



Massachusetts Housing Finance Agency  
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April 12, 2018

Jamie Feeley, Principal  
Surfside Crossing, LLC  
37 Old South Road, #6  
Nantucket, MA 02554

**Re: Surfside Crossing  
Project Eligibility/Site Approval  
MassHousing #966**

Dear Mr. Feeley:

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 (“FHLBB”).

You have proposed to build 156 units, including thirty-nine (39) affordable units, of homeownership housing (the “Project”) on a 13.55-acre site located at 3, 5, 7 and 9 South Shore Road (the “Site”) in Nantucket, MA (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. In response to a request from the Nantucket Board of Selectmen, this review period was extended to sixty (60) days. The Board of Selectmen submitted a letter on February 18, 2018, summarizing comments from municipal officials, staff and members of the public. In addition, the letter identified specific actions taken by the Town

to meet affordable housing needs, such as workforce housing development and special permit actions meant to increase opportunities for the development of affordable units.

Municipal comments identified the following major areas of concern:

- The Municipality is concerned that the proposed Project will overwhelm the Site and the neighborhood in an already densely developed area of Town.
- The Municipality expressed concern that additional traffic generated by the Project would result in increased congestion on area roadways and pose heightened risks to drivers and pedestrians. They requested that the Applicant provide a traffic study to allow them to fully assess Project traffic and public safety impacts. In addition, they request that the study consider both seasonal and off-seasonal peaks.
- The Municipality also provided comments from the Nantucket Fire Department. The Fire Department emphasized that the Project must be designed to ensure the maximum level of emergency access and fire protection. The Fire Department comments outlined a variety of requirements for the Project including fire lanes, sufficient roadway widths and intersection radii to accommodate public safety vehicles, hydrants and interior fire suppression systems.
- The Municipality expressed concern that the Applicant's site plans place buildings very close to the Town's main sewer easement and will require a survey to be done before any foundations are poured.
- The Municipality expressed concerns about the sufficiency of the existing water supply, and encouraged the implementation of water-saving facilities at the Project. They also questioned the capacity of the Town's sewer system to handle the anticipated quantity of additional flow and noted that a determination on this matter may require an additional sewer main that would flow directly to the Site.
- The Municipality requests that the Applicant provide an adequate storm-water management plan for the Site, including erosion control measures during and after construction.
- The Municipality has noted the lack of any usable open space for residents and has recommended that the site plan include open space features.
- The Massachusetts Historical Commission requests that the Applicant conduct an archaeological study to determine if the Project will affect any significant historic or archaeological resources on Site.
- The Municipality is concerned that the Applicant proposes ownership and management of the single-family development and the condominium development as one entity. They request that any sharing of infrastructure, and the obligation to pay for maintenance, repairs and replacement, must be carefully worked out and documented. Further, they request that the Applicant create separate legal entities for the single-family development and the condominium development.

### **Community Comments**

In addition to the comments from town officials, MassHousing received thirty-six (36) letters and signed petitions from area residents, all of which expressed opposition to the proposed Project. While letters from members of the community basically echoed the concerns identified by local officials, the letters received are summarized below:

- Area residents are concerned that public safety vehicles may have difficulty negotiating the Site in the event of an emergency.
- Area residents believe the Project's size and scale is out of character with the surrounding neighborhood.
- Area residents are concerned that there will be an increase in traffic and pedestrian safety issues as a result of this proposed development.
- Area residents request additional open space elements be added to the proposed site plan.
- Area residents raised concerns regarding the proposed storm-water management plan.

### **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 submitted by the Municipality to MassHousing identified issues that are not within the scope of our review:

- The Municipality comment letter submitted to MassHousing requested that the Applicant provide a school impact study prior to the submission of an Application to the Zoning Board of Appeals.

### **MassHousing Determination and Recommendations**

MassHousing staff has determined that the Project appears generally eligible under the requirements of the Program, subject to final review of eligibility and to Final Approval. As a result of our review, we have made the findings as required 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 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 local Zoning Board of Appeals ("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 resolution of all environmental conditions per laws, regulations and standards applicable to existing conditions and to the proposed use, including but not limited to compliance with all applicable regulatory restrictions relating to floodplain management, the protection of wetlands, river and wildlife habitats/conservation areas, as well as local and state environmental protection requirements relating to the protection of the public water supply, storm water runoff, wastewater treatment, and hazardous waste safety. The Applicant should provide evidence of such compliance prior to the issuance of a building permit for the project.
- The Applicant should be prepared to provide a detailed traffic study assessing potential impacts of the Project on area roadways, including traffic volumes, crash rates, and the safety and level of service (LOS) of area intersections, and identifying appropriate traffic mitigation in compliance with all applicable state and local requirements governing site design.
- The traffic study or other professional site design process should address proposed on-site circulation and parking to ensure compliance with public safety standards and good design practice relative to drive-aisle widths, turning radii and sight distances along the Site drive and the parking areas through which it passes. The Applicant should be prepared to address concerns about provisions for safe pedestrian access and pedestrian/vehicular separation within the Site, sufficiency of resident and guest parking, and plans for snow storage, taking into consideration that there may be only one means of access and egress to the Site.
- A landscape plan should be provided to address Municipal comments concerning open space, including a detailed planting plan as well as paving, lighting, and signage details and the location of outdoor dumpsters or other waste receptacles.
- The Applicant should be prepared to address Municipal concerns regarding the ownership and management of the single-family development and the condominium development during the public hearing.

This approval is expressly limited to the development of no more than one hundred fifty-six (156) homeownership units under the terms of the Program, of which not less than thirty-nine (39) 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 or should MassHousing not extend the effective period of this letter in writing, this letter shall be considered to have expired and

no longer be in effect. In addition, the Applicant is required to notify MassHousing at the following times throughout this two-year period: (1) when the Applicant applies to the local ZBA for a Comprehensive Permit, (2) when the ZBA issues a decision and (3) if applicable, when any appeals are filed.

Should a Comprehensive Permit be issued, please note that prior to (i) commencement of construction of the Project or (ii) issuance of a building permit, the Applicant is required to submit to MassHousing a request for Final Approval of the Project (as it may have been amended) in accordance with the Comprehensive Permit Rules (see especially 760 CMR 56.04(07) and the Guidelines including, without limitation, Part III thereof concerning Affirmative Fair Housing Marketing and Resident Selection). Final Approval will not be issued unless MassHousing is able to make the same findings at the time of issuing Final Approval as required at Site Approval.

**Please note that MassHousing may not issue Final Approval if the Comprehensive Permit contains any conditions that are inconsistent with the regulatory requirements of the New England Fund Program of the FHLBB, 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 Michael Busby at (617) 854-1219.

Sincerely,



Chrystal Kornegay  
Executive Director

cc: Jennifer D. Maddox, Undersecretary, DHCD  
The Honorable Julian A. Cyr  
The Honorable Dylan A. Fernandes  
Dawn E. Hill Holdgate, Chair, Board of Selectmen  
Edward S. Toole, Chair, Zoning Board of Appeals

## Attachment 1

760 CMR 56.04

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

### Surfside Crossing, Project #966

After the close of a 30-day review period and extension, MassHousing hereby makes the following findings, based upon its review of the application, and in consideration of information received during the site visit and from written comments:

***(a) that the proposed Project appears generally eligible under the requirements of the housing subsidy program, subject to final approval under 760 CMR 56.04(7);***

The Project is eligible under the NEF housing subsidy program and at least 25% of the units will be available to households earning at or below 80% of the Area Median Income (AMI), 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 Nantucket is \$73,300. A letter expressing interest for Project financing was provided by Hingham Savings Bank, a member bank of the Federal Home Loan Bank of Boston.

***(b) that the site of the proposed Project is generally appropriate for residential development, taking into consideration information provided by the Municipality or other parties regarding municipal actions previously taken to meet affordable housing needs, such as inclusionary zoning, multifamily districts adopted under c.40A, and overlay districts adopted under c.40R, (such finding, with supporting reasoning, to be set forth in reasonable detail);***

Based on a site inspection by MassHousing staff, internal discussions, and a thorough review of the application, MassHousing finds that the Site is suitable for residential use and development and that such use would be compatible with surrounding uses, and would directly address the local need for housing.

The Town of Nantucket has a DHCD-approved Housing Production Plan. According to DHCD's Chapter 40B Subsidized Housing Inventory (SHI), updated through September 14, 2017, Nantucket has 121 Subsidized Housing Inventory (SHI) units (2.5% of its housing inventory), which is 369 units short of 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);***

In summary, based on evaluation of the site plan using the following criteria, MassHousing finds that the proposed conceptual Project design is generally appropriate for the Site. The following plan review findings are made in response to the conceptual plan, submitted to MassHousing:

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

The existing neighborhood is a mixture of both modest and high-end single-family homes. Directly adjacent to the north of the Site is the Sachem's Path development, which is a joint project being developed by the Housing Assistance Corporation of Cape Cod, the Nantucket Housing Authority and the Nantucket chapter of the Habitat for Humanity. The development consists of forty (40) affordable single-family homes and is being built under a Comprehensive Permit.

The proposed Project consists of sixty (60) single-family detached homes and 96 condominiums that are designed to be compatible within the context of the proposed project and equally compatible with adjacent uses in scale, massing and design. The placement of each single-family home and condominium building within the proposed Project was considered in an effort to maintain consistency with the prevailing Nantucket architectural vernacular. Façade materials consist of cedar wood shingles, simple corner boards, and vertical trim boards that provide for symmetric design. The roof designs for both types of housing units are consistent with other local single and multi-family buildings. The front entries are accented by shed roofs and are designed to serve as a transition to an appropriate human scale, as well as to establish a connection to the existing grade.

**Relationship to Adjacent Streets**

The relationship of the proposed Site access and egress to South Shore Road does not present any discernable public safety impacts. There appears to be adequate lines of sight for vehicles entering and exiting the proposed Site. The height and scale of the proposed buildings of each type are able to establish an appropriate relationship to South Shore Road.

**Density**

The Applicant proposes to build 156 units on 13.558 acres, all of which is buildable. The resulting density is 11.5 units per buildable acre, which is acceptable given the proposed housing type and similar uses found in the surrounding context. The proposed greenspace within the Project helps break down the perceived density further.

**Conceptual Site Plan**

The site plan consists of 156 units in two components: sixty (60) stand-alone single-family homes on fee simple lots and ninety-six (96) condominiums in six (6) multi-family buildings. Proposed Site features include granite curbs, brick sidewalks, historic street lighting and extensive landscaping. Common amenities will include shared resident open space areas, pool, gym and game room. The site plan utilizes the land efficiently by grouping the buildings around central parking lots, aligning the facades so that a single plane runs parallel to the street coordinating with the adjacent buildings. All six condominium buildings are set back equally from the parking lots and have similar sidewalks and approaches. The grouping of the proposed structures maximizes green space in between and around the buildings. Common areas are centrally located for easy access from all the buildings to help promote a sense of community. The Applicant intends to provide a connection from the proposed Project to the South Shore Road bike path.

**Topography**

The subject property is fairly level with similar elevations throughout the Site. The topographic features of the Site have been considered in relationship to the proposed Project plans and do not constitute an impediment to development of the Site.

### **Environmental Resources**

The subject property is not located within any significant defined resource area and does not include any unique environmental features that further enhance or restrict the proposed use. The Site is located in the Miacomet Pond Watershed and may contain areas conducive to habitat for endangered species. The Applicant may be required to obtain a determination from Mass Natural Heritage regarding any habitat management area disturbance before a Comprehensive Permit is issued.

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

The Project appears financially feasible based on a comparison of market sales submitted by the Applicant.

***(e) that MassHousing finds that an initial pro forma has been reviewed, including a land valuation determination consistent with the Department's Guidelines, and the Project appears financially feasible and consistent with the Department's Guidelines for Cost Examination and Limitations on Profits and Distributions (if applicable) on the basis of estimated development costs;***

The initial pro forma has been reviewed for the proposed residential use, and the Project appears financially feasible with a projected profit margin of 19.44%. In addition, a third-party appraisal commissioned by MassHousing has determined that the "As Is" land value for the Site of the proposed Project is \$3,000,000.

***(f) that the Applicant is a public agency, a non-profit organization, or a Limited Dividend Organization, and it meets the general eligibility standards of the housing program; and***

The Applicant must be organized as a Limited Dividend Organization prior to applying for Final Approval. MassHousing sees no reason this requirement could not be met given information reviewed to date. The Applicant meets the general eligibility standards of the NEF housing subsidy program 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 entire 13.558-acre Site under a deed of ownership.