



Commonwealth of Massachusetts  
DEPARTMENT OF HOUSING &  
COMMUNITY DEVELOPMENT

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Janelle Chan, Undersecretary

April 30, 2019

Jack Morgan  
Chair, Board of Selectmen  
Town of Wellesley  
525 Washington Street  
Wellesley, MA 02482

RE: Wellesley Park Smart Growth Overlay District – Letter of Conditional Eligibility

Dear Chairman Morgan:

I am writing regarding the application for a preliminary determination of eligibility pursuant to MGL, Chapter 40R and 760 CMR 59.00 that was submitted by the Town of Wellesley (Town) to the Department of Housing and Community Development (DHCD) for the proposed Wellesley Park Smart Growth Overlay District (District) and corresponding Smart Growth Overlay Districts bylaw. DHCD has completed its review of the application, including the attached, revised Smart Growth Zoning and determined that, subject to the conditions outlined herein, the proposed District and bylaw satisfy the applicable statutory and regulatory eligibility requirements.

The proposed District would allow for up to 600 residential units, an estimated 580 of which (subject to verification of the associated Existing Zoned Units) may qualify as Incentive and Bonus Units. However, as previously indicated through informal correspondence during the eligibility review, given certain limitations contained in the Smart Growth Zoning and/or the associated development agreement with respect to the phasing/infrastructure conditions and the type of residential units that can be built, eligibility for the Zoning Incentive Payment will be contingent upon evidence of a corresponding number of Bonus Units (i.e., units for which building permits have been issued and DHCD has approved the corresponding Affordable Housing Restrict and Affirmative Fair Housing Marketing Plan).

The Town may provide such evidence and request the corresponding portion of the Zoning Incentive Payment, as well as the associated Density Bonus Payment, when evidence of such Bonus Units becomes available in conjunction with any respective phase or Project approved as part of the overall buildout. As such, upon evidence of 201 or more Bonus Units associated with the 350 units contemplated as part of the initial phase/Project, the Town will be eligible for a \$350,000 Zoning Incentive Payment as well as a corresponding Density Bonus Payment of \$3,000 per Bonus Unit. If and when one or more subsequent phases/Projects, totaling up to 250 units, moves forward and the aggregate number of Bonus Units approved in the District exceeds 500 units, the Town would be eligible for the remaining \$250,000 portion of the total potential \$600,000 Zoning Incentive Payment, as well as the corresponding Density Bonus Payment.

In addition, unless otherwise explicitly approved in writing by DHCD, the development agreement must conform to the version as revised and forwarded by DHCD on April 4, 2019. The Department's revisions

appropriately limit the application of Local Preference to initial occupancy/lease up and include all of the eligible categories that apply to Local Preference, eliminating any suggestion that eligibility is limited only to local residents.

If the Smart Growth Zoning, as preliminarily found to be eligible herein, is adopted and approved by the Attorney General, after receipt of the applicable documentation specified below and on the attached form, DHCD can issue a Letter of Conditional Approval pursuant to 760 CMR 59.05(4)(d). With such Letter of Conditional Approval, the District will be in full effect with the exception of eligibility, as condition above, for any corresponding projected 40R payments, and the Town can begin to approve individual development projects pursuant to the new Smart Growth Zoning. Subject to 760 CMR 59.06(3)(d), at any subsequent time that the Town fulfills the conditions outlined in this Letter of Conditional Eligibility, the Town may apply for final approval and any corresponding 40R payments for which it is eligible.

Pursuant to 760 CMR 59.05, DHCD issues this Letter of Conditional Eligibility with the following additional, standard conditions:

1. Unless subsequently otherwise approved in writing by DHCD, the Town adopts the Smart Growth Zoning as enclosed and herein preliminarily approved as eligible. This determination is only valid provided adoption of the Smart Growth Zoning must occur within three years of the date of this letter. After adoption of the Smart Growth Zoning, the Town must submit proof of adoption to DHCD in order to receive conditional or final approval, as applicable. As further outlined on the attached application form for conditional/final approval, proof of adoption requires the submission of the following information:

a) a copy of the Smart Growth Zoning adopted by Town Meeting and certified by the Town Clerk;

b) a copy of the amended Zoning Map adopted by Town Meeting and certified by the Town Clerk;

c) a copy of the Attorney General's letter approving the Smart Growth Zoning;

d) if there are any changes to the enclosed version of Smart Growth Zoning between this preliminary determination of eligibility and adoption by the Town Meeting, an annotated version of the amendments to the Smart Growth Zoning must be submitted that clearly indicates all changes; and

e) a certification by the Town Clerk that the Smart Growth Zoning has been published and posted pursuant to applicable law.

2. If there are substantial changes to the Smart Growth Zoning, DHCD may treat such submission as an amendment to the application and will notify the Town of its decision to do so in writing. DHCD must confirm its conditional or final approval within 60 days of receipt of such submission provided the amended application satisfies all the approval criteria set forth in 760 CMR 59.04(1).

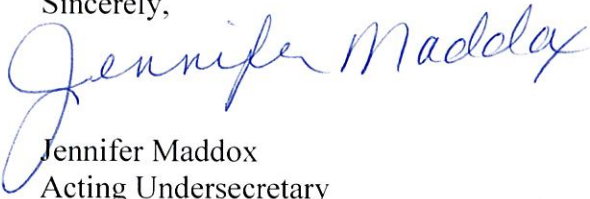
3. Provided any proposed associated Project(s) meet the requirements of the Smart Growth Zoning, there is no local rule, regulation or ordinance and there is no agreement that would prevent 600 Future Zoned Units from being developed in the District. Other than to the degree required under the submitted development agreement, as revised to address DHCD's concerns, there is no agreement that perpetually regulates the development of the Future Zoned Units in a manner that is more restrictive than the Smart Growth Zoning and Governing Laws would otherwise allow.

4. DHCD must approve any additional Design Standards, rules, regulations, guidelines, application forms and any amendments to such that are adopted by the Plan Approval Authority or otherwise required of applicants as part of the Plan Review process. Such DHCD-approved additional Design Standards, rules, regulations, guidelines and application forms must also be filed with the Town Clerk.

5. Please be advised that for any 40R Plan Approval application filed after the release of the 2019 Income Limits, in order for any associated units to qualify as Bonus Units, DHCD shall require that the maximum affordable monthly rent (including any applicable utility allowance) not exceed the lower of (1) 30% of 1/12 of 80% of the area median income, or (2) the Section 8 payment standard established by or on behalf of the applicable local housing authority. This condition may be waived by DHCD for a given Project if there is sufficient evidence that compliance would Render Development Infeasible.

If you have any questions regarding this Letter of Conditional Eligibility, please contact Bill Reyelt at 617.573.1355 or [william.reyelt@mass.gov](mailto:william.reyelt@mass.gov).

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Maddox". The signature is written in a cursive style with a large initial "J".

Jennifer Maddox  
Acting Undersecretary

cc: Megan Jop, Executive Director  
Victor Panak, Interim Planning Director