



**TOWN OF NORTON  
ZONING BOARD OF APPEALS**

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**MINUTES**

Meeting of April 30, 2012

**I. Call to Order**

The April 30, 2012 scheduled meeting of the Zoning Board of Appeals was called to order at 7:30 p.m. in the second floor meeting area in the Norton Municipal Center by Thomas Noel, Chairman, with the following members present: Thomas Rota, Nitin Choksi, Frank Reynolds (Associate Member) and Jason Brolsma (Associate Member).

Also present at the public hearing were Ilana Quirk, Town Counsel, Peter Freeman of Freeman Law Group, Mark Daigle and Roberto Arista of Dakota Partners, Inc., the perspective buyer of the property, and engineer Dan Campbell of Level Design Group.

Tom Noel noted that there was only one item on the agenda:

**Request for a Modification/Project Change to the Comprehensive Permit for Turtle Crossing 40B. (07-003) Newland Street**

Tom Noel proceeded to read the requested modifications as follows:

1. reduction number of buildings from 15 to 7
2. increase the height of the buildings from 2 stories to 3 stories
3. decrease the number of bedrooms from 352 to 296
4. delete a portion of the property which would change the access entrance to one lane from two lanes.
5. decrease the parking spaces
6. altering the configuration of the development
7. modify the storm water drainage infrastructure
8. modify the water and sewer infrastructure
9. modify the lighting infrastructure
10. modify the plans
11. extend the deadlines to exercise the permit and complete construction
12. transfer the permit to Dakota Partners, Inc.

**Document List**

1. A request letter dated March 19, 2012 from Peter L. Freeman, Atty. At Law of the Freeman Law Group, LLC addressed to Thomas R. Noel, Chairman, Zoning Board of Appeals.

2. Copy of original decision for the 40B Comprehensive Permit for Turtle Crossing project.

3. Plans dated March 16, 2012 entitled Turtle Crossing Comprehensive Permit Application, Local Initiative Program, Newland Street, Norton, Massachusetts. (Sheets C-1.0 – C-6.4, A1.01A – A1.01D, A1.02D, A4.01A. Prepared by Level Design Group, LLC and signed and stamped by Nicola Facendola.

4. Stormwater Report for Turtle Crossing Comprehensive Permit Application, Local Initiative Program, Newland Street, Norton, MA. Prepared by Level Design Group, LLC and signed and stamped by Nicola Facendola.

Tom Noel noted that at the last meeting of April 2<sup>nd</sup> it was voted that the modifications were substantial and required a public hearing. He noted that a Peer Review of the modifications has been initiated. Ilana Quirk noted that there was a delay in getting the Peer Review contract signed by the Town, but it was submitted today and Graves Engineering will begin their review. Tom Noel asked engineer, Dan Campbell, if Graves Engineering had given a timeline for the review and he replied they said approximately two weeks. Ilana Quirk asked if the \$5,000 deposit for the Peer Review has been deposited by the Town and the Zoning Secretary stated it had. Ilana Quirk stated she would advise Graves Engineering tomorrow that the money had been deposited with the Town.

Peter Freeman addressed the board. He summarized the modifications read by Tom Noel as follows: 1. modifications. He noted that there will not be a reduction of parking spaces as noted earlier because originally the approved plan showed 296 parking spaces and the permit had stated 356 parking spaces. 2. transfer of property/permit and 3. extension request. Mr. Freeman submitted a copy of the Foreclosure Deed on the property and a copy of the Commercial Purchase and Sale Agreement between Dakota Partners, Inc. and FNBI Realty Company, LLC.

Roberto Arista addressed the board and proceeded to describe, and show on various drawings, the various proposed modifications to the project. He briefly compared the modifications to the original approved plans. He noted the following changes:

1. Originally, the project consisted of 15 two-story buildings with 176 units on 38 acres. The modification is to decrease the buildings to 7 three-story buildings consisting of one and two bedrooms on 24 acres. In the center of the property would be a Village Green consisting of 4 buildings to include a club house and a pool.
2. Originally, 356 parking spaces were approved. The modification will include 319 parking spaces of which 72 will be covered.
3. The new plan consists of different colored buildings with various roof lines to give character to the project.
4. Originally, there were .84 parking spaces per bedroom, the modification is 1.08 parking spaces per bedroom.

5. Originally, the entrance road was two lanes with a landscaped island down the center, the modification is a 28'-wide single lane road.
6. Infrastructure changes to the water and sewer lines for the town on Newland Street which will help with odors.
7. Originally, the project involved 38 acres, the modification will move the project towards the front of the property on 24 acres leaving the rear of the property undeveloped. Mr. Arista stated a solar farm may be proposed for a future project on the back property.

Mr. Arista noted that construction may begin in the fall.

Dan Campbell stated that he had met with Duane Knapp, Water Superintendent, and they have an agreement where the water line outside of the site will be replaced by the developer of the project which will extend from the property site down Kingsley Road to the pump station which will eliminate odors in this community.

Mr. Campbell said he had met with the Fire Chief, Paul Schleicher. He said an agreement has been made that the developer will add a few more fire hydrants as well as a few more turning areas within the site. He noted that the Fire Chief approved of the 28-foot entrance road. He said that the Fire Chief had a problem with one garage and he stated the garage would be eliminated or moved somewhere else on the site.

Mr. Campbell noted that there currently two sets of plans, one set originally submitted for the last hearing and an updated version that belongs with the revised hydrologic analysis submitted on April 12, 2012. He said that he will make sure that the Peer Review engineer receives a copy of the next 2 updated pages. Mr. Campbell noted that an Abbreviated Notice of Resource Area Delineation, to confirm the wetland boundaries, and a Notice of Intent, has been filed with the Conservation Commission. He noted that the public hearing for the Notice of Intent will be on Monday, May 21, 2012.

Peter Freeman wanted to point out to the board that the reason for changing the entrance to a one-lane road is because a small triangular portion of property at the front of the site was omitted from the foreclosure proceedings.

Paul Schleicher, Fire Chief addressed the board and read aloud a letter he was submitting to the board. The letter stated that he was requesting the following items to be part of the Turtle Crossing project:

1. All buildings with the exception of the parking garages will be constructed with full fire sprinkler systems per NFPA, Massachusetts, and any local codes or standards.
2. All the buildings with the exception of the detached parking garages will be equip with complete fire alarm systems in accordance with NFPA, Massachusetts, and any local codes or ordinances including the tying in of the systems to the fire department via "Digitizer" master boxes.
3. Installation of hydrants as laid out on the plans submitted to the department on

April 25, 2012

4. Installation of two pedestal fire alarm boxes as laid out on the plans submitted April 25, 2012
5. All major roadway turns to have a minimum radius of 38' with adequate clearances for our aerial ladder truck. Cul-de-sac to have a minimum radius of 52'.

Tom Noel asked Mr. Campbell if the applicant has agreed to all those conditions and he stated he was and all requests were incorporated into the revised plans. Tom Rota advised Mr. Campbell to make sure that the Peer Review gets a copy of the final revised plans. Ilana Quirk stated she would email the Peer Review tomorrow with this information.

Duane Knapp stated he had met with the Fire Chief and had agreed to install two new fire hydrants, one in the development and one at the intersection of Kings Rd. and Newland Street. He said he would submit this information in writing. He said the Water Department will be installing new 10" water main including house connections all the way down Newland Street to the entrance to the Turtle Crossing development. He said that the Water Department will be waiving all permit and inspection fees and sprinkler fees for the project because of the water upgrades that the developer is doing for the Town of Norton.

Mr. Knapp stated that, at the present time, there is an odor problem with the sewer lines on Newland Street and the Water Department has figured out what the cause is. He said that because of the upgrades to the sewer system that will be done by the developer, which will eliminate the odors, a lot of the sewer fees will be waived.

Frank Reynolds had a question regarding fire protection for one of the garages and Mr. Campbell replied the garage would be moved to another area on the site.

Tom Noel asked Mr. Knapp what the changes to the water services were from the original permit and the proposed modified plans. Mr. Knapp replied that the old 6-inch pipes will be replaced with 10-inch pipe instead of the originally proposed 12-inch pipe. He stated that the developer will receive a better discount for the sewer flow because of the benefits of the upgrades to the town. Mr. Campbell noted that the original sewer flow was 38,000 gallons and the modified sewer flow is 32,000 gallons, which is actually giving back 6,000 gallons of sewer flow to the Town.

Frank Reynolds asked if there were any speed bumps proposed and Mr. Campbell replied there were none proposed at this time. Tom Rota asked if the road was going to remain a private road and be maintained by a private company and Mr. Arista replied it

would remain a private road and will always be maintained by an on-site management company at no cost to the Town.

Duane Knapp stated that after the project is approved and completed, the Water Department does take ownership of the water system. He said the sewer system remains with the project.

Tom Noel asked the Fire Chief if the entrance being as straight as it is, will propose any problems for the Fire Department. Chief Schleicher replied that he would prefer a different entrance, but the developer has stated there is no way to modify the entrance. Tom Noel asked if there are going to be "No Parking" signs at the radius turn around areas for the Fire Department and the entrance and he replied there would be. Chief Schleicher stated there will be digital up to date fire alarms on site.

Tom Rota noted that people, by nature, will want to park as close to their homes as possible, especially during inclement weather, and he said there might be a lot of parking issues. Mr. Arista replied that there will be a full-time, on-site management company which was one of the original conditions to the permit. Jason Brolsma asked if there were any parking spaces that are designated to guests and Mr. Arista stated there was but they are not numbered on the plans. Tom Rota noted that the garages will have assigned parking spaces and Mr. Arista agreed. Tom Rota asked about the garages in regards to the affordable units. Ilana Quirk stated they would be an additional amenities. The garages would be an extra cost.

Discussion ensued regarding the rental costs of the units and the garages.

Tim Giblin, Selectmen, asked where the trash receptacles were going to be located and if they were going to be contained. Mr. Campbell stated there will be only one trash receptacle and he pointed out to Mr. Giblin where it would be located. Tom Rota asked where the mailboxes will be located and Mr. Arista replied they would be located in the individual buildings. Discussion ensued on the times for trash pickup and Mr. Arista suggested that the company would come at an appropriate time of day. Tim Giblin stated the Town regulation is no earlier than 7:00 am.

Tim Giblin had concerns with fire safety and the trees in the center of the site. The Fire Chief said he did not anticipate any fire safety issues with the trees.

John Worrall of 16 Kilsyth Road asked if provisions will be made for snow storage and removal. Mr. Campbell replied that there are snow storage areas provided and pointed out the areas. Tom Noel asked if the snow storage areas were taking up parking spaces and Mr. Campbell replied they are not, they would be separate areas.

An abutter asked what percent of the project would be designated as affordable housing and Mr. Arista replied approximately 25%. The abutter replied that, in his opinion, crime is usually associated with affordable housing. Tom Noel replied that it is unfair to compare affordable housing with crime and Norton does welcome affordable housing at this time.

Robin Kern, 17 Kilsyth Rd. asked if school buses will be allowed to go into this site or if the children will wait on Newland Street for the school bus. Tom Rota stated that it was conditioned in the original Comprehensive Permit that the children will wait in a small building on Newland Street for the bus. He said that since this is a private road, school buses will not enter the development. Tom Rota explained that affordable housing is required by the state and the town tries to make it as safe and as accommodating as possible. Tom Noel reminded everyone that this project has already been approved and what is being decided on tonight are the modifications. Fire Chief Paul Schleicher stated that he does not have the power to deny these projects and tries to make them as safe as possible under his jurisdiction.

Ilana Quirk noted that in the original decision, there is a provision that states if snow prohibits fire trucks from entering the development, the Fire Chief will make that decision, and the snow will be trucked off of the site.

Mr. Arista noted that none of the affordable houses have Section 8 Certificates with them. An abutter asked Mr. Arista what would happen if he could not rent the affordable units. Mr. Arista replied that they would not rent them in that case. He said that under state regulations, he does not have the authority to rent to Section 8 at this time.

Tom Noel stated that affordable housing is to give working people who do not have the means to rent on their own a chance to rent a unit with the income they have. Earl Willcott asked what the rent amounts of affordable housing is at this time. Mr. Arista replied that affordable housing is for people who are making no more than 80% of the median income for this area. He stated that the affordable 2-bedroom units will be rented out at about \$1,250 per month. Tom Noel stated that the affordable units total about 25%.

Debra Fillion of 125 Newland Street asked if there would be a lottery for the affordable housing and if it would be controlled by the town. Ilana Quirk replied that the State Subsidizing Agency would be in charge of the rules and regulations. She said it depends on how the Regulatory Agreement is written and occasionally it could be regulated by the local Housing Authority. Tom Rota said that the Norton Agency

would have the first opportunity at regulating the lottery and if they choose not to, the state would take over. Ilana Quirk stated that since the original Comprehensive Permit was issued, new state laws have been implemented and she stated the Board will work with the applicant on the lottery issues.

Fred Williams of 17 Kensington Road asked if Norton residents would have the first opportunity to rent the affordable units. Ilana Quirk replied that what is put into every decision is that Norton residents would have first choice to the extent that the law allows and this would include veterans.

Jennifer Gomes of 1 Kings Lane asked how many of the 319 parking spaces will be separate, or covered spaces, to be rented and Mr. Arista replied 72. She had concerns with people parking on her lawn if no one rents the covered spaces and there are not enough regular parking spaces when visitors are on the property. Mr. Arista replied that if no one rents the covered spaces, they will be made available for free parking spaces.

Joy Ingham of 138 Newland Street asked if this project would be a no-salt zone and if salt will be dumped into the wetlands. Ilana Quirk noted that there is a no-salt provision in the original decision stating that road salt would not be used in vehicular areas. Tom Rota replied this is an issue for the Conservation Commission. Ms. Ingham addressed Fire Chief Schleicher and asked him what would happen in the event of another hurricane and only one entrance into the development. She asked what would happen in the event that a tree fell across the path. Paul Schleicher replied that his crew would clear the path and they would certainly do all they could to keep everyone safe and everything else under control to the best of his ability. He noted that this is not the only housing development in town with one entrance. Tom Noel stated that all Town Departments will be doing their own specific reviews and inspections.

Dave Brunelle of 127 Newland Street requested that a solid buffer be in place between his house and the housing community. He asked if it could be at least 120 feet in length. Dan Campbell replied that a buffer has been designed for that area using deciduous and evergreen plantings. Tom Noel stated there was a provision in the original decision for the buffer. Dan Campbell and Mr. Arista agreed to work with Mr. Brunelle in creating an acceptable buffer.

Fred Williams had concerns with inclement weather and children waiting on Newland Street for the school bus. He said people speed on Newland Street on a regular basis. Ilana Quirk stated that there is a provision in the original decision which provides for a sidewalk leading to a bus shelter at the entrance to the housing community. She said the applicant would have to notify the board if this has changed in anyway because of

the loss of the small triangular portion of property at the entrance.

Peter Freeman offered to write up a draft decision to include the modifications. Tom Noel asked if a new decision would have to be written. Ilana Quirk said it might be simpler to write up a one-page modification page. She suggested a new permit could be issued with track changes to the old permit. Peter Freeman suggested that the new decision be labeled "Modified Decision". Tom Noel asked Mr. Freeman to get the draft to the board as soon as possible.

Duane Knapp noted that one difference between this affordable housing development and others is that all water and sewer bills will go to the owner of the property and there will be no separate water meters for each unit. He said there will be a 2" domestic water line in each building going to a master meter.

Earl Willcott stated that in the original decision, the developer was going to install a 4-foot chain-linked fence at the back of the property. He suggested that this was a bad idea because the vegetation has since grown enough so that it has created a solid buffer. He said the vegetation is a good barrier also for the farm odors and noise created at the abutting farm between 7:00 am to 7:00 pm every day. Tom Rota reminded Mr. Willcott that he had insisted on the fence at the previous hearings for the project. Mr. Willcott said this was true, but because there was a good buffer there now, he would like it to remain intact.

An abutter, Bob Kern of 17 Kilsyth Road asked if the lawns were going to be irrigated with town water or separated wells. Duane Knapp replied that irrigation systems are not allowed in the Town of Norton except with private wells. Ilana Quirk noted that it is conditioned in the Permit that the owner shall provide an irrigation well on the property.

Tom Rota asked if the parcel of land at the rear of the property that is not going to be developed at this time can or will be developed for housing sometime in the future. Mr. Arista agreed to have a condition stating the property will not be developed for housing. Peter Freeman stated that this parcel of property may not be part of the project, and any future project proposed for this property would have to be approved by the ZBA. Tom Rota stated that it would be written into the decision that the property will not be used for housing but could be used for a farm or energy project. Earl Willcott noted that there are sufficient wetlands in that area which would prevent a road from being built. Tom Noel stated that this would be an issue to be decided by the Conservation Commission.

Debra Fillion of 125 Newland Street noted that she would like to do more research on

solar panels in the event an application to install solar panels in the rear of the property was filed with the ZBA. She had concerns for the funding of a fence to be built between her property and the housing community. Mr. Freeman assured Ms. Fillion that there was a condition in the permit requiring the fence to be installed.

An abutter had a concern with safety issues with the installation of a pool and Mr. Arista assured her that the pool would be completely fenced in and maintained at all times.

Tom Noel asked if Graves Engineering would be notified to start their Peer Review and Ilana Quirk stated they would be notified tomorrow to start the review. Mr. Noel noted a signed contract was received between the Town and Graves Engineering and was available for review upon request.

Tom Noel asked the applicant when he would like to meet again. It was agreed to meet on Monday, May 21, 2012. Tom Rota made a motion, seconded by Nitin Choksi, to meet on Monday, May 21, 2012 at 7:32 pm. Approved. All in favor.

The members agreed that the next regular meeting would be scheduled for Monday, May 21, 2012.

Tom Rota made a motion, seconded by Nitin Choksi, to adjourn the meeting at 8:56 pm. All in favor. Approved.

Minutes Approved by Committee on: September 17, 2012.

Respectfully submitted,



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Thomas R. Noel, Chairman  
Norton Zoning Board of Appeals