



**Town of Arlington
Legal Department**

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To: Select Board

Cc: Sandy Pooler, Town Manager
Claire Ricker, Director of Planning and Community Development

Date: December 21, 2022

Re: Information and Areas of Inquiry for 10 Sunnyside Avenue Project Eligibility/Site Approval Discussion

Members of the Board, in advance of tonight's discussion of the Project Eligibility/Site Approval (hereinafter "Site Approval) Application submitted to MassHousing on behalf of the Housing Corporation of Arlington, permit me to briefly remind the Board of its role and obligations relative to the MassHousing eligibility phase.

Overview of Project Eligibility Consideration

As you may recall from previous Project Eligibility discussions, the Application before you for Approval at 10 Sunnyside Avenue is the first step for the Housing Corporation to avail themselves of G.L. c. 40B (also known as the Comprehensive Permit Act) permit process for a residential housing project with affordable housing units. Passed in 1969, the purpose of 40B was to encourage the development of affordable housing throughout the state by streamlining the local building approval process and reducing local regulatory barriers (such as zoning and density requirements) to housing developments where 20 – 25 percent of the units are deed-restricted as "affordable." Comprehensive Permit Applications are ultimately filed with the local zoning authority (here the ZBA) for hearing and decision, and applicants must also apply for and receive all relevant state-required permits. Detailed examination of issues such as design, traffic impacts, and other healthy and safety concerns is performed by the ZBA, including employment of peer review to discern appropriate conditions to approval or denial. However, the initial stage

for any 40B project is MassHousing's preliminary review, which is oriented towards a broad examination of the project's viability in the context of their mission to expand affordable housing in the State. The Select Board may, but is not required to comment on such viability utilizing MassHousing's criteria for 40B developments within thirty (30) days of receipt of a notice from MassHousing, in this instance on or before January 8, 2022.

MassHousing Criteria

First, MassHousing must determine the Applicant (The Housing Corporation):

- (a) has sufficient legal control of the site;
- (b) is a public agency, non-profit organization or "limited dividend organization;" and
- (c) proposes a project that is generally eligible under the requirements of the relevant MassHousing program.

Second, MassHousing must determine that the site of the proposed project is:

- (a) generally appropriate for residential development (taking into consideration municipal actions previously taken to meet affordable housing needs); and
- (b) conceptually designed to be generally appropriate for the site.

Finally, MassHousing will consider all the concerns you and the Town Manager, as the chief elected and appointed officers respectively, have about either the site or the developer. I expect Director of Planning and Community Development Claire Ricker will have further information relative to the proposal before you.

Select Board Letter

In light of the foregoing, the Board typically gathers information from the Applicant and relevant Town Departments and personnel in the interests of stating reasons that the Site Approval should be granted or denied at this early stage. As such, I recommend you ask any and all questions you feel appropriate in the interests of gathering whatever information you can. You should also feel free to make whatever appropriate comments to the Applicants you deem necessary. After your written comments are submitted to MassHousing, the Board's role in the process is substantially lessened because the ZBA (and any other Town body, such as the Conservation Commission) must examine any applications before them independently.

I am happy to answer any further questions you may have about Site Approval standards and processes.