

## MINUTES

The Town of Manteo Planning and Zoning Board met in Special Session on Tuesday, May 3, 2005 at 6:00 p.m. at the Manteo Town Hall, 407 Budleigh Street

The following members were present:

Chairman Bill Parker
Member Jamie Daniels (Vice Chair)
Member Phil Scarborough
Member Christine Walker
Member Bebe Woody

The following members were absent:

Also present at the meeting:

Erin Burke, Planner
Fred Featherstone, Zoning Adm.
Becky Breiholz, Town Clerk

Chairman Parker called the special meeting to order at 6:00 p.m. to receive comments regarding the Pirates Cove Site Plan Review.

**SUBJECT:** Site Plan Review Pirates Cove-Harbor Place II-This site plan has been presented previously and during the process several questions were raised regarding the height of the structure. The Planning Board asked the Town Attorney for his opinion. The Board received the Town Attorney's opinion on the night of their last month's meeting and was made a part of the April 12<sup>th</sup> meeting. At that time the Planning Board decided to postpone the site plan review to allow staff to also notify adjacent property owners that were previously left off the notification process.

### PUBLIC COMMENTS

Annah Petty currently lives at Pirates Cove and works for Glen Futrell. She commented that she has never heard Mr. Futrell say that he wasn't going to develop that piece of property.

Ginny Kerr-Pirates Cove owner and she is happy with the amenities, rentals are down overall, vacationers are down and to keep building and building is detrimental. The condos already built are not in keeping with the covenants of Pirates Cove; they are large and oversized. The small condos on the waterfront are more in keeping with the style of Pirates Cove. The other thing is the fishing fleets and if anyone wants to use the fishing fleets there is no parking which is a negative impact.

Sharon Aldridge-works for Mr. Futrell and is currently property manager and all her years very proud of her affiliation with him and the way Pirates Cove has been developed. She is also a property owner at Sailfish Point and would not have bought there if she thought it would negatively affect her property.

Bill Wood-associated with Pirates Cove Realty and owns property at Pirates Cove. He feels as a salesperson that property owners he sold to were told that at some point and time there would be buildings there and he did not know when or what but that something would be there.

Charlie LaPella Real Estate Broker Pirates Cove and involved in buying and selling parcels in Sailfish Point and every one of those homeowners were told that there were no immediate plans for development but there were no guarantees that the property would not be developed at a later date.

Robert Wells Sailfish Point he agreed with Mr. LaPella that he was never told that nothing would have been put there and the plan had shown 14 town homes; he commented that his statement at the first meeting that Mr. Futrell should be allowed to build anything on his property as long as it is within the laws and rules and the conditions are within the jurisdiction that he is building. There were a couple of things he would like to bring to attention of the Board after having read the Town Attorney's opinion and one thing was clear that a PUD is a conditional use. He thinks that is there to mitigate impacts on folks. He would like to address the trash pickup and he has a dumpster by his house and thinks something needs to be done about that. They do have a drainage problem which Mr. Newman will discuss in his presentation. He commented that a couple of years ago they came before the Board when they wanted to build the homes along the marina and they pointed out that they had drainage issues at that time and Mr. Futrell said he would take care of it. He knows attempts have been made to take care of it but it just hasn't happened; this is a cumulative situation and would like some type of water retention or some way to mitigate the drainage on that property. Another thing is the condos have night lights all night long and are very bright; another issue Mr. Newman will bring up is security and congestion and if you put 1 or 2 condos it will increase the congestion, traffic and security questions. Does not dispute Mr. Futrell's right to build on his property and suggested swapping the property that is used for the tournaments to put the condos on.

Lisa Gutierrez works for Mr. Futrell and lives there and loves it there. We have always had a master plan that showed how it was laid out originally and it was a hotel and condos starting at the tip of Sailfish Point working there way down to the hotel; and repeatedly Mr. Futrell would decrease the density and as a homeowner pleased that it was decreased. She is also a condo owner also and thinks they look good and add to the value of the neighborhood.

Mr. Newman-Pirates Cove, Sailfish property owner. Mr. Newman gave the Board handouts and a power point presentation done by Kermit Laughon a resident of Sailfish Point who was unable to attend. The presentation will be made a part of these minutes. Summary of the presentation was: Objection to shadowing and some of the other problems would be traffic, water drainage, congestion, wrongly assured or led to believe that the property would remain open and objected to building by eliminating green space; some people had not received adequate notification of the condos building. They are asking that the Town disapprove this based on Towns Section 8.01B intent.

Mr. Newman now spoke for himself who is also resident at Pirates Cove Sailfish Point. Showed a map of Pirates Cove showing the area proposed for development and also did a presentation and these will be made a part of these minutes. The Town has received many letters of opposition, there will be problems of traffic, drainage. Other issues are: does not follow architectural guidelines of Pirates Cove, not compatible with pre existing structure. Homes and townhouses already there should set the standard for building. He talked about the Manteo Way of Building Guidelines. They are requesting conditions and showed the list and gave the rationale for each condition; which are included in the presentation. Mr. Newman also has another presentation addressing the drainage situation which will be included in these minutes.

Jim Kerr-Spinnaker Court and his concern is ecological and thinks studies should be done on that area of the marina and there are concerns of the water runoff and sewer and the Board needs to consider the impact.

Kelly Zaytoun-from New Bern and bought in Pirates Cove in 1995 and a great place to live, and he is now working for Mr. Futrell. He would like to say from the conversations he heard tonight saying it will look bad and I don't know anyone that doesn't come here that doesn't see something pretty special; I think we have a special community. Mr. Newman said that are other single family homes that are across the street from condos. Rudder Village is single family and there are condos across the street from it. He thinks that what has been done there is very special for the people who live there and the Town of Manteo. Mr. Futrell has never let anyone down in the community. He is pretty active in the community and has not heard any negative thoughts from anyone except those in this particular locality of Sailfish Point. He has recently bought two lots in Sailfish Point and if he thought it would have a negative impact he would not have bought there. "Our saying at home is "I am in the boat pull up the ladder," and that is what he is hearing tonight. He does not think there will be a negative impact.

Heather Maxwell-a homeowner in Gulf Stream Village and works for Mr. Futrell and spoke to the security issues that were brought up and commented that there was never a security guard shack planned for Sailfish Drive and think it would be great to have one but the guard gate that was investigated was too expensive and wonders where the money would come from for the person who is to be the guard. She also cautioned against the type of buildings like Shallowbag Bay, she thinks that in closing the front of the building and not having any view to the street or parking lot is also a security issue. She has always known that there would be a building there and if the master plans allow a certain number of units he should be allowed to have those.

Glen Futrell-developer of Pirates Cove and commented that the issues of landscaping, drainage can be easily resolved. He wanted to comment on the reference made about people believing that the there were town homes and he mentioned this at the prior meeting; the reason town homes are shown there a man named Wayne Booth purchased that property in 1990 and he submitted that plan and was approved by the Town. Mr. Futrell bought the property back from him in 1997 and there was no point in him amending the master plan until he knew what he wanted there. A lot has been said and a lot of people are unhappy about this building; this is not a rezoning issue and there has

never been rezoning in Pirates Cove; Pirates Cove was designed and approved under a PUD which overlaid the existing zoning districts. They submitted a master plan in the beginning and over the years have come back to revise the master plan and most times they decreased the density. This has always been a routine process showing the change in the master plan and the sewer allocation and been done a dozen times and has only been to a Planning Board meeting two times in fifteen years and basically it has always been a routine process and has always been in keeping with the PUD and does not think they ever submitted anything that is not consistent with the PUD. When they talk about poor design he thinks his track record speaks for itself. When it came to this particular building he spent \$60,000 in design of this building and is consistent with what they have done in the 15 years at Pirates Cove and is strange to him that all of a sudden they have a poorly designed building when it is consistent with what they have always done and been accepted. There have been sixteen buildings similar in size and height and it is strange to him that this building is unacceptable all of a sudden and all these things have not been a problem for 15 years. If we were trying to start a new development he thinks maybe those kinds of comments might be appropriate but he does not think they are appropriate here. What they are doing is consistent and what has always been accepted. He does not know what security has to do with this building. On the parking issue he reminded them that he has provided twice as much parking around the marina than required by the Town and there is not a parking problem. He spoke with Planner Ms. Burke and was taken aback by Ms. Burke's recommendation and cannot understand where she is coming from, it caught him totally off guard, total unexpected and is totally inconsistent with what has been done over the years and does not think it is appropriate. He commented the Town received a written opinion from their attorney and they also received a letter from his attorney and in those letters there were some key points that both made. The first one is that the Town's own attorney stated it is clearly within your authority to approve the plan as submitted and his attorney has concurred with that; both attorneys said that the Planning Board must recognize what has been done for the last 15 years and if you require something different it must be done with good reason. Mr. Futrell commented that in his opinion there is no good reason to attach the conditions that have been recommended in Ms. Burke's letter. The conditions regarding height and size are contrary to what has been done in the previous 16 buildings. He also commented about the eliminating parking underneath, we have gone to great expense to design condos that accept parking underneath, and there is a lot of additional expense to allow for parking underneath; if it is eliminated you also eliminate storage units; every condo in Pirates Cove has a storage unit underneath and are very important. By eliminating underneath parking what has been accomplished do you really improve the view by dropping the height he does not think so but a huge impact has been made on the building and the use of the building. He commented about the 20,000 square foot size; all the condos have been larger than 20,000 square feet. The Town adopted an ordinance in 2000 to limit the size and a condo was approved after the ordinance went into effect that was larger than the 20,000 square feet. He is not doing anything that is not in keeping with what has always been done and what has always been approved. It is incredible to him that they get to this stage and we have these issues that will totally change the design of this building by size and height and in his opinion if we were to do that it would be like a duck out of water. He hopes that the Board does not accept those conditions but if they do it is really tantamount to rejecting the project. From his stand point it is not

economical or feasible to build this building in accordance with the conditions recommended by the planner. He can deal with the conditions of drainage and dumpsters but the issues on height and size are major issues that would create problems. Mr. Futrell asks that they consider what they have approved many times in the past and what has been done over many years in Pirates Cove.

A 10 minute break was taken at 7:30

Ms. Burke gave the Board her recommendations and after extensive research in the Minute Books of both the Planning and Zoning Board and the Board of Commissioners she has found that the discussion of height did not appear in those minutes. She did find however that there have been conditions placed on the buildings when recommendations have been given to the Board of Commissioners. Staff recommends the following: 1) The Planning Board reaffirm the developer's right to construct up to 30 dwelling units in the area specified as Marina Condominiums on the Master Plan for Pirates Cove PUD as recommended by this Board on January 11, 2005 and adopted by the Board of Commissioners on February 2, 2005; 2) The P&Z Board recommend approval of the 15 units to be called Harbor Place II on the Site Plan dated 2-9-05 and revised 3-16-05 with the following conditions: a) The building be redesigned not to exceed 20,000 square feet of total building area, including porches and decks; b) the building be redesigned so as to conform to the Town's latest guidelines for development c) the building be redesigned to eliminate parking beneath the building; d) the building be re-sited so that this or any future development will not prevent adequate emergency fire access to the marina; and 3) Prior to the issuance of any permits the property line shall be moved to the location as shown on the site plans, so that setbacks are correct.

Chairman Parker commented several issues brought up and would like to discuss these. The first one was the dumpsters; Mr. Futrell commented that he was comfortable with the garbage collection as it is and Chairman Parker asked if he would be comfortable with the condition of no dumpsters on site and Mr. Futrell stated yes. Drainage was discussed and Mr. Futrell would be glad to present the Board with a detailed drainage plan. Chairman Parker asked that Planner Erin Burke hear Mr. Newman's drainage concern and meet with Mr. Futrell to come up with some plan before it goes to the Board of Commissioners and Mr. Futrell agreed. Construction was discussed and it was commented that they have never known them to work on the weekend. Member Woody asked if he was only doing one building and Mr. Futrell commented that he has been approved for two but does not want to commit saying that he is going to build only one. Mr. Futrell commented that the biggest complaint he has was people working on Sunday and he does not see restricting construction as a problem. Member Scarborough commented that he does not think this Board should determine construction times and it should be negotiated between the developer and homeowners as the Town has a noise ordinance. Consensus of the Board was this condition be negotiated between the developer and homeowners. Landscaping plan was discussed and they thought the parking lot could be buffered and Mr. Futrell had no problem with buffering the parking lot. Lighting Plan was discussed and the lighting note comment on the plans stated that all lighting would be less than 100 watts incandescent and should not be a problem. Emergency access was discussed and Member Woody suggested that when Mr. Futrell

meets with Erin and that some type of access be planned. Asphalt/Concrete was discussed and the Board satisfied with what was on the plans. The other issues discussed were the height and Member Woody asked if doing some type of different roof style could lower the height. Mr. Futrell commented that changing the height would make them inconsistent with what has been done for 15 years. Member Woody asked that Mr. Futrell be willing to work with Planning Board on looking into different height options and Mr. Futrell commented he is willing to explore other options. Member Woody commented that she believes they need parking underneath. Member Walker has concerns about the visual height because of its location and would dwarf the houses. It was brought up why change the architect and make it not consistent with what is already there. The Board discussed recommendation by Ms. Burke to eliminate parking underneath and Member Daniels commented they already have parking underneath and would like to eliminate this condition. Chairman Parker would like to recommend to the Board of Commissioner's that a Public Hearing be held.

**MOTION:** Member Daniels seconded by Member Walker to recommend approval to the Board of Commissioners the site plan with the following conditions: building be 1) The building be redesigned not to exceed 20,000 square feet of total building area, including porches and decks; 2) the building be redesigned so as to conform to the Town's latest guidelines for development, 3) the building be re-sited so that this or any future development will not prevent adequate emergency fire access to the marina; 4) Prior to the issuance of any permits the property line shall be moved to the location as shown on the site plans, so that setbacks are correct; 5) no dumpsters on site, 6) provide storm water plan and 7)buffer the parking lot and 8) the third floor be nestled in the roof using gables and dormers **MOTION AMENDED BY** Member Daniels seconded by Member Walker to add The Planning Board reaffirm the developer's right to construct up to 30 dwelling units in the area specified as Marina Condominiums on the Master Plan for Pirates Cove PUD as recommended by this Board on January 11, 2005 and adopted by the Board of Commissioners on February 2, 2005; was approved by the following vote: Ayes: Members Parker, Scarborough, Woody, Walker and Daniels. Noes: None. Absent: None

**MOTION:** Member Daniels seconded by Member Walker to recommend to the Board of Commissioners to hold a public hearing was approved by the following vote: Ayes: Members Parker, Scarborough, Woody, and Daniels. Noes: Member Walker Absent: None

**MOTION:** Member Daniels seconded by Member Walker to adjourn the meeting at 8:35 pm. was approved by the following vote: Ayes: Members Parker, Scarborough, Woody, Walker and Daniels. Noes: None. Absent: None

This the 3<sup>rd</sup> day of May 2005

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Bill Parker, Chairman

ATTEST:

Becky Breiholz, Town Clerk