

Town and County of Nantucket
Select Board • County Commissioners

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C. Elizabeth Gibson
Town & County Manager

November 20, 2018

Nantucket Zoning Board of Appeals
2 Fairgrounds Road
Nantucket, MA 02554

Re: Surfside Crossing 40B Modified Proposal -- Comment Letter

Applicant: Surfside Crossing, LLC
Project: Surfside Crossing in Nantucket/
Location: 3, 5, 7 and 9 South Shore Road, Nantucket, MA
Subsidizing Agency: MassHousing (Massachusetts Housing Finance Agency)

Dear Members of the Zoning Board of Appeals:

On November 14, 2018, the Select Board reviewed the Modified application recently submitted by Surfside Crossing, LLC ("Applicant") for a comprehensive permit for 12.87 acres of land at 3, 5, 7 and 9 South Shore Road ("Property") to construct; and the Select Board voted INSERT VOTE to recommend to the Zoning Board of Appeals ("ZBA") that any grant of a comprehensive permit shall be conditioned upon the following requirements:*

**It is important to note that if not referenced here in this November 20, 2018 letter, the Comments contained in the July 13, 2018 letter remain current and on-going.*

1. Sewer Connection. While the Applicant has recently provided additional documents to the Town for its review regarding the Sewer Connection that will be needed, that review is not yet complete; however, tying in to the existing sewer force main in South Shore Road continues not to be an option; the installation of a new sewer force main is also not an option. We will provide the ZBA with a recommendation on this once we have final information from the Town's engineers.

2. Sewer Costs. No change from July 13, 2018.

3. Town's Sewer Easement. No change from July 13, 2018.

4. Water Infrastructure. No change from July 13, 2018.

5. Wellhead Protection District Issues*. Original comments continuing with additional comments as follows:

1. A condition that regular maintenance of the storm drains be a requirement of the Homeowner's Association, including filing a maintenance plan and records of actual maintenance with the Town – annually. And, if Town storm water management regulations are adopted subsequently, the Applicant must ensure compliance.

2. A condition that the Applicant implement Low Impact Development design concepts for managing storm water; and, that it fund an Environmental Monitor during construction phases to document activities and monitor for compliance with the measures to protect groundwater quality.

3. A condition that vegetated swales and recharge basins with overflows be installed rather than use of the stormceptor-type design with direct infiltration.

4. A condition that the Homeowners' Association documents require the use of organic and/or non-toxic fertilizers and pesticides, as well as documented training of professional applicators.

**These comments will also be found in the Select Board's November 20, 2018 Supplement Comment Letter*

6. Public Safety Issues.

A. Police Issues.

No change from July 13, 2018.

B. Fire Issues.

Additional comments from the Fire Chief, with original comments continuing:

1. Access points for the ladder truck and ambulance need to be established around the apartment buildings;

2. The Fire Department needs a plan marked with suggested fire hydrant locations for review and final sign-off.

7. Public Health Issues.

Modification of first comment from July 13 to reflect the following, with the remaining original comments:

1. The entire property is within the wellhead protection district (zone 2 of a public drinking water supply) for our sole source aquifer. Any decrease in permeability should

be mitigated 1.5-fold by the addition of groundwater infiltrators or bio-retention areas. This will minimize diversion of ground water recharge and protect the adjacent wetlands. The proposed bio-retention areas in the most recent plans must be able to handle water runoff from a 500-year storm. Regular maintenance must be logged semi-annually.

8. Traffic, Parking, and Public Transportation.

A. Traffic Issues*.

1. **Differences between BETA Group (Town’s consultant) traffic study and MDM (Applicant’s consultant) traffic study.** Factors explaining differences in analysis results between these studies are outlined in MDM’s October 19, 2018 memo. While both BETA and MDM stand by their respective analysis outcomes based on analytical assumptions used, both parties agree that:
 - a. project impacts and possible off-site transportation-related mitigative actions are limited to the Surfside/Fairgrounds/South Shore Road intersection and Surfside/Miacomet Road/Miacomet Drive intersections;
 - b. one appropriate means of quantifying proportional project trip impacts at these locations is the percent change in trips relative to future-year “No Build” traffic volumes as described below.

2. **Proportional Project Trip Impacts.** Proportional project trip impacts may be calculated based on future-year design volume conditions that assume:
 - a. August 2, 2018 traffic count data represents a peak summer day scenario;
 - b. a 7-year design horizon at 1% annualized growth rate;
 - c. inclusion of Richmond Great Point and Ticcoma Green background development trips.

Under this scenario, and assuming use of applicable ITE land use code trip rates for the respective residential categories, proportional trip increases for the above-referenced intersections are as follows:

- a. 100-unit development scenario:
 - i. Surfside Road/South Shore Road/Fairgrounds Road: 5.5 percent or less
 - ii. Surfside Road/Miacomet Road/Miacomet Drive: 2.8 percent or less
 - b. 156-unit development scenario:
 - i. Surfside Road/South Shore Road/Fairgrounds Road: 8.6 percent or less
 - ii. Surfside Road/Miacomet Road/Miacomet Drive: 4.4 percent or less
-
3. **Proportional Mitigation Framework.** There is general consensus among the traffic consultants that proportional project impacts per above methodology provides a reasonable and quantifiable basis for potential mitigation for Surfside Crossing project and that the appropriate focus of off-site transportation mitigation is the two above-referenced intersections. This consensus is reached

based on Nantucket’s similar treatment of mitigation for prior approved projects and the experience of the various transportation consultants.

Accordingly, mitigative contributions for off-site intersections could be calculated by identifying implementation and design costs for structural and/or safety-related improvements at each location and applying the proportional impacts of Surfside Crossing (i.e., percent volume increase relative to design-year “No Build” intersection volumes) to arrive at a cost basis that is proportional to project impacts (whether a 100-unit scenario or a 156-unit scenario). Specific actions and/or proportional mitigative contributions by Proponent would be subject to further review/discussion between the Town (ZBA) and Applicant (Surfside Crossing) with input from their respective consultants. Based on conceptual estimates, proportional mitigative contributions could be as follows:

- a. 100-unit development scenario:
 - i. Surfside Road/South Shore Road/Fairgrounds Road:
Conceptual estimate for recommended roundabout: \$2,400,000
(construction cost, plus 20% of construction cost for design cost)
5.5 percent proportional mitigative contribution: \$132,000
Comment: the \$132,000 contribution could be applied to costs for survey and conceptual and preliminary design of a roundabout.
 - ii. Surfside Road/Miacomet Road/Miacomet Drive:
Conceptual estimate for intersection reconstruction: \$2,400,000
(construction cost, plus 20% of construction cost for design cost)
2.8 percent proportional mitigative contribution: \$67,200
Comment: the \$67,200 could be applied to costs for a Roadway Safety Audit of the intersection to identify and assist with implementation of specific structural and/or safety-related improvements.
- b. 156-unit development scenario:
 - i. Surfside Road/South Shore Road/Fairgrounds Road:
Conceptual estimate for recommended roundabout: \$2,400,000
(construction cost, plus 20% of construction cost for design cost)
8.6 percent proportional mitigative contribution: \$206,400
Comment: the \$206,400 contribution could be applied to costs for design and assist with implementation of a roundabout.
 - ii. Surfside Road/Miacomet Road/Miacomet Drive:
Conceptual estimate for intersection reconstruction: \$2,400,000
(construction cost, plus 20% of construction cost for design cost)
4.4 percent proportional mitigative contribution: \$105,600
Comment: the \$105,600 could be applied to costs for a Roadway Safety Audit of the intersection to identify and assist with implementation of specific structural and/or safety-related improvements.

**These comments will also be found in the Select Board’s November 20, 2018 Supplemental Comment Letter*

B. Parking Issues.

Additional comment: once the project is built-out, a parking management program must be established if deemed necessary by the Town, with an escrow account to be established for this purpose.

C. Public Transportation Issues.

No change from July 13, 2018.

9. Archeological/Cultural Importance. No change from July 13, 2018.

10. Environmental Sensitivity. Additional comments with original comments continuing:

The entire Property (four lots occupying 13.56 a) is mapped as Priority Habitat of Rare Species (14th edition of the Massachusetts Natural Heritage and Endangered Species Program (NHESP)). Other than a limited buffer (much of which may be disturbed to construct rain gardens or to complete grading), the Project will disturb the entire acreage, per the representations in the Application. The Select Board believes that the site is environmentally sensitive as evidenced by studies completed by the applicant and the Board's environmental consultant.

The disturbance associated with development of the project will result in a "Take" (per NHESP communication) of habitat for a special concern moth. Also, the Lepidoptera survey completed by the Applicant indicates that eight species not previously documented on Nantucket were recorded on the property during 2016 and 2018 surveys. The author suggests "that more species would appear with additional sampling effort."

In addition to the Lepidoptera identified at the site, review of readily-available information by the Board's environmental consultant, aided by qualified scientists with significant experience on Nantucket, indicates that the site likely provides habitat for at least one special concern plant (New England blazing star (*Liatris scariosa* var. *novae-angliae*), and possibly **a second special concern plant** (sandplain blue-eyed grass (*Sisyrinchium fuscatum*)) in pockets of sandplain grassland habitat and provides high quality habitat for an endangered mammal (Northern long-eared bat (*Myotis septentrionalis*) (NLEB)). The NLEB is also listed as threatened by the United States Government. Access to the site was denied by the Applicant to conduct a systematic survey for these species; thus, confirmation regarding the presence of the species at the site is not possible.

The Board remains especially concerned about disruption of the habitat of the state endangered and federally threatened NLEB and the fact that the Board's environmental consultant was not allowed to access the property to conduct a proper review.

The Select Board recommends that the ZBA require that any development of the Property shall be properly conditioned to avoid impacts to all rare species present at the site (Lepidoptera, vascular plants and mammal) to the extent possible and that mitigation be provided for impacts to each of the species determined to be (or in the absence of a systematic survey, assumed to be) using the site.

At a minimum we recommend that:

- 1) A study (approved by NHESP) be conducted to ascertain the presence of vascular plants and NLEB, or in the absence of such a study, mitigation be provided assuming habitat for the species is present at the site;
- 2) Avoid, where possible, habitat for state listed and federally listed species. If avoidance is not possible, mitigation be provided at a rate consistent with the ranking of the species per 321 CMR 10.23. If an endangered species is present at the site, a rate of protection of three times the amount of areal habitat of the affected Endangered Species that is impacted by the Project or Activity is listed in the regulations;
- 3) No tree cutting from June 1st to July 31st consistent with the federal 4d rule for NLEB or conduct a study to determine whether the site serves as a maternity roost for the species;
- 4) Map and avoid, wherever possible, mature pitch pine (> 8" dbh) in buffer and cleared areas. Retain the pitch pine and understory in the buffer wherever possible;
- 5) Retain snags in buffer areas throughout the life of the project; and
- 6) Prepare and adhere to an ongoing invasive species management plan to ensure the long-term health of the buffer. The list of invasive species should be based on the list maintained by the Nantucket Conservation Commission, as amended.

11. Overcrowding of the Property and the Neighborhood.

The Board has the same comments as in the July 13, 2018 letter. The proposal remains too dense for the area, which is too far from shopping, school and other services for people not to rely on their vehicles. The Applicant should be encouraged to establish a program to provide year-round shuttle passes for residents.

12. Energy Issues. No change from July 13, 2018.

13. School Impact. No change from July 13, 2018.

14. Affordability Options.

In its July 13, 2018 comment letter, the Board encouraged the Developer and the ZBA to “consider permanent deed restrictions that require income at other affordability levels [beyond 80% AMI] for which the Town has a demonstrated need, including at moderate workforce levels like 120% AMI. The Select Board recommends that the ZBA discuss this with the Applicant, as the Board would like to see this kind of creative and year-round community-minded thinking brought to bear on this Project.” While the Select Board understand the details are still being worked out, the Applicant’s declaration at recent ZBA hearings that 70% of the Surfside Crossing project, as revised (e.g., 100 units

– including all the condominium units), will serve *the year-round community and Island-focused nonprofits* is viewed as a positive step. We strongly encourage the ZBA to delve into the details of this with the Applicant, and to ensure these restrictions are in place for the longest period allowed by law, as well as to have strong mechanisms for enforcement. Issues of 1) purchase only by year-round residents and a limited number of nonprofits, 2) no or very limited short-term rental opportunity, 3) no subleasing in whole or part, 4) no ability by a future HOA to change these restrictions, 5) right of first refusal to Affordable Housing Trust Fund or the Town at the end of any legal limit to the length of restriction(s), are just some of the details that should be addressed appropriately by the ZBA and its advisors regarding affordability and the stated commitment by the Applicant for 70% of the development to serve year-rounders and a limited number of nonprofits on an ongoing basis.

15. Other Important Issues. No change from July 13, 2018.

Again, the Select Board thanks the Zoning Board of Appeals for its hard work on this important matter.

Very truly yours,



Jason Bridges, Chair

cc: Police Chief
Fire Chief
Sewer Director
Wannacomet Water Director
Health Director
Director of Planning and Land Use Services
Town Counsel
Surfside Crossing, LLC