your application, MassHousing does not find that your proposal is able to meet all of the required findings. Therefore, your application is denied.

If you have any questions concerning this matter, please contact Greg Watson, Manager of Comprehensive Permit Programs, at 617-854-1880.

Sincerely,



Timothy C. Sullivan
Executive Director

cc: Chrystal Kornegay, Undersecretary, Department of Housing and Community Development
The Honorable James Timilty
The Honorable Denise C. Garlick
The Honorable Shawn Dooley ✓
Mark L. Fisher, Chairman, Medfield Board of Selectmen
Michael J. Sullivan, Medfield Town Administrator
Sarah Raposa, Medfield Town Planner