

David A. Paterson
Governor



Deborah VanAmerongen
Chairperson

New York State Division of Housing and Community Renewal

Hampton Plaza
38-40 State Street
Albany, NY 12207

August 11, 2009

SENT VIA ELECTRONIC & U.S. MAIL

Ms. Milissa Acquard, CFO/COO
Elizabeth Pierce Olmsted Center
1170 Main Street
Buffalo, NY 14209-2331

Re: SHARS Number: 20086028
Elizabeth Pierce Olmstead MS Center for the Visually Impaired
Nelson Hopkins Apartments
Lot 10, Davison Road Ulrich Business Park, Town of Lockport, Niagara County

Dear Ms. Acquard:

On April 9 and 12, 2009, the New York State Division of Housing and Community Renewal (DHCR), published a "Combined Notice of Finding of No Significant Impact and Intent to Request Release of Funds". DHCR is the designated tax credit agency for the disbursement of funds in connection with the federal Tax Credit Assistance Program authorized under the "American Recovery and Reinvestment Act". DHCR prepared the combined FONSI after compiling its "TCAP Programmatic Environmental Review Record" dated April 9, 2009. On June 17, 2009, DHCR received a notice of Authority to Use Grant Funds, which certifies that the requirements under 24 CFR Part 58 of HUD environmental review regulations had been satisfied.

DHCR has completed an Environmental Review Record, dated August 11, 2009, for the above referenced project which complies with the requirements of 24 CFR Part 58 of HUD Environmental Review regulations. This letter constitutes clearance of the environmental review of this project and removal of the limitation on commitment of HUD TCAP assistance per [24 CFR 58.22(b)].

DHCR, in compliance with the New York State Environmental Quality Review Act (SEQRA), accepts the New York State Housing Trust Fund Corporation (HTFC) determination of Unlisted Negative Declaration, on May 12, 2009.

If you have any questions or concerns regarding this environmental clearance letter, please contact me at (518) 402-3392 or bwigzell@nysdhcr.gov.

Sincerely,

Barbara H. Wigzell, R.A.
Certifying Officer
SEQR Officer

Cc: Cathy Frangella, TCAP Program Manager
Michele Marconi, HTFC Project Manager
Ernie Benoit, A&E Architect

Web Site: www.dhcr.state.ny.us
Email address: dhcrinfo@dhcr.state.ny.us

Environmental Assessment
Site Specific Review

Responsible Entity: NYS Division of Housing and Community Renewal (DHCR)

Certifying Officer: Barbara H. Wigzell, RA, DHCR

Program Name: The Tax Credit Assistance Program (TCAP)
American Recovery and Reinvestment Act (ARRA) of 2009

Federal Agency: U.S. Department of Housing and Urban Development (HUD)

Project #: 20086028

Project Sponsor: **Elizabeth Pierce Olmsted MD Center for the Visually Impaired**

Project Name: **Nelson Hopkins Apartments**

Project Site Address: Lot 10, Davison Road, Ulrich Business Park
Town of Lockport

Project County: Niagara County

Estimated project costs: \$4,866,546

Total TCAP Award: \$2,299,205

Project Sponsor Address: Elizabeth Pierce Olmsted Center
1170 Main Street
Buffalo, NY 14209-2331

Primary Contact's Name: Ms. Millissa Acquard, CFO/COO

E-Mail address: macquard@olmstedcenter.org

Telephone Number: 716-882-1025, ext 220

Program Classification: 58.36 - Environmental Assessment

ENVIRONMENTAL FINDING: [58.40(g)]

Finding of No Significant Impact - The project will not result in a significant impact on the quality of the human environment.

Finding of Significant Impact - The project may significantly affect the quality of the human environment.

The undersigned hereby certifies that DHCR has conducted an environmental review of the project identified above and prepared the attached environmental review record in compliance with all applicable provisions of the National Environmental Policy Act of 1969, as amended, (42 USC sec. 4321 et seq.) and its implementing regulations at 24 CFR Part 58.

Preparer Signature:

NAME: Mary Binder
Title/Agency: Environmental Analyst 2
NYS Division of Housing and Community Renewal

Date: August 11, 2009

Project Name: Nelson Hopkins Apartments
Project #: 20086028

Environmental Assessment Site Specific Review

Project Description:

Elizabeth Pierce Olmstead MD Center for the Visually Impaired proposes new construction of a 2-story building with 24 units for special needs persons on a vacant 2.2 acre site known as lot 10 on Davison Road within the Ulrich Business Park in the Town of Lockport, Niagara County. The slab-on-grade building will include an elevator, office, community room and laundry services. The design and construction of the project will follow the NYS Division of Housing and Community Renewal's guidelines for the "Green Building and Energy Efficiency Initiative." Public water and sewer are available at the site. Site work will include clearing, grading and excavation, construction of driveways, parking areas and sidewalks, finish grading and landscaping.

Summary of Findings and Conclusions

Alternatives and Project Modifications Considered [24 CFR 58.40(e), Ref. 40 CFR 1508.9]

No Action: If no actions were taken, the existing sites would remain vacant and the benefits to low and moderate income households who need safe and decent affordable housing, would be lost. Through inaction, New York State will lose an opportunity to construct affordable housing projects and provide a large number of construction and related jobs in a time of economic uncertainty.

Action: Refer to project description above.

The construction of this project will not cause any significant, adverse environmental impacts.

Mitigation Measures Recommended [24 CFR 58.40(d), 40 CFR 1508.20]

HAZARDS AND NUISANCES INCLUDING SITE SAFETY: A "passive" soil depressurization system has been incorporated into the building in accordance with EPA "Model Standards and Techniques for Control of Radon in New Residential Buildings," EPA 402-R-94-009, March 1994. Radon testing must be conducted when the building is complete, prior to occupancy, with test results forwarded to the HTFC Environmental Analyst. A third-party air-monitoring contractor must complete the final testing/clearance and the results must be certified by an authorized testing laboratory. The third-party must submit a report summarizing the final testing/clearance for the entire project. If radon testing indicates that the radon level in any building exceeds the EPA action level of 4 pCi/L, an active fan, complete with alarm system, will be installed and re-tested prior to occupancy to determine that radon levels will be maintained below recommended limits.

THE FOLLOWING DOCUMENTS ARE AVAILABLE FOR REVIEW BY REQUEST TO THE DHCR CERTIFYING OFFICER at: bwigzell@nysdhcr.gov or (518) 402-3392.

List of Additional Studies Performed, Attachments, Sources, Agencies and Persons Consulted [40 CFR 1508.9(b):

Phase I Environmental Site Assessment (ESA), prepared by Barron & Associates, PC dated February 22, 2007
Phase II Environmental Site Assessment prepared by Barron & Associates, PC dated March 2009
EPA Map of Radon Zones for New York State
NYS Office of Parks, Recreation and Historic Preservation
NYS DEC Freshwater Wetland Map
U.S. Dept. of Interior National Wetland Inventory Map
NYS DEC Coastal Erosion Hazard Map
USFWS Coastal Barrier Resources System
Agricultural District Map and aerial photographs
Flood Insurance Rate Map Panel Numbers 3610130018D dated October 4, 2002
Thermal Explosive Hazardous Facilities Report prepared by Barron & Associates, PC dated August , 2009
Existing (2003) and Future (2008) Baseline Noise Exposure Maps, Buffalo Niagara International Airport

APPENDIX A
Statutory Checklist

Site Specific
[24CFR §58.5 and 58.6]

Project #: **20086028**
Project Name: **Nelson Hopkins Apartments**
Project Address: Lot 10, Davison Road, Ulrich Business Park
Town of Lockport, Niagara County

Date: August 11, 2009

For each listed statute, executive order or regulation, record the determinations made. Note reviews, consultations or mitigation measures required:

A - Not Applicable to this project OR B - Consultation, Permit and/or Mitigation Required

Then, make a determination of compliance or consistency in the Section provided.

Factors	A	B	Determinations and Compliance Documentation
Historic Preservation [36 CFR 800]	<input type="checkbox"/>	<input checked="" type="checkbox"/>	An Evidence Disturbance assessment, prepared on January 29, 2007 by Heritage Preservation & Interpretation Inc. was submitted to SHPO for their review. A February 12, 2007 SHPO impact determination letter states that based upon their review of the assessment, the project will have "No Impact" upon cultural resources in or eligible for inclusion in the State and National Registers of Historic Places. A request for a determination was forwarded by the Olmsted Center on July 28, 2009 to the Tribal Contact in the following tribes: Tuscarora Nation, Tonawanda Band of the Seneca Indians of NY and the Seneca Nation of NY.
Floodplain Management [24 CFR 55, Executive Order 11988]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The project site is located in Zone X, not in a Special Flood Hazard Area, according to a letter from the Town of Lockport Senior Building Inspector dated January 2, 2007 and the FIRM map 3610130018D dated October 4, 2002.
Wetlands Protection [Executive Order 11990]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	A letter from the Town of Lockport dated January 2, 2007 states that the project site is not located within a wetlands zone on the Wetlands Boundary Map for the Town of Lockport. The site is not found on federal or state wetland mapping and the Phase II Environmental Site Assessment prepared by Barron & Associates states that the soil type on the site is not considered potentially hydric.
Coastal Zone Management Act [Sections 307(c),(d)]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	According to the New York State Coastal Atlas, the site is not located in a coastal zone.
Sole Source Aquifers [40 CFR 149]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The site is not located in a SSA Area.
Endangered Species Act [50 CFR 402]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The US Fish and Wildlife Service (FWS) website documents the eastern prairie fringed orchid as being historically threatened. A March 24, 2009 report from Barron & Associates submitted to the FWS demonstrated that there is no potential habitat for the orchid on the project site. An April 1, 2009 response from the FWS states that no further action is required. A March 3, 2009 letter from the NYS DEC states there are no records of known occurrences of rare or state-listed animals or plants, significant natural communities, or other significant habitats, on or in the immediate vicinity of the site.
Wild and Scenic Rivers Act [Sections 7 (b), (c)]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The project is not located near a WSRR.
Air Quality [Clean Air Act, Sections 176 (c) and (d), and 40 CFR 6, 51, 93]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Niagara County (Buffalo-Niagara) is a nonattainment area for 8-Hr Ozone. Ozone is created by emissions of volatile organic compounds (VOC) and nitrogen oxides (NOx). Both VOCs and NOx are emitted by transportation and industrial sources. The proposed project is a residential use and unlikely to significantly impact air quality from emissions of VOCs and NOx.

			Since the project is for residential use there will be no significant increase on traffic
Farmland Protection Policy Act [7 CFR 658]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The project site is not located on Prime, Unique or Statewide Important Farmland.
Environmental Justice [Executive Order 12898]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The proposed project site is in a residential area that has not been identified as disproportionately affected by adverse environmental impacts.
Noise Abatement and Control [24 CFR 51 B]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The site is located 14 miles from the Buffalo International Airport, but is outside the noise contours.
Toxic or Hazardous Substances and Radioactive Materials [HUD Notice 79-33]	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>A Phase I Environmental Site Assessment (ESA) report prepared by Barron & Associates, PC on February 22, 2007 documented several areas of concern. A Phase II ESA was conducted on the project site by Barron in March 2009 which resolved the concerns, as listed below:</p> <ol style="list-style-type: none"> 1. Property owned by NYS Electric and Gas is located immediately to the west of the site and has a Petroleum Bulk Storage (PBS) Permit and an open spill event. Further investigation revealed that there are no violations on the PBS permit and the spill event was closed by DEC on March 31, 1994. Phase II sampling has confirmed that this adjacent property has not had an effect on the project site. 2. Kenyon's petro station has a PBS permit, with no violations. There was a spill on the site in 1994. Site investigation revealed that impacts to soil occurred only on the petro station property. A remedial action plan has been approved by DEC and clean-up will begin shortly. Phase II sampling at the project site by Barron & Associates has confirmed that no impacts from the spill at Kenyon's has occurred. 3. A "passive" soil depressurization system has been incorporated into the building in accordance with EPA "Model Standards and Techniques for Control of Radon in New Residential Buildings," EPA 402-R-94-009, March 1994. Radon testing must be conducted when the building is complete, prior to occupancy, with test results forwarded to the HTFC Environmental Analyst. A third-party air-monitoring contractor must complete the final testing/clearance and the results must be certified by an authorized testing laboratory. The third-party must submit a report summarizing the final testing/clearance for the entire project. If radon testing indicates that the radon level in any building exceeds the EPA action level of 4 pCi/L, an active fan, complete with alarm system, will be installed and re-tested prior to occupancy to determine that radon levels will be maintained below recommended limits.
Siting of HUD-Assisted Projects near Hazardous Operations [24 CFR 51 C]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The <i>Thermal Explosive Hazardous Facilities Report</i> prepared by Barron & Associates, dated August 2009 concludes that there are no potential Thermal Explosive Hazards within the limiting distance of the project site.
Airport Clear Zones and Accident Potential Zones [24 CFR 51 D]	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The site is not located within 2500 feet of any designated commercial service airports or within 15,000 feet of any military airfields.

NOTES:

Mary Binder, Environmental Analyst 2
Preparer

August 11, 2009
Date

END OF STATUTORY CHECKLIST

APPENDIX B
Environmental Assessment Checklist
Site Specific

Project #: **20086028**
 Project Name: **Nelson Hopkins Apartments**
 Project Address: Lot 10, Davison Road, Ulrich Business Park
 Town of Lockport, Niagara County

Date: August 11, 2009

[Environmental Review Guide HUD CPD 782, 24 CFR 58.40; Ref. 40 CFR 1508.8 & 1508.27]
 Evaluate the significance of the effects of the proposal on the character, features and resources of the project area.

Enter relevant base data and verifiable source documentation to support the finding. Then enter the appropriate impact code from the following list to make a finding of impact. **Impact Codes:** (1) - No impact anticipated; (2) - Potentially beneficial; (3) - Potentially adverse; (4) - Requires mitigation; (5) - Requires project modification. Note names, dates of contact, telephone numbers and page references. Attach additional materials as needed.

Land Development	Code	Source or Documentation
Conformance with Comprehensive Plans and Zoning	1	The zoning is as-of-right for this project as Planned Unit Development according to a letter from the Town of Lockport Sr. Building Inspector on February 6, 2007. The Zoning Board of Appeals on November 28, 2006 granted an area variance. Final site plan approval was granted on December 12, 2006 from the Town of Lockport Planning Board.
Compatibility and Urban Impact	1	No effects related to urban design or compatibility are anticipated and this project includes the of a parcel in a Business Park. The development of this site could potentially provide an urban design benefit to the surrounding neighborhood.
Slope	1	The lot within the Business Park contains relatively flat slopes.
Erosion	1	Compliance with the SPDES General Stormwater Permit for Construction Activities is required for this project. A Stormwater Pollution Prevention Plan (SWPPP) and Notice of Intent have been developed for this project.
Soil Suitability	1	The soils on the project site are Churchville silt loam,
Hazards and Nuisances including Site Safety	4	A Phase I Environmental Site Assessment (ESA) report prepared by Barron & Associates, PC on February 22, 2007 documented several areas of concern. A Phase II ESA was conducted on the project site by Barron in March 2009 which resolved the concerns, as listed below: 1. Property owned by NYS Electric and Gas is located immediately to the west of the site and has a Petroleum Bulk Storage (PBS) Permit and an open spill event. Further investigation revealed that there are no violations on the PBS permit and the spill event was closed by DEC on

		<p>March 31, 1994. Phase II sampling has confirmed that this adjacent property has not had an effect on the project site.</p> <p>2. Kenyon's petro station has a PBS permit, with no violations. There was a spill on the site in 1994. Site investigation revealed that impacts to soil occurred only on the petro station property. A remedial action plan has been approved by DEC and clean-up will begin shortly. Phase II sampling at the project site by Barron & Associates has confirmed that no impacts from the spill at Kenyon's has occurred.</p> <p>A "passive" soil depressurization system has been incorporated into the building in accordance with EPA "Model Standards and Techniques for Control of Radon in New Residential Buildings," EPA 402-R-94-009, March 1994. Radon testing must be conducted when the building is complete, prior to occupancy, with test results forwarded to the HTFC Environmental Analyst. A third-party air-monitoring contractor must complete the final testing/clearance and the results must be certified by an authorized testing laboratory. The third-party must submit a report summarizing the final testing/clearance for the entire project. If radon testing indicates that the radon level in any building exceeds the EPA action level of 4 pCi/L, an active fan, complete with alarm system, will be installed and re-tested prior to occupancy to determine that radon levels will be maintained below recommended limits.</p>
Energy Consumption	2	The project will comply with DHCR's Green Building and Energy Efficiency Initiative, which includes sustainable building practices that place value on improved energy performance, comfort and simplified maintenance requirements that lead to financial efficiencies for the project.
Neighborhood Impacts		
Noise - Contribution to Community Noise Levels	1	<p>The project will not contribute to community noise levels and will not result in significant levels of traffic (a mobile noise source) or stationary noise sources.</p> <p>The site is located 14 miles from the Buffalo International Airport, but is outside the noise contours.</p>
Air Quality - Effects of Ambient Air Quality on Project and Contribution to Community Pollution Levels	1	<p>Niagara County (Buffalo-Niagara) is a nonattainment area for 8-Hr Ozone. Ozone is created by emissions of volatile organic compounds (VOC) and nitrogen oxides (NOx). Both VOCs and NOx are emitted by transportation and industrial sources.</p> <p>The proposed project is a residential use and unlikely to significantly impact air quality from emissions of VOCs and NOx.</p> <p>Since the project is for residential use there will be no significant increase on traffic.</p>
Environmental Design Visual Quality - Coherence, Diversity, Compatible Use and Scale	1	The zoning is as-of-right for this project as Planned Unit Development according to a letter from the Town of Lockport Sr. Building Inspector on February 6, 2007. The Zoning Board of Appeals on November 28, 2006 granted an area variance. Final site plan approval was granted on December 12, 2006 from the Town of Lockport Planning Board.
Socioeconomic		
Demographic Character Changes	1	The project will not alter the demographic character of the area and is consistent with zoning. The location is in the center of the population in need of such housing and will make access to services and job opportunities convenient.

Displacement	1	This project is new construction and will therefore not result in displacement of any residents.
Employment and Income Patterns	1	The project will not alter the employment and income patterns in the area. The location is in the center of the population in need of such housing and will make access to services and job opportunities convenient.
Community Facilities and Services		
Educational Facilities	1	The project will provide housing for special needs persons and will not place any additional demand on educational facilities.
Commercial Facilities	1	There are adequate facilities and the increased consumers will have a positive benefit for business.
Health Care	2	The project is located in an area with public transportation and therefore tenants will have access to health care.
Social Services	2	The project will not alter the employment and income patterns in the area. The location is in the center of the population in need of such housing and will make access to services and job opportunities convenient.
Solid Waste	1	The slight increase in population will not affect disposal facilities.
Waste Water	1	The site is served by existing public utilities.
Storm Water	1	Compliance with the SPDES General Stormwater Permit for Construction Activities is required for this project. A Stormwater Pollution Prevention Plan (SWPPP) and Notice of Intent have been developed for this project.
Water Supply	1	The site is served by existing public utilities.
Public Safety - Police	1	The slight increase in population may create a small increase in demand on police facilities, however existing capacity is sufficient to handle the projected demand.
- Fire	1	The slight increase in population may create a small increase in demand on fire protection services, however existing capacity is sufficient to handle the projected demand.
- Emergency Medical	1	The slight increase in population may create a small increase in demand on emergency medical services, however existing capacity is sufficient to handle the projected demand.
- Open Space	1	The slight increase in population is not expected to place a significant demand on open space resources. This project proposes new construction on forested land. It is not currently used by the community or neighborhood as an open space or recreation area.
- Recreation	1	The slight increase in population is not expected to place a significant demand on open space resources.

		This project is new construction on forested land. It is not currently used by the community or neighborhood as an open space or recreation area.
- Cultural Facilities	1	The slight increase in population is not expected to place a significant demand on cultural resources. This project is new construction on forested landIt is not currently used by the community or neighborhood as a cultural facility.
- Transportation	1	The development of the project should have no noticeable adverse affects on the adjacent traffic and no off-site traffic mitigation measures will be necessary.
Natural Features		
Water Resources	1	The proposed projects would not result in a significant effect on water resources, including groundwater and surface water.
Surface Water	1	The projects would not result in a significant effect on surface waters.
Unique Natural Features and Agricultural Lands	1	This project proposes new construction on forested land. It will not result in a significant effect on unique natural features or agricultural lands.
Vegetation and Wildlife	1	The US Fish and Wildlife Service (FWS) website documents the eastern prairie fringed orchid as being historically threatened. A March 24, 2009 report from Barron & Associates submitted to the FWS demonstrated that there is no potential habitat for the orchid on the project site. An April 1, 2009 response from the FWS states that no further action is required. A March 3, 2009 letter from the NYS DEC states there are no records of known occurrences of rare or state-listed animals or plants, significant natural communities, or other significant habitats, on or in the immediate vicinity of the site.
Flood Disaster Protection Act [Flood Insurance]	1	The project site is located in Zone X, not in a Special Flood Hazard Area, according to a letter from the Town of Lockport Senior Building Inspector dated January 2, 2007 and the FIRM map 3610130018D dated October 4, 2002.
Coastal Barrier Resources Act/ Coastal Barrier Improvement Act [§58.6(c)]	1	According to the New York State Coastal Atlas, the site is not located in a coastal barrier.
Airport Runway Clear Zone or Clear Zone Disclosure [§58.6(d)]	1	The site is not located within 2500 feet of any designated commercial service airports or within 15,000 feet of any military airfields.
Other Factors	1	HTFC is not aware of any issues likely to cause controversy related to potential environmental impacts. In accordance with NYCRR 617.7(f) a Negative Declaration was provided on May 12, 2009.
Other Factors		

Other Factors		
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Comments:

Mary Binder, Environmental Analyst 2
Preparer

August 11, 2009
Date

END OF ENVIRONMENTAL ASSESSMENT CHECKLIST