



Massachusetts Housing Finance Agency
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February 18, 2020

Liberty Grove LLC
872 Massachusetts Avenue, Suite 1-6
Cambridge, MA 02139
Attention: George Clements, Manager

**Re: Highlands Village
Project Eligibility/Site Approval
MassHousing ID No. 1053**

Dear Mr. Clements:

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”).

Liberty Grove LLC has submitted an application with MassHousing pursuant to Chapter 40B. You have proposed to build ninety-six (96) units of rental housing (the “Project”) on approximately 3.37 acres of land located at 357 Grove Street, 356 Grove Street, and 1006 Liberty Street (the “Site”) in Braintree (the “Municipality”). 357 Grove Street is currently subject to a restrictive covenant which limits utilization of the Site for “childcare, playground or recreational areas, schools (or any similar use which is intended to house, educate, or provide care for children),” among others. This Site Approval is conditional upon a revision of the restriction to remove reference to the restriction on housing in its entirety.

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

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 Melissa Santucci, Braintree's Assistant Director of Planning and Community Development, this period was extended to 45 days. Mayor Joseph C. Sullivan submitted a letter regarding the Application dated November 25, 2019 summarizing comments from Municipal officials and departments, and residents of Braintree. Mayor-Elect Charles C. Kokoros also submitted a letter dated November 25, 2019 commenting on the proposed Project. Both letters expressed opposition and identified the following specific areas of concern:

- The Municipality expressed concern that the proposed building's massing, scale, and height is out of character with the surrounding suburban neighborhood.
- The Municipality is concerned about traffic impacts from the proposed Project, noting that the intersection of Liberty and Grove Streets currently operates between a Level of Service (LOS) C and E at peak hours. The Municipality requests that a traffic impact analysis be completed and that any additional trips to this location be mitigated to maintain or improve the intersection's current LOS.
- The Municipality would like more information on the sewer easement shown in the Applicant's site plan drawings, to ensure that the development will not adversely impact any rights that others possess within the easement.
- The Municipality is concerned that the proposed Project's surface parking areas and associated vehicle circulation will negatively impact the Site's wetland resource areas and the abutting single-family neighborhood.
- The Municipality is concerned about stormwater management on the Site, noting that the area has high groundwater due to on-site wetland resource areas, and questions the ability for the proposed Project to comply with Massachusetts DEP Stormwater Regulations and all other applicable permitting required in connection with the filling of a resource area.
- Given the historic use of the Site as a gas station, the town requests additional information in connection with any and all environmental remediation that will be required.
- The Municipality expressed concern relative to the extent of tree-clearing and site re-grading associated with the proposed Project.

Community Comments

In addition to comments submitted by the Municipality, MassHousing received approximately one hundred and sixty (160) letters from area residents expressing additional comments and concerns regarding the proposed Project. In general, letters from the community opposed the proposed Project, echoing and elaborating on many of the concerns identified by the Municipality. Concerns raised by the community are summarized as followed:

- Traffic congestion (Liberty/Grove Streets intersection)
- Motorist safety (history of accidents at Liberty/Grove Streets intersection)
- Pedestrian safety (particularly for schoolchildren)
- Noise and light pollution
- Water supply
- Environmental, health, and safety concerns related to prior gas station use
- Deed restriction on 357 Grove Street and potential child safety issues
- Wetlands protection
- Size of building
- Neighborhood character
- Preservation of historic home at 1006 Liberty Street

The majority of the letters completely opposed multifamily residential development on the Site, noting that it does not comply with underlying zoning and requesting that the Project be denied. Several letters, however, requested a workable solution for the proposed Project, Site, and Town. One letter expressed support for the proposed Project, noting that it was an improvement to the Site's existing use and that it filled a need for increased housing diversity in Braintree.

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 and on the quality of the Braintree Public Schools.

MassHousing Determination

MassHousing staff has determined that the Project appears generally eligible under the requirements of the Program, subject to the conditions set forth herein, final review of eligibility, and to Final Approval². As a result of our review, we have made the findings as required pursuant

² 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.

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 Developer may apply to the Zoning Board of Appeals 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 for a Comprehensive Permit and fully explored in the public hearing process prior to submission of your application for final approval under the Program:

- 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 provide sufficient data to assess potential traffic impacts and parking needs and respond to reasonable requests for mitigation. Traffic patterns should be reviewed for the Site access and egress, particularly during peak travel times.
- The Applicant should be prepared to provide detailed information relative to proposed water and sewer use, potential impacts on existing capacity, and appropriate mitigation. Furthermore, the Applicant should work with the Municipality to shift the Site's sewer easement as may be required for construction of the proposed Project.
- The Applicant should be prepared to provide detail information relative to light and noise impacts, and respond to reasonable requests for mitigation
- The Applicant should be prepared to address Municipal concerns relative to the size, scale and density of the Project and its impact on the character of the surrounding neighborhood, and to fully describe the proposed measures to address and mitigate these concerns. Updated designs and plans should depict the immediate neighborhood context, particularly the abutting single-family homes.
- The Applicant is encouraged to provide clear pedestrian circulation throughout the Site, including sidewalks and crosswalks.
- The applicant is encouraged to maintain as many existing trees on the Site as possible. Existing vegetation should be augmented with new landscaping to integrate the development into the existing environment and provide privacy for both abutters and

residents. In particular, vegetative buffers along Site boundaries are encouraged to reduce the scale, create a sense of entry, and improve the street presence of the proposed Project.

- The Applicant should be prepared to discuss all conditions, required environmental assessments, and potential remediation needed in connection with the Site's prior use as a gas station.
- The Applicant should be prepared to discuss certain deed restrictions that apply to the Site, specifically at 357 Grove Street and progress towards negotiating a revision to those restrictions.

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 ninety-six (96) rental units under the terms of the Program, of which not less than twenty-four (24) 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.

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 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.

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.

Please note that MassHousing may not issue Final Approval if the Comprehensive Permit contains any conditions that are inconsistent with the regulatory requirements of the New England Fund Program of the FHLBank Boston, for which MassHousing serves as Subsidizing Agency, as reflected in the applicable regulatory documents. In the interest of providing for an efficient review process and to avoid the potential lapse of certain appeal rights, the Applicant may wish to submit a "final draft" of the Comprehensive Permit to MassHousing for review. Applicants who avail themselves of this opportunity may avoid significant procedural delays that can result from the need to seek modification of the Comprehensive Permit after its initial issuance.

If you have any questions concerning this letter, please contact Katherine Miller at (617) 854-1116.

Sincerely,



Chrystal Kornegay
Executive Director

cc: Jennifer Maddox, Acting Undersecretary, DHCD
The Honorable John F. Keenan
The Honorable Mark J. Cusack
The Honorable Charles C. Kokoros, Mayor
Stephen Karll, Chair, Zoning Board of Appeals
Melissa Santucci, Assistant Director of Planning & Community Development

Attachment 1

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

Highlands Village, Braintree, MA #1053

After the close of a 45-day review period including a 15-day extension, 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 Braintree is \$89,200.

Proposed rent levels of \$1,417 for a studio, \$1,598 for a one-bedroom affordable unit, \$1,765 for a two-bedroom affordable unit and \$1,921 for a three-bedroom affordable unit are within current affordable rent limits for the Boston-Cambridge-Quincy HMFA under the NEF Program.

A letter of interest was provided by South Shore Bank, 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 MassHousing staff’s site inspection, 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.

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. The Municipality noted that it works towards housing production goals through Special Permit negotiations, and that two recent Special Permit Decisions issued by the Planning Board for residential developments totaling 50 units of housing will provide 5 (three condominiums and two apartments) affordable units. The Municipality also suggested that it has pursued achieving its statutory minima relative to the 1.5 percent General Land Area Minimum (GLAM) with two prior comprehensive permit applications and will continue to challenge the Housing Appeals Committee’s (HAC) recent GLAM decision, dated June 27, 2019 which found the Municipality’s GLAM to be at 1.39 percent.

MassHousing relies on the Housing Unit Minimum in connection with our determination of Project Eligibility. According to DHCD's Chapter 40B Subsidized Housing Inventory (SHI), updated through November 2019, Braintree has 1,373 Subsidized Housing Inventory (SHI) units (9.63 % of its housing inventory), which is 53 SHI units shy of the 10% SHI threshold. Braintree does not have a DHCD Certified Housing Production Plan.

(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 Building Typology (Including building massing, site arrangement, and architectural details):**

The surrounding neighborhood is comprised of a mix of uses. The neighborhood to the south of the Site consists primarily of single-family residences small to medium in size. The area to the north of the Site is commercial in nature. A large shopping plaza that includes a Stop and Shop, other box stores, and supporting surface parking sits diagonally across from the Site to the north. Examples of existing multi-family housing developments are located in the vicinity of the Site, approximately one-half mile north and north west on Liberty Street and Grove Streets respectively.

The developer intends to build one 4-story, 96-unit, L-shaped apartment building. The proposed building is designed to wrap around the corner of Liberty and Grove Streets to limit the impact on abutting single-family homes. Proposed building elevations indicate projecting bays, balconies, fenestrations, and pitched roof features to articulate the façade and break up the massing of the building.

- **Relationship to adjacent streets/Integration into existing development patterns**

The Project is located on three parcels of land that are located at the intersection of Grove Street and Liberty Street, both two-way roadways that connect the Site to Hancock Street and Braintree Center, Route 3, and neighboring towns to the south and east. While the Site is primarily auto-oriented, it is proximate to the Braintree MBTA Red Line and commuter rail station, roughly 1.5 miles away. Access and egress to the Site is accommodated on both Grove Street and Liberty Street. The proposed curb cuts are located at the edges of the Site to push traffic associated with the proposed Project away from the four-way signaled intersection.

Existing zoning at 357 Grove Street includes a combination of General Business and Residential B along the parcel's frontage, and Residential A for the remaining rear portion of the parcel. While a mix of uses is reflected in the existing zoning, 357 Grove Street is currently subject to a restrictive covenant which limits utilization of the Site for "childcare, playground or recreational areas, schools (or any similar use which is intended to house, educate, or provide care for children)," among others. The Applicant has executed a Letter of Intent with the prior owner to remove any reference to a restriction on housing. Existing zoning at 365 Grove Street and 1006 Liberty Street is

Residential B along each parcel's frontage, and Residential A for the remaining rear portion of each parcel.

- **Density**

The Developer intends to build ninety-six (96) apartments in one (1) multi-family apartment building on 3.37 acres of land, 3.16 of which are buildable. The resulting density is 31 units per buildable acre, which is acceptable given the proposed housing type, and the proximity of the project to public transportation and a mix of uses.

- **Conceptual Site Plan**

The site plan is very straightforward, consisting of one 4-story, L-shaped building fronted along Grove Street and Liberty Street. A loop-road enters and exits the Site on both street frontages, wrapping around the rear of the building. The majority of the proposed Project's parking is organized into surface parking clusters located at the rear of the Site. Additional parking, including some parallel spaces, is found along the building's street frontages. The Project proposes a total of one hundred forty-six (146) parking spaces. The resulting ratio is 1.52 parking spaces per unit. A central green is proposed at the rear of the structure, accommodating much of the Site's wetland area and creating an attractive focal point for residents and opportunities for a peripheral walking path.

- **Environmental Resources**

There are approximately 0.21 acres of unbuildable wetland area on the site that will be subject to further review by the local Conservation Commission under a Notice of Intent. The Site's wetland area consists of a Bordering Vegetated Wetland (BVW), which contains an ephemeral ponding area that drains into an intermittent stream. The site plan is organized in a way that both incorporates these wetland features into the landscaping of the Site, while also maintaining physical separation from the built portion of the development. The proposed building lies entirely outside the BVW's 25' no disturb area, but within the 100' buffer. The Site is currently highly disturbed and contains many invasive plant species. Additionally, there were several areas of dumping, including old fill material, garbage, and woody debris. While the property had a prior use as a gas station, the Applicant notes that there is no known evidence of hazardous materials on the Site.

- **Topography**

The Site's topography includes a modest knoll near the Grove Street frontage and a low-lying wetland area at the center of the Site. Moderate elevation gain along the southern portion of the Site helps to buffer single-family homes to the rear. The Site's topography is not an impediment to the proposed development.

(d) that the proposed Project appears financially feasible within the housing market in which it will be situated (based on comparable rentals or sales figures);

MassHousing's Appraisal and Marketing (A&M) Division reports that residential real estate markets in the area continue to show strong momentum. Home and apartment vacancy rates in Braintree Highlands are 8.4%, which is near the middle range for vacancies. Braintree Highlands'

real estate is primarily made up of medium sized (three or four bedroom) to small (studio to two bedroom) single-family homes and apartment complexes. Most of the residential real estate is owner occupied. The proposed rental development should be able to be competitive within the housing market in which it will be situated.

(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 indicates a land valuation of \$1,765,000. The Project pro forma includes a proposed investment of \$6,000,000 in private equity. A preliminary review of the pro forma indicates that the per-unit construction costs are within the normal range for similar multi-family developments. Based on estimated development costs, the Project 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.

(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 or a related entity to the Applicant controls the entire 3.37-acre Site by virtue of the following deeds and agreements:

Address	Ownership Status	Norfolk Land Court Registry Info
357 Grove Street	Deed	Certificate #195873
365 Grove Street	Purchase and Sale Agreement, expiring 2/17/2020, with option for 45-day extension	N/A
1006 Liberty Street	Purchase and Sale Agreement, expiring 8/24/2020	N/A