

## MINUTES

The Town of Manteo Board of Commissioners held a Public Hearing session in the Manteo Town Hall meeting room, October 19, 2005 at 7:30 PM to receive public comments on proposed text amendment to the zoning ordinance.

The following members were present:

- Mayor John Wilson
- Commissioner David Farrow
- Commissioner Lee Tugwell
- Commissioner Dellerva Collins
- Commissioner H.A. Creef, Jr.
- Commissioner Edward Etheridge

The following member(s) were absent:

Also present at the meeting were:

- Town Manager Kermit Skinner
- Town Clerk –Becky Breiholz
- Finance Officer-Shannon Twiddy
- Planner Erin Burke

Mayor Wilson called the meeting back to order at 7:30 pm. Mayor Wilson asked that the agenda be amended to add Public Comments and there was no objections by the Commissioners.

### PUBLIC COMMENTS:

Syd Galloway-Property Owner at Pirates Cove-he submitted to the BOC a written statement and he spoke in favor of the zoning amendment but would like the Board to reconsider the zoning classification of Pirates Cove which presently is R5 Historic District; he asked that the Board clear up some ambiguities in the language of the new zoning ordinance. He also commented on Inclusionary Zoning regarding the fact that there is near exclusion of multi family housing in the ordinance.

Johnnie Robbins-Skyco-stated that an effort has been made to frame this debate as being a struggle between greedy developers and those of us who live here, and what has resulted is the passing of an ordinance which extends controls that affect everyone, so I believe that the argument against the developer has led to much of this support for this misunderstood and misdirected system of control. I believe it is an assault on personal property rights. He recommends that they pass amendment tonight and then address the increased setbacks from 15 to 50 feet for parking, that has rendered most of your commercial properties along Highway 64 to be nonconforming.

Malcolm Fearing-Thanked the Board for having this meeting-this is to correct an unintentional error; this is exactly what we have been saying; there have been many un-intentional errors one is the elimination of most of the permitted uses in all districts. The S&R is not a permitted use anymore; in the B2 district the only permitted use is a single family detached resident not to

include a modular or mobile home. Other things he believes were unintentional is the architectural standards for existing houses, to tell the town's people the pitch of their roof they must have; these are just a few. Another unintentional error is not to have your attorney present to review this document as to the legality of the ordinance, he was not here when it was passed and he is not here tonight. Another miscommunication is the use of grandfathering and we need to clear up what does grandfathering mean; have town staff tell us what it means; have the town attorney tell us what it legally means. He again thanked the Board and has nothing against any of the Board.

Marsha Brown-Roanoke Trail and she commented she is not qualified to decipher the ordinance. She wanted to let the Board know how much Manteo means to her and to see the good changes that have come over the years. She came tonight to get back into the dealings with the Town and if you have questions or concerns the Board wants to answer your questions and are available. Loves what the Board has done in the last 15 years and appreciates each one of them.

John Robbins-Skyco; grew up in Manteo and went to NC State and worked with the School of Design on this ordinance and enjoyed doing that and proud of it but there are mistakes in the zoning ordinance that need to be corrected. No where in doing the surveys did he see they wanted R.D. Sawyers pushed back 200 feet; or that we wanted parking along Highway 64 pushed back 50 feet. He thinks this is an assault on the businesses along the corridor; He wants to focus on the commercial aspect of this ordinance. We say that they are grandfathered but are they really grandfathered, especially the setback on Highway 64. He talked about the setbacks for parking, and the storm-water guideline; the issue about businesses that close for more than 180 days then they have to conform to all the new ordinances.

Bob Newman-Pirates Cove property owner. He had the pleasure of working with the Commissioners and the Planning Board in the spring; when they were trying to decide what to do about more condominiums in Pirates Cove. They reached a compromise solution. Thanks the Board for their hard work on the zoning ordinance and supports the amendment to the ordinance. He asked do we want the island covered in more condominiums and he thinks the citizens have said no we don't and the ordinance is the best effort to come up with an alternative. He thinks it is shameful that this whole process is being politicized by these so called organizations.

**SUBJECT:** Planner Erin Burke commented that this text amendment is the result of an omission that was brought to her attention by a homeowner in Pirates Cove and she recommends approval of the text amendment.

**SUBJECT:** Public Hearing to receive comments on Text amendment Article VI, Section 6.4 Permitted Uses approved by the Planning Board.

**MOTION:** Commissioner Tugwell seconded by Commissioner Collins to enter into a Public Hearing was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Creef, Tugwell, and Collins Noes: none Absent: none

Syd Galloway-Pirates Cove home owner recapped what he had previously stated – pass the text amendment; reconsider Pirates Cove zoning classification; add affirmative language in the ordinance making it clear; that units previously constructed can be sold without seeking permission even if height/size of such buildings cause them to be non conforming; consider

making it possible to have all residential multi family buildings in residential areas; consider lowering the affordable proportion of new developments to 10% as a way of assuring that your goals for such housing are met.

Jerry Ryscavage-Pirates Cove homeowner-he endorses Mr. Galloway's statement and read the intent of Section 1.5 of the ordinance #3; his point is that we live in a fragile area and his question is what happens when one of our condo buildings incur a 50% plus loss, hopefully with the passage of this amendment we will be able to rebuild but will we be able to rebuild the same type of building due to new height and size conditions that currently exist and he doesn't think they could and if we could not rebuild we would actually be losing value. He would like to suggest the Board consider 4 options- 1) reclassify condo's as whole 2) possible increase 20,000 square foot limitation; 3) redefine square footage; 4) consider all the above.

**MOTION:** Commissioner Collins seconded by Commissioner Farrow to exit the Public Hearing was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Creef, Tugwell, and Collins Noes: none Absent: none

**SUBJECT:** Consideration of Text amendment Article VI, Section 6.4 Permitted uses approved by the Planning Board. This is to add text that was omitted from the new zoning ordinance and correct the mistake of the omission.

Commissioner Tugwell agrees with the gentleman from Pirates Cove and asked the Planner if in her opinion does this allow the buildings to be reconstructed in there present form, present footprint, present size, present shape. In his opinion we have only allowed the use and we get into grandfathering and there are two issues here, the use of the land and the structure. Prior to this change we had non conforming use as well as structure and the amendment only appears to address the use, but to him the structure is nonconforming. Ms. Burke commented the amendment corrects the use but does not address the concerns of height limitations. Commissioner Tugwell commented we are not just looking at Pirates Cove we have Shallowbag as well as the traditional multi family uses in downtown. When the PUD ordinance expires one of the things discussed that Pirates Cove would no longer be under the umbrella of the PUD and any rebuilding or redevelopment would be handled at the zoning classification at the time; so with regard to protecting the property rights it would appear to him that it is quite possible if you have a 15 – 18 unit building on 1 acre of land in Pirates Cove and it was destroyed over 50% that since it is on an individual lot, now that we have allowed for multifamily use you would still be constrained to a density of 6 units per acre which would leave a bunch of people who would not have their houses anymore. He thinks we have density issues, lot coverage issues, and height issues, inconsistencies with the Manteo Way of Building and storm water issues. He thinks that if anyone is under the illusion that these units will be allowed to be built back the same that is not the case; and we would have the same situation with Shallowbag Bay Group Development and other duplexes in the town. We have a lot a work to do to amend these ordinances. Ms. Burke commented quite possibly the Board would consider creating a district to deal with Pirates Cove and others. Commissioner Tugwell would like to amend his motion to change the language from saying multifamily dwelling units previously permitted-to say “multifamily units permitted at the time of the passage of this ordinance.” Mayor Wilson commented that it is this Board's intent to protect every structure that is in the Town of Manteo today, but to have some new rules for the development that is yet to come, and we are trying to make right the mistake we have made. Ms. Burke read the text amendment to the Board; Mayor Wilson would like to add language to

the amendment “as large, as tall and as dense as now exists,” and look at a zoning district that is more appropriate than historic Manteo for Pirates Cove and other multifamily units. There was no objection from the Board to vote on the text amendment as amended twice.

**MOTION:** Commissioner Tugwell seconded by Commissioner Farrow to approve text’  
**MOTIN WAS AMENDED BY** Commissioner Tugwell amended his motion to change the wording to state Multi family dwelling units permitted at the time of passage of present ordinance seconded by Commissioner Farrow, **Motion was further amended** by Commissioner Farrow seconded by Commissioner Collins to also add the text as large; as tall; as dense as existing was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Creef, Tugwell, and Collins. Noes: none. Absent: none

#### COMMISSIONER’S CONCERNS

Commissioner Tugwell-commented why he voted against the ordinance and he found a lot of discrepancies that he felt like what we talked about tonight. He has problems with the Manteo Way of Building, we were presented that document as a guide for development and the minutes will show that it was to be suggested guidelines but in its final form it has the force of regulation in every zoning class we have and that is not what we did as Commissioners when it was adopted it was presented as suggestive and then it became regulatory and he has a problem with that. Believes the language in the zoning ordinance regarding the selling of property was not the intention of this board and does not think we can restrict that, but he does think we need some simple language in our non conformities where it states you can continue a use and that continuance can be conveyed that transfers to heirs, assigns or successors; and he wished we had taken more time before its passage.

Commissioner Farrow-everyone probably realizes that ordinances of this magnitude will need to be changed especially since receiving comments from the Public tonight. It is nice to have people here tonight and expressing their opinions.

Commissioner Creef-talked about grandfathering and he told about Ace Hardware burning down and it was nonconforming and that they asked for a variance to rebuild and the Town allows those. He agrees that Pirates Cove should have zoning that would implement what they are.

Commissioner Etheridge-stated we made a mistake and we should not be ashamed and we are trying to fix it. He does not see but a few businesses here tonight, why aren’t all the businesses on 64 here, if they were concerned they would be out here tonight.

Commissioner Collins-it was not our intent to bring any hardship on the businesses or home owners. We only want to protect what we already have here and to protect the small businesses from the big box stores. It was not our intent that you could not rebuild your home or business. We have listened to your concerns tonight and changes can be made.

Mayor Wilson-“hopes that if we learned one thing tonight we have learned that if a person has a concern about a provision in the zoning ordinance, if they are worried about what it says, the right way to handle is to speak with town staff, Mayor or Commissioners; makes constructive suggestions; let us debate it and let us make those changes that are in the best interest of all of the citizens over the long haul, that is all we have tried to do for the last 3 years.” “We have been

through another 20 year planning process, the Town we live in today is the result of a 20 year plan we adopted 24 years ago; the town we are going to live in 20 years from now is the result of the plan we just adopted, the zoning ordinance we have adopted to implement the plan, and whatever amendments are made to it by people sitting here.” “The right way to do it is through the system, not with false statements in the newspaper, not with scare tactics, not with half truths.” “The parking lots on the highway are not going to be rendered nonconforming when the building burns the parking lot is still going to be there, the 200 foot rule only applies to car and boat sales and the reason is that every town in this county has passed ordinances to discourage car lots from lining its primary transportation corridor.” “Our little town has 3 and they are all 3 grandfathered, their parking lots may remain right where they are and they can build back right where they are, it is scare tactics to tell those people that they can’t build back, it simply isn’t true.” “The 50 foot setback is for new development, it is to protect Roanoke Voyages Corridor, implemented by the N.C. General Assembly in the early 1980’s.” “If someone wants to build a new business on our primary transportation corridor yes they need to put that parking lot 50 feet back so that the trees can stay there, but for all those out there they are protected.” “Tell me a town that has worked any harder to protect family owned businesses than this one, all it would take is one Lowe’s, Home Depot, Food Lion, one K mart and the whole town would be finished, it only takes 3 boxes to replace an entire town of family owned businesses.” “We have done the best we can to pass ordinances to prevent those big box stores from coming in and taking away the small town community, the family owned restaurants and the family owned businesses.” “Anyone that tells you that a building or business is not grandfathered is not telling the truth; if the language as such is confusing then help us reword those sentences so that it can no longer be confusing and everyone can have the comfort level they need.” “We passed rules to prevent the Food Lion from coming so those grocery stores can still be in business; this ordinance discourages chain restaurants by not allowing drive through windows and in the last two months a Wendy’s has decided not to spend the money and locate in Manteo because of our ordinances, they didn’t like the architectural guideline and they didn’t like the no drive through window; so I say Darrell’s and Big Al’s and family owned restaurants have been protected by this ordinance.” “R.D. Sawyer does not have to move back 200 feet this only applies to new car lots.” “You have heard tonight that there is an elimination of permitted uses; that is sort of true, there is a sentence that says that, but its not that all the uses that were permitted aren’t still permitted, its just that you can’t walk into to the Town Hall anymore and pick up a permit for a restaurant in 15 minutes, you can come to the Town Hall with all the right information and pick up a permitted by right a single family dwelling permit, but if you want to build a commercial building, it is still permitted it is just either permitted through the Planning Board or permitted through a conditional use process which requires Planning Board review and approval of the Board of Commissioners.” “These are safeguards, those are the ways we can deal with traffic management, access the impact of storm water and the impact on the daily lives of those of us who live here,” “yes it is going to take a little longer but as we build more and more we impact each others lives, and I think those are necessary parts of the permitting process in a town that is growing.” “If we have not defined grandfathering to everyone’s satisfaction, help us with language so that we can it is clearly our intent.” “This ordinance is not an assault on business, our track record proves otherwise.” “Affordable Housing, the 20% does not cost the developer a dime, they are given a bonus for the number of units in excess of what they could have had otherwise, if a person can have a twenty lot subdivision we given them a bonus so they can have 24, they can still sell 20 at market rate and the 4 extra ones they have to sell at a formula that is based in a HUD determination, which right now is between \$37,000 and \$40,000 and those extra 4 lots puts extra money in their pocket just not in the proportion that the market value was.”

“Perhaps there are better ways to deal with affordable housing and if anyone has ideas we would like to hear them, we first had Harbor Town and Bay Tree as moderate and low income projects, but this time we realize we are losing the economic, social, and educational diversity of Manteo and if we didn’t integrate that diversity in our community then were going to have poor people living on one side of the street and wealthy people on another.” “When we surveyed townspeople and 408 returned those surveys, overwhelmingly you said affordable housing is at the top.” “We have done the best job we know how to address affordable housing, while every town in the county has talked about it we have tried to do something about it and we have an affordable housing ordinance.” “You told us you were worried about storm water and were tired of your neighbors water running off in your yard, we applied for a clean water trust grant \$643,000 was awarded and we are planning a storm water system that will pick it up take it to a central location and treat it so it is clean before it is put in the bay.” “I think it is only fair that new and future development need to deal with its own storm water and we are only requiring a 1 ½ inch rain, some towns do much more, the state already requires 1 inch.” “From the survey 82% told us you wanted architectural guidelines, Manteo should be preserved and a historic district should be developed, it is not true that Mr. Newman’s house does not comply with the Manteo Way of Building, it addresses Pirates Cove and commends its architecture as being appropriate for that place and day and time and encourages it be continued to be built in the same style.” “You heard that we are telling you what kind of roof pitch to put on your house, it just isn’t true, you can add onto any building in the Town of Manteo in the style which it is originally built, it says so right in the Manteo Way of Building.” “I could go on and on, this election is precisely a debate between whether or not we are going to preserve and protect this town for ourselves and future generations who want to live here or whether we are going to allow it to be controlled by developers who want to make a faster buck on the backs of the people who live here.” “We have the precious commodity of a waste water treatment facility, if we preserve it and share it with ourselves and take care of the area between Manteo and the bridge, midway we are going to have enough to last us for awhile.” If it is sold north of town, if it is sold south to Skyco, then our sewer capacity will be used up and you the residents will pay for it, each and every time the plant has been expanded your bills have doubled. “So I only say in closing this Board has sincerely tried to protect and preserve this town and if we are fortunate enough to be here a few months from now these people will continue to do the same thing.”

**MOTION:** Commissioner Collins seconded by Commissioner Creef the meeting was adjourned at 8:35 pm was approved by the following vote: Ayes: Commissioners Farrow, Creef, Tugwell, Etheridge and Collins. Noes: None. Absent: none

This 19<sup>th</sup> day of October 2005

ATTEST:

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Mayor John Wilson, IV

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Town Clerk Becky Breiholz