SPECIAL MEETING HELD BY THE PLANNING AND ZONING COMMISSION FOR THE TOWN OF OCEAN RIDGE, FLORIDA, TO BE HELD IN THE TOWN HALL ON MONDAY, APRIL 15, 2002, AT 8:00 A.M.

The meeting was called to order and roll call was answered by the following:

Commissioner Smith
Commissioner Lee
Commissioner Goray
Commissioner Bonfiglio
Chairman Gimmy

It was noted that Commissioner Bonfiglio arrived at approximately 8:07 A.M.

III. APPROVAL OF NOVEMBER 26, 2002 MINUTES

Mrs. Smith advised that the 6th paragraph on Page 5 should have the word "not" included in the statement made by Atty Spillias and moved to adopt the minutes as amended. Mr. Lee seconded the motion.

Motion carried – Yea (5).

IV. APPLICATION SUBMITTED BY TURTLE BEACH CONDOMINIUM, 5101 NORTH OCEAN BLVD., OCEAN RIDGE FL 33435, REQUESTING A MODIFICATION OF THE MASTER SITE PLAN FROM THE PROVISIONS OF THE LAND DEVELOPMENT CODE, ARTICLE IX; SITE PLAN REVIEW PROCEDURES, SECTION 26-135(a)(4) SITE PLAN APPROVAL OF MINOR OR MAJOR DEVELOPMENT APPLICATION OR MODIFICATION AND SECTION 26-135(b)(2) MAJOR DEVELOPMENT REVIEW FOR WHAT WAS ORIGINALY KNOWN AS OCEAN MAYNE, SANDCASTLES, COVENTRY PLACE AND NOW TURTLE BEACH TO DELETE PHASE 4, WHICH HAS NOT BEEN BUILT AND WHICH IS NOW A SEPARATE PARCEL OF LAND CURRENTLY OWNED BY REPUBLIC BANK FROM THE TURTLE BEACH CONDOMINIUM SITE PLAN. THE PROPERTY ORIGINALLY APPROVED FOR 27 UNITS WAS APPROVED IN 1979 AND SITE PLAN APPLICATIONS SUBMITTED IN 1981. THE PROPERTY IS LOCATED AT 5101 NORTH OCEAN BLVD. OR GENERALLY DESCRIBED AS PORTIONS OF LOTS 14 AND 15, BLOCK "A" OF THE PALM BEACH SHORES ACRES SUBDIVISION (EXACT LEGAL DESCRIPTION LOCATED AT TOWN HALL).

Town Clerk Hancsak read the application by title and advised that all fees had been paid and one item of correspondence had been received. She read a letter from David Layman, of Greenberg and Traurig, attorney representing the owner of the property originally intended to be Phase IV of Turtle Beach Condominium dated February 14, 2002. The letter stated that he was in receipt of a letter Rod Tennyson sent to Gregory Dunham and that he wanted to be advised of the hearing so that he may object to any application since Mr. Tennyson does not represent the owner of the property in question.

He added that Mr. Tennyson's application was very much in the nature of "we've got our density, you cannot have yours".

At this point any individuals planning on providing testimony were sworn in.

Town Manager Dunham summarized his memorandum by stating that Turtle Beach Condominium is requesting to modify their existing Master Site Plan by deleting Phase IV. He commented that Turtle Beach was to be built in five phases and currently only four the phases have been developed. He added that the time period for development of Phase IV under the Town's codes has expired and under Florida Statutes Phase IV is no longer considered a part of the condominium. He stated if the modification was approved Phase IV will not be part of the condominium and would ultimately be developed as a separate parcel that would be subject to all Ocean Ridge Land Development Codes. He concluded by stating that the staff is recommending approval of the applicant's request subject to the condition set forth in the Amended Final Summary Judgement dated January of 2002. It is the intention of this condition that the approval of the requested site plan modification shall not deny or remove vehicular access to the subject property for ingress and egress purposes to and from a public road or roads.

Rod Tennyson, attorney representing Turtle Beach Condominium, showed the diagram of the Site Plan that was part of the agenda packets. He advised that Turtle Beach originated approximately 20 years ago and was approved as a phase development as per Florida Statutes. He added that the statute allows condominiums to be built in phases but they are not bound to build all the phases. He commented that this allows the developer to exercise their option and declare the next option to build and sell. He stated in the case of Phase IV the economy went sour and did not get developed. He stated that the legislature provides that the property can be developed in phases but can not be tied up in perpetuity and therefore a 7 year deadline is part of the statute, which has now long since expired.

Atty Tennyson stated that there have been three developers that have not proceeded with development and the last one defaulted on the mortgage and Republic Bank now has title to the property. He stated that based on a court ruling the eventual owner of the property would have access to the property and also the right to tie into the sewage treatment plant for Turtle Beach. He added that Republic Bank also wanted rights to the recreational facilities and common amenities, however, the judge ruled that they have no right to join the condominium. He stated that Republic Bank never argued on this point, probably because they did not want to pay assessments.

In conclusion he stated that Turtle Beach would like to amend their Site Plan to show that Phase IV is not a part of their development and added that there is no current developer and Republic Bank is not a successor developer. He added that Turtle Beach wanted their Site Plan to conform to the recent rulings of the court because Republic Bank will sell the property and everyone should be made aware of the current situation. He also stated that any new developer would need to conform to the current code.

Mr. Lee clarified that all the legal issues have been settled.

Mr. Goray questioned Republic Bank's position to which he advised that a representative for the bank was present and would address this Commission. Mr. Goray asked if there was a secondary means to access the property and he was advised that there was a pedestrian entrance from Old Ocean Blvd. and vehicular access through SR A1A. He also clarified that the property could utilize the sewage treatment plant.

Atty Spillias reminded the Commission that it was staff's recommendation that if both the P & Z and Town Commission approve the modification that it should be with the condition that vehicle access be preserved.

Mr. Bonfiglio stated that he felt the Town did not have much of a choice after reading the material. Atty Spillias advised that even if the request were not approved the Town would still view this property as a separate parcel and would need to comply with the current codes because of the expired time limit. Atty Tennyson advised the members that Turtle Beach did not want to change the density of the property.

David Layman, attorney representing Republic Bank (now Wachovia), stated that he disagreed with Atty Tennyson in that he felt the issue was definitely about density because the Site Plan shows 5 units and if the parcel is removed then only 1-2 units could be built. He added that Republic Bank has tried for four years to work with Turtle Beach and after meeting with negative results they took the matter to court and won. He also stated that he felt it was in everyone's best interest to agree to some sort of easement and let them be included for all common expenses. He added that the court did not make a ruling on the Site Plan itself and he felt that the owner of the vacant parcel is the correct party to bring forth this application. Atty Layman also stated that he has observed that the notices were sent out from 300' of the Phase IV parcel and not the entire Turtle Beach Condominium area.

Mr. Bonfiglio asked if the application and notice requirements being defective was discussed with either attorney to which Atty Spillias advised that there was no discussion. Mr. Bonfiglio stated that he felt this due process issue should be resolved prior to any decision being made. Atty Spillias commented that he was unsure if the notice requirement could be resolved for this meeting. Regarding the application submittal Atty Spillias stated that he did believe that Turtle Beach Condominium has the right to ask for a modification to their Site Plan and if future negotiations take place then the property could be added back in at a later date. Atty Spillias also stated that Republic/Wachovia hopes that if the modification is not approved then they can be approved for 5 units, however, the parcel size will determine the amount of units permitted because our code provides for time limits.

Atty Spillias commented that the notice requirement issue could be dealt with in two ways. The Commission could either postpone the meeting to a date certain or if they are inclined they could recommend granting the Site Plan modification to the Commission

provided the notice requirement was done properly, otherwise it would be re-noticed and started again.

Rosaleen McKenna, 5109C, Helen Goldstein, 5109F, and Bill Canning, 5101A North Ocean Blvd., all residents of Turtle Beach, requested that the Town consider this request promptly and favorably because this issue has been ongoing for a long time.

Atty Layman again stated that he did not feel the applicant is correct in filing this request because it would be similar to someone's neighbor requesting a zoning change for your property.

Mr. Goray stated that he could not see how the Commission could deny the request considering the way the state statute is written. Atty Layman commented that after 7 years it could still be made part of the Site Plan because there are other ways to negotiate utilizing the parcel and common areas. Mr. Goray stated that he felt his client should negotiate directly with Turtle Beach Condominium.

Chairman Gimmy questioned if Turtle Beach Condominium has ever tried to negotiate the purchase of this parcel through the years. Atty Tennyson stated that they have attempted to purchase the property through the formal and informal process. He added that he believes that there is a pending contract again on the property. Mr. Bonfiglio asked Atty Layman if he wanted to share if there was a pending contract to which Atty Layman stated that he was not at liberty to discuss this.

Mr. Bonfiglio commented that he felt Atty Layman had a good point regarding the due process issue and he felt the Commission should defer this item until that is determined because he would not want a decision reversed in the future. Mr. Bonfiglio requested that Atty Spillias research if there is any case law regarding the correct applicant for this type of request prior to the next meeting.

Mr. Bonfiglio moved to continue this public hearing on May 20, 2002 at 8:00 AM. Mr. Goray seconded the motion.

Motion carried – Yea (5)

Prior to the adjournment Chairman Gimmy thanked Town Manager Dunham for his service to this Commission and the Town and wished him luck in his future endeavors. The Commission wished him well.

V. ADJOURNMENT

The meeting was adjourned at approximately 8:50 AM.

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Chairman Gimmy

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Town Clerk