

## Town of Emerald Isle Special Planning Board Minutes

**December 9, 2002**

The meeting was called to order at 7:00 P.M. by Chairman Art Daniel. Members attending were: Art Daniel, Pam Minnick, Ed Dowling, Frank Erwin and Pat Patteson.

Chairman Daniel requested that the members review the memo he had prepared for the meeting. The memo stated: “at its November meeting the Planning Board unanimously approved the final plat for Sunset Harbor Lot #5, a six-unit condominium complex. The approval was granted subject to the building being completed or substantially completed prior to the final plat being considered for approval by the Town Board. The building does not presently meet the degree of completion envisioned by the Planning Board, and the Town Board will consider approving the final plat at its meeting tomorrow evening. This special planning board meeting was called to allow the Planning Board to change or affirm its recommendation”.

Chairman Daniel said that the members needed to determine if the conditional approval of the final plat of Sunset Harbor #5 was appropriate and if not what subsequent action is deemed to be appropriate.

Chairman Daniel referenced the wording of Sec. 18-41 (b) of the subdivision ordinance which applies to condominiums and other group housing, and provides for both preliminary and final plats and other documents required by the ordinance to be **submitted** for approval to the Planning Board and the Board of Commissioners in **the same manner** as preliminary and final subdivision plats.

Chapter 47C North Carolina Condominium Act addresses the safeguard of life, health, property, etc. and this was what concerned Chairman Daniel.

Chairman Daniel offered the following for consideration by the Board:

- 1) The Board rescind its November 25<sup>th</sup> conditional approval of the final plat for Sunset Harbor, Lot #5.
- 2) The Board grant approval of the final plat for Sunset Harbor, Lot #5 with the following two conditions:
  - (a) The declarants’ engineer must certify that the building is substantially complete.
  - (b) No closing is to take place until the Certificate of Occupancy for a particular unit is issued.

There followed discussion between Planning Board members and Messrs. Farrington concerning the conditions mentioned above and in the attached memo.

Motion was made by Pat Patteson and seconded by Ed Dowling to approve as presented in the attached memo and as follows:

1) The Board rescind its November 25<sup>th</sup> conditional approval of the final plat for Sunset Harbor, Lot #5.

2) The Board grant approval of the final plat for Sunset Harbor, Lot #5 with the following two conditions:

- a. The declarants' engineer must certify that the building is substantially complete.
- b. No closing is to take place until the Certificate of Occupancy for a particular unit is issued.

There being no further business before the board, motion to adjourn was made by Pat Patteson, with unanimous approval in favor of the motion.

7:25 P.M.

Respectfully submitted:

*Rhonda Ferebee*, acting Secretary  
Town of Emerald Isle

December 9, 2002

MEMO TO: Planning Board Members

From: Art Daniel

SUBJECT: Special Planning Board Meeting/Sunset Harbor, Lot #5, Final Plat

As you know, at its November meeting the Planning Board unanimously approved the final plat for Sunset Harbor Lot #5, a six-unit condominium complex. The approval was granted subject to the building being completed or substantially completed prior to the final plat being considered for approval by the Town Board. The building does not presently meet the degree of completion envisioned by the Planning Board, and the Town Board will consider approving the final plat at its meeting tomorrow evening. This special planning board meeting was called to allow the Planning Board to change or affirm its recommendation.

Sec. 18-41 (b) of the subdivision ordinance, which applies to condominiums and other group housing provides for both preliminary and final plats and other documents required by the ordinance to be **submitted** for approval to the planning board and the board of commissioners in **the same manner** preliminary and final subdivision plats. I had interpreted the wording in this section to mean “all improvements are to be complete or substantially complete in the same manner as subdivisions.” I overlooked what the words were telling me in my effort to be assured that the life, health, property welfare of the public were being safeguarded. After reading and rereading this section, it finally became apparent to me that the words “**submitted for approval to the .....in the same manner as**” did affirm my conclusion regarding “**complete or substantially complete.**” Perhaps my ingrained “due care and regard for acceptable engineering principles and standards” closed my mind to the meaning of the words as I read them.

The 40 page NCGA General Statutes–Chapter 47C North Carolina Condominium Act addresses the safeguard of life, health, property, etc. that I was concerned about. Therefore, I offer the following consideration by the Board:

- 1) The Board rescind its November 25<sup>th</sup> conditional approval of the final plat for Sunset Harbor, Lot #5.
- 2) The Board grant approval of the final plat for Sunset Harbor, Lot #5 with the following two conditions:
  - (a) The declarants’ engineer must certify that the building is substantially complete.
  - (b) No closing is to take place until the Certificate of Occupancy for a particular

unit is issued.

FYI: I have talked by phone with two attorneys whose practice includes real estate, communicated E-mail with Frank Erwin, our attorney member and with Mike Harvey, the Town's planning consultant. I have also talked on the phone with Frank Rush, Town Manager. However; they are unaware of the contents of this memo.

I look forward to the discussion concerning this matter. Thanks.