



Massachusetts Housing Finance Agency  
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October 26, 2023

FD 250 Turnpike, LLC  
118 Turnpike Road, Ste. 300  
Southborough, MA  
Attention: Brian Charville

**Re: 250 Turnpike Road  
Project Eligibility/Site Approval  
MassHousing ID No. 1197**

Dear Mr. Charville:

This letter is in response to your application as “Applicant” for a determination of Project Eligibility (“Site Approval”) pursuant to Massachusetts General Laws Chapter 40B (“Chapter 40B”), 760 CMR 56.00 (the “Regulations”) and the Comprehensive Permit Guidelines issued by the Executive Office of Housing and Livable Communities (“EOHLC”) (the “Guidelines” and, collectively with Chapter 40B and the Regulations, the “Comprehensive Permit Rules”), under the New England Fund (“NEF”) Program (“the Program”) of the Federal Home Loan Bank of Boston (“FHLBank Boston”).

FD 250 Turnpike, LLC (the “Applicant”) has submitted an application with MassHousing pursuant to Chapter 40B. You have proposed to build fifty-six (56) units of rental housing (the “Project”) on approximately 5.5 acres of land located at 250 Turnpike Road (the “Site”) in Southborough (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. An additional comment period of fifteen (15) days was provided to review project revisions that were submitted by the Applicant. Letters providing preliminary comments were provided by the Conservation Commission on August 4, 2023, and the Planning Board on August 17, 2023. A letter was provided by the Southborough Select Board dated September 7, 2023. An additional letter was received from the Planning Board on September 6, 2023. The Select Board voted to support the proposed Project, noting that the Site appears to be well

suited for controlled growth and the proposed Project would make meaningful progress towards the Town's affordable housing goals. Notwithstanding the qualified support expressed for the proposed Project, the boards and committees detailed the following issues and concerns about the project and Site:

- The Municipality is concerned about the visual impact of the proposed Project on neighborhood abutters, particularly with respect to building height and building proximity to property lines. To ensure adequate vegetative screening and buffer, the Planning Board recommended maintaining and augmenting tree preservation with native species as much as possible on the Site.
- The Municipality noted the following concerns regarding potential traffic impacts on Parkerville Road:
  - There is concern that 125 Parkerville Road (proposed to be utilized for a 20-foot water line easement for the Project) might also be used to provide direct vehicular access to the development. The Municipality noted that area residents are opposed to this.
  - The Municipality expressed concern for potential additional "cut-through" traffic on Parkerville Road.
- The Municipality noted that that development will require extensive filling operations and raised concerns regarding management of construction vehicles on a very busy Route 9.
- The Conservation Commission noted concerns associated with the proposed grading for the Project and the potential for sedimentation, runoff and erosion, particularly as it relates to disturbance at the edge of onsite wetlands. More robust erosion controls were recommended to protect the Site's resource areas and adjacent properties. The Conservation Commission suggested that exploring alternative means of access could minimize grading impacts within wetland buffer zones. The Planning Board raised similar concerns regarding grade changes at the Site and impacts on wetlands.
- The Conservation Commission requests additional test pit information to ensure appropriate separation from groundwater for the proposed infiltration structures.
- The Conservation Commission is concerned about the impact of stormwater on the onsite wetlands and requests consideration for the following:
  - The proximity of the proposed infiltration structure to the delineated wetland resource area, and any mitigation that may be required for discharges.
  - Utilization of NOAA Atlas 14 rainfall amounts for stormwater management design.
  - Implementing nature based or low impact development alternatives to stormwater management such as 'blue roof stormwater technology' to limit ground disturbance.
  - Management and mitigation measures for increased pollutant loads that may result from increased impervious areas and vehicles at the Site.
- The Planning Board is concerned about the impact of stormwater from the proposed Project on the surrounding neighborhood and requested additional information on management and mitigation.

- The Conservation Commission requested that additional information on the following concerns be incorporated into the Notice of Intent that will need to be filed for the proposed Project:
  - A calculation of the area proposed to be altered within onsite wetland buffer zone areas.
  - The location of snow storage areas.
  - Soil management stockpiling locations during construction.
  - Mitigation plans for the potential loss of wildlife habitat due to disturbance of wetland buffer areas.
  - An Invasive Species Management Plan that outlines the pre-existing conditions and the protocol for management of invasives during the construction process.
  - Additional information on the potential presence of vernal pools at the Site.
- The Conservation Commission indicated that the area labeled “detention basin” on the proposed site plan is a jurisdictional wetland resource areas as determined by the most recent ORAD issued by the Conservation Commission and that the proposed Project would need to conduct any calculations and evaluations to include these areas as wetland resource areas and not stormwater management systems.
- The Conservation Commission requests additional information on construction management Best Management Practices to mitigate potential impacts from sediment and construction debris.
- The Planning Board requested additional information on the status of and resolution to certain conditions restricting development in an August 1990 ZBA Special Permit for the Site.
- The Planning Board is concerned that the proposed Project will place increased demands on the Town of Southborough’s water supply.
- The Planning Board is concerned about the impacts of light and noise from the proposed Project on abutting properties and request that outdoor lighting at the development comply with the town’s lighting bylaws and with dark sky standards.
- The Planning Board is concerned about the height of the proposed Project, noting a preference for buildings of no more than 3 stories in Town, and requested additional information to help visualize the perceived height of the proposed Project.
- The Planning Board expressed concerns regarding fire apparatus access and maneuverability around the perimeter of the proposed building.
- The Municipality requests additional information regarding trash storage and management for the proposed Project.
- The Planning Board requested that Electric Vehicle (EV) parking spaces be included in the parking lot.

### **Community Comments**

In addition to the comments from town officials, MassHousing received a letter representing the concerns of residents abutting the Site on Parkerville Road, Skylar Drive, and Sarsen Stone Way. The

letter expressed opposition to the proposed Project based on legal issues related to restrictions contained in prior permitting decisions for the Site that restrict further development. Additional concerns raised in the letter echoed concerns raised by the municipality, including but not limited to impacts on area wetlands, increased drainage and stormwater issues, and the scale and height of the proposed building.

### **MassHousing Determination and Recommendation**

MassHousing staff has determined that the Project appears generally eligible under the requirements of the Program, subject to final review of eligibility and to Final Approval.<sup>1</sup> As a result of our review, we have made the findings as required pursuant to 760 CMR 56.04(1) and (4). Each such finding, with supporting reasoning, is set forth in further detail on Attachment 1 hereto. It is important to note that Comprehensive Permit Rules limit MassHousing to these specific findings in order to determine Project Eligibility. If, as here, MassHousing issues a determination of Project Eligibility, the Applicant may apply to the Zoning Board of Appeals (“ZBA”) for a comprehensive permit. At that time local boards, officials and members of the public are provided the opportunity to further review the Project to ensure compliance with applicable state and local standards and regulations.

Based on MassHousing’s site and design review, and considering feedback received from the Municipality, the following issues should be addressed in the application to the ZBA, and the Applicant should be prepared to explore them more fully during the public hearing process:

- Development of this Site will require compliance with all state and federal environmental laws, regulations and standards applicable to existing conditions and to the proposed use related to building construction, wetland protection, 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. To the extent feasible, the Applicant should engage with the Municipality to discuss the Project’s ability to meet local wetland standards.
- The Applicant should be prepared to work closely with its design team to address concerns regarding the architectural design of the proposed Project, particularly as it relates to mitigating concerns about building height.
- The Applicant must demonstrate the ability to manage the grading required to construct the proposed Project and respond to concerns raised in connection with construction fill and sedimentation, runoff and erosion at the edge of the on-site wetland. Additionally, the Applicant should be prepared to provide information regarding the management and transport of fill onto the Site during construction.
- The Applicant should be prepared to respond to concerns about traffic impacts on Parkerville Road.

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<sup>1</sup> 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.

- The Applicant should be prepared to provide detailed information regarding soil, groundwater, and stormwater conditions at the Site, and ensure appropriate mitigation is incorporated into the design and construction management plan.
- The Applicant should be prepared to address the concerns raised by the Conservation Commission in connection with filing a Notice of Intent.
- The Applicant should be prepared to provide detailed information to address concerns related to water supply in connection with the proposed use.
- The Applicant should be prepared to address the resolution of legal issues related to restrictions affecting the Site prior to Application for a Comprehensive Permit.
- The Applicant should provide a detailed landscaping plan. Consideration should be given to incorporating pervious materials, depicting vegetative buffers, and identifying areas for trash management and snow storage.
- The Applicant should be prepared to provide detailed information relative to light, noise, and related area impacts, and respond to reasonable requests for mitigation.
- The Applicant should engage with the Southborough Fire Department to review the plans and address concerns pertaining to access of fire apparatus to the building.

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 fifty-six (56) rental units under the terms of the Program, of which not less than fourteen (14) of such units shall be restricted as affordable for low- or moderate-income persons or families as required under the terms of the Guidelines. It is not a commitment or guarantee of financing and does not constitute a site plan or building design approval. Should you consider, prior to obtaining a comprehensive permit, the use of any other housing subsidy program, the construction of additional units or a reduction in the size of the Site, you may be required to submit a new Site Approval application for review by MassHousing. Should you consider a change in tenure type or a change in building type or height, you may be required to submit a new Site Approval application for review by MassHousing.

For guidance on the comprehensive permit review process, you are advised to consult the Guidelines. Further, we urge you to review carefully with legal counsel the M.G.L. c.40B Comprehensive Permit Regulations at 760 CMR 56.00.

This approval will be effective for a period of two (2) years from the date of this letter. Should the Applicant not apply for a comprehensive permit within this period this letter shall be considered to be expired and no longer in effect unless MassHousing extends the effective period of this letter in writing. In addition, the Applicant is required to notify MassHousing at the following times throughout this two-year period: (1) when the Applicant applies to the local ZBA for a Comprehensive Permit, (2) when the ZBA issues a decision and (3) if applicable, when any appeals are filed.

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

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

If you have any questions concerning this letter, please contact Kat Miller at (617) 854-1217.

Sincerely,



Colin M. McNiece  
General Counsel

cc: Ed Augustus, Secretary, EOHLG  
The Honorable James B. Eldridge  
The Honorable Kate Donaghue  
Andrew R. Dennington, II, Chair, Southborough Select Board  
David Williams, Chair, Southborough Zoning Board of Appeals  
Mark J. Purple, Southborough Town Administrator  
Karina Quinn, Southborough Town Planner

## Attachment 1

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

#### 250 Turnpike Road, Southborough, MA #1197

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 Southborough is \$94,650.

Proposed rent levels of \$1,775 for a one-bedroom affordable unit, \$2,130 for a two-bedroom affordable unit and \$2,461 for a three-bedroom affordable unit, less utility allowances of \$236 for the one-bedroom affordable units, \$318 for the two-bedroom affordable units and \$396 for the three-bedroom affordable units, are within current affordable rent levels for the Eastern Worcester County HMFA under the NEF Program

The Applicant submitted a letter of financial interest from Digital Federal Credit Union, a member bank of the FHLBank Boston under the NEF Program.

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

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

The Town of Southborough has an EOHLG-approved Housing Production Plan. According to EOHLG’s Chapter 40B Subsidized Housing Inventory, updated through June 29, 2023, Southborough has 297 Subsidized Housing Inventory (SHI) units (7.95% of its housing inventory), which is 76 units below the statutory minima requirement of 10%.

***(c) that the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns (such finding, with supporting reasoning, to be set forth in reasonable detail);***

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

The Site is located on the eastbound side of Route 9 (Turnpike Road) in Southborough. Turnpike Road is a two-way, four-lane, divided, local-access highway within Southborough, approximately 25 miles west of downtown Boston. The Site is approximately 3 miles west of the Interstate 90 (Mass. Pike) interchange in Framingham (exit 111), 2 miles east of the Interstate 495 interchange (exit 59), and approximately 2.5 miles northwest of Southborough's MBTA commuter rail station. Land uses within the area consist of a mixture of commercial development. Abutting the Site to the north is an existing 3-story brick commercial building that was recently converted to a self-storage facility, owned and operated by the Applicant. Additional commercial properties abut the Site to the north across Turnpike Road. Eagle Leasing Company, a storage and trucking container business is located to the west of the Site. Single family residential development is located to the east, south and west of the Site. Overall, the site is well-positioned to support the proposed multifamily residential use.

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

The developer intends to build a 4-story, 56-unit apartment building on the Site. The proposed building design shows a conventional linear double-loaded corridor building. The building is located in the center of the Site and is oriented such that the short end of the structure is facing the closest abutters on Parkerville Road to minimize potential visual impact. The building's materiality is designed to break down the scale of the structure, utilizing a combination of street level masonry, horizontal lap siding, and individual unit-accessed balconies. The building's roofline slopes slightly inward at the fourth floor. This contemporary mansard style with a flat roof reduces the perceived height of the building.

### **Density**

The Developer intends to build fifty-six (56) rental apartments in one (1) multifamily building on 5.5 acres of land, 4.69 of which are buildable. The resulting density is 11.9 units per buildable acre. The proposed density is acceptable given the proposed housing type.

### **Conceptual Site Plan**

The proposed site layout consists of one conventional linear double-loaded corridor building situated in the center portion of the Site. Access and egress to the Site is proposed via a 28-foot wide access easement that connects the Site to Turnpike Road through the parking lot for the existing commercial property. The proposed Project's access driveway winds south into the Site between the onsite wetlands to reach the proposed residential structure. Surface parking is situated around the perimeter of the building in two parking lots. A smaller lot including 36 spaces is located on the east side of the Site, in front of the building's main entrance. The access driveway extends beyond this smaller lot in a horseshoe shape to access a larger lot at the rear of the building that includes 62 spaces. The Project proposes a total of 98 parking spaces resulting in a parking ratio of 1.75 parking spaces per rental unit. The rear parking area is sited above the proposed Project's septic system leaching area. Two infiltration structures proposed for drainage are located on the east side of the Site, on either side of one of the onsite wetlands. The balance of the Site remains wooded. A 20-foot water line easement is proposed to access the Site from Parkerville Road. All other utilities will be extended via utility easement from Turnpike Road.

### **Environmental Resources**

The Site contains 0.81 acres of wetland in the northern portions of the Site. While portions of the roadway, building, and parking areas are within wetland buffer zones, the site plan is organized in a way that generally locates the built portion of the development away from the wetland areas. The proposed Project will need to file a Notice of Intent with the Southborough Conservation Commission.

## **Topography**

The topography slopes upward in a southwesterly direction, towards the abutting properties on Sarsen Stone Way, having an overall grade change of approximately 40 feet. The building is proposed to be cut into the slope, so that the perceived height will be mitigated for a majority of the abutters. While the proposed structure sits at a higher elevation than the abutters on Parkerville Road, visual impact is proposed to be mitigated with robust landscape screening of mature evergreen trees. The topographic features of the Site have been considered in relationship to the proposed development plans and do not constitute an impediment to development of the Site.

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

According to market data for the region, the residential real estate market appears strong, with an overall upward trajectory in rents. The Route 9 Corridor multifamily submarket has an overall vacancy rate of 3.3%, and has decreased 2.0% over the past 12 months. Rents have increased 4.3% over the last year, with a cumulative increase of 24.7% over the past three years. There is no other multifamily development currently under construction.

The Applicant proposes 56 rental apartments to be financed under the NEF Program. There will be 42 market-rate units with proposed average rent levels of \$2,500 for the one-bedroom units; \$3,000 for the two-bedroom units; and \$3,500 for the three-bedroom units. MassHousing's Appraisal and Marketing team (A&M) performed a market analysis and found that proposed market rents for each unit type fall above comparable market rent averages. A more in-depth market study would be required prior to marketing/lease up of the proposed Project.

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

MassHousing has commissioned an as "As-Is" appraisal which indicates a land valuation of \$425,000. Based on a proposed investment of \$28,212,046 in equity and permanent financing the development pro forma appears to be financially feasible and within the limitations on profits and distributions.

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

MassHousing finds that the Applicant must be organized as a Limited Dividend Organization. MassHousing sees no reason this requirement could not be met given information reviewed to date. The Applicant meets the general eligibility standards of the NEF housing subsidy program and has executed an Acknowledgment of Obligations to restrict their profits in accordance with the applicable limited dividend provisions.

***(g) that the Applicant controls the site, based on evidence that the Applicant or a related entity owns the site or holds an option or contract to acquire such interest in the site, or has such other interest in the site as is deemed by the Subsidizing Agency to be sufficient to control the site.***

The Applicant controls the Site through a Quitclaim Deed recorded at the Worcester South District Registry of Deeds in Book 67212; Page 70.