

# Sunset for Hatteras Village?

## A condo project on the southern tip of Hatteras Island has townfolk wondering if the end is near

by Hal Herring

Years from now, visitors may never know that Hatteras Village was once a strong, functioning town of working people, commercial fishermen and artists, storekeepers and doctors and boatbuilders. They may never know the rugged history of the place, or why, for centuries, the same families stayed on here, on this spectacularly exposed chain of sand islands--40 long, rough miles of saltwater between them and the protection and wealth of the North Carolina mainland. By then, perhaps, Hatteras Village will have been transformed from a community of hardy and independent-minded souls into a high-density cluster of condominiums and palatial "rental machines" for vacationers, with few or no permanent residents, serviced by a small army of seasonal workers who will commute each night to apartments in some affordable gulag far away, invisible as the subterranean workers of Disney World.

But first, there will be a struggle. The fate of Hatteras Village seems to hinge on one proposed high-density development of about six acres on a spartina grass estuary known as The Slash, right at the north edge of town on the sound side of the island. Prominent developer Skip Dixon of Nag's Head, and his partner, state Sen. David Hoyle of Gastonia, plan to build a 45-unit condominium complex on the site. The Dixon/Hoyle Project, also known as the Slash Creek condominiums, features a 46-slip marina, swimming pool, and its own, private, "package facility" for treating waste. Residents of Hatteras Village say that the Slash Creek condominiums project,

coming in the wake of a flood of other extremely high-profile developments by Dixon and other developers, is the straw that broke this particular camel's back. They are prepared to fight a final battle for their town, and they have met two worthy adversaries in Hoyle and Dixon, successful men of business who have clear battle plans of their own.

"We were just living our lives, never realizing that something like this could happen to us," said Ricki Shepherd, who has run the Hatteras Harbor Seafood and Deli for the past two decades, and is current president of the Hatteras Civic Association ("Not a job coveted by anyone," Shepherd notes). "The development here has just been insane. As a community, the Slash Condos project has shown us the line that we have to draw if we are going to survive. This is the final line." The 10-member Hatteras Civic Association has unanimously condemned the Slash project, perhaps the only time in living memory that the association has been unanimous about anything, Shepherd said.

The Outer Banks has always been a place where the word "unanimous" had no meaning, and residents tend to like it that way. It is a measure of the attraction of this harsh and exposed place that the same family names present in the census of 1850--Midgett, Burrus, Willis, Oden, Ballance, Austin--crowd the narrow telephone book of 2003. They have been joined, especially in the past 40 years, by others who seek the increasingly rare combination of isolation and the sea--surfers, working artists, fishermen of various stripes, water-

men displaced from coasts destroyed by development, and people who just want to be left alone. The Outer Banks is still a far edge of the world and, like frontiers everywhere, it is inhabited by men and women who value hard work and individual freedom, who are suspicious of government, adamant about private property rights, and reluctant to meddle in other people's business plans. The membership of the Hatteras Civic Association includes descendants of the original settlers--Bill Ballance, Durwood and Virgil Willis, Jane Oden--who hold strongly to those values, and who probably would not describe themselves as environmentalists. For a long time, the go-your-own way individualism of the Outer Banks, the lack of any unified vision, was a strength, part of the rich culture of the place. Now, a convergence of events has made it a profound Achilles' heel.

Coastal conservationists say they watched the slowing U.S. economy with optimism at first, hoping that it would put the brakes on out of control development in ecologically fragile and very finite places like the Outer Banks. But quite the opposite has occurred. Wary investors have found coastal real estate and low interest rates to be the best antidote to their anxiety. Population growth in Dare County, which includes the Outer Banks, is double the average for North Carolina, which is itself experiencing growth double the national average. The average cost of the homes being built in Dare County--1,144 of them in 2002--is 50 percent higher than the average for the state. Jan Deblieu, the Cape Hatteras Keeper for the Coastal Federation and a longtime Outer Banks resident, explains, "When that market started to fall after Sept. 11, we started to see a wave of new development. Now it has built to the point where we are under siege here. There doesn't seem to be any restraint at all."

Life on the Banks, as chronicled by talented historians like David Stick, or by storytellers like Ben MacNeill, who wrote *The Hatterasman*, or by Deblieu, who wrote *Hatteras Journal* in 1987,

has always been hardscrabble, a battle for existence in a place where the most violent and the most giving elements of the planet meet and converge. Hatteras Island is one of the few places on earth where both the superheated Gulf Stream, and the Labrador Current, a frigid soup of creatures swept from the northern seas, collide, creating world-famous surf fishing, and creating that mariner's nightmare, the 12-mile-long maelstrom called Diamond Shoals. The Banks are swept by hurricanes and storm tides, assailed by winds that determine the course of activity of every single day of a commercial fishermen's life. Those same winds and currents can also be fantastically benevolent, producing gin clear seas, warm calm days in February, breezy summers, a surf and sound alive with gamefish, oysters, crabs, the vast wealth of the saltwater that has attracted human beings to this far edge since long before Europeans ever set eyes upon it. Through the years, fortune seekers have come here and opened up whaling stations, porpoise fisheries, terrapin dredges, seaweed harvesting operations. Most of them have gone away empty handed. Until the recent real estate boom, very few people have ever gotten rich on the Outer Banks.

Nag's Head has already been pretty much built to capacity, and land prices are astronomical, even in comparison to some selected lots on Hatteras Island, which are now on the market for as much as \$875,000 for less than half an acre. Such prices preclude the traditional moderate-sized family beachhouses that were built over the past decades, which housed hardcore sportfishermen and seekers after unspoiled beaches (some of which are still preserved by the Cape Hatteras National Seashore, a vast 70-mile-long entity whose existence has enraged free-market devotees and many local residents since it was established in 1953; the public access to those miles of undeveloped beaches, and the fact that the land for sale is limited by the National Seashore is a major factor in producing such high land prices). Instead, the Banks have

become a playing field for non-resident investors, who expect a solid return on their money.

The answer--build what angry residents call "mini-hotels" or "rental machines." These houses are still termed "single-family dwellings" under the law, but it is highly unlikely that a single family will ever inhabit them, since they have as many as 16 bedrooms, 14 bathrooms, and in some instances, elevators and movie theaters, and rent for as high as \$9,000 a week. Clearly, the clientele for such rentals, and the community infrastructure that they expect, differs from the beach buggy-driving bluefish and channel bass fishermen who once dominated tourism here.

Residents like Ricki Shepherd say the out-of-control development is about to kill the goose that laid the golden egg for the Outer Banks. "What we have offered to visitors," said Shepherd, "is a healthy fishery, and a unique and historic place, and both of those things are being destroyed. When the developers are finished with us, we'll be just like the Jersey shore, and then why will anybody want to come here? They can just stay up there in New Jersey and have the same damn thing."

Dare County has some of the least restrictive zoning regulations on the East Coast of the United States. Richard Midgett, whose family came to the Banks as early as 1722, says this is true because residents wanted it that way. "The opposition to zoning has always come from our fishermen, who didn't want people telling them they couldn't have nets and boats or crab pots out in their yards," Midgett said.

Midgett and his family have created a successful real estate development business on the Outer Banks, and he lives across the Slash from the Dixon/Hoyle project. He points out that, whatever reservations he may have about the Slash project, the developers have the right to build whatever they decide will be most profitable. "The people have failed to agree on any kind of planning, year after year, so this was bound to happen," he said. "Skip Dixon saw prices in Nag's Head and Kill

Devil Hills going through the roof, and we were still pretty much undiscovered down here, so he headed south."

Neither Skip Dixon nor Hoyle expected to be greeted with opposition in the community. Dixon was already selling lots on a development called Hatteras Harbor, in the town, complete with a planting of non-native palm trees that raised the hackles on some residents. Ricki Shepherd and others jokingly call the development "The Lonesome Palms," but no one from the civic association voiced opposition to it. But, said Shepherd, when the civic association realized that the Slash property had been sold to developers, they were worried. In March 2002, Shepherd called Hoyle at his office in Raleigh to discuss the possibility that the Hatteras Civic Association could purchase the property from him and Skip Dixon. "At first, Senator Hoyle was very polite. He said that he owned a house down here, and wanted to do what was best for the community. We agreed to talk again in 10 days." When Shepherd called him back 10 days later, she got a very different reception. "Hoyle just said, 'We're going through with the development. We'll do whatever we have to do to make it happen.' I was taken aback by the change in his voice, but I just said, 'We'll do what we have to do, too,' and hung up, trying to figure out what went wrong."

What went wrong, according to Hoyle, is that letters from some Hatteras residents had been sent to state permitting agencies, voicing opposition to the development. Hoyle also says that letters were sent to the Gaston Gazette and other newspapers, alleging that he was using, or would use, his influence as a six-term state senator to expedite the permitting process for the project. Hoyle was, and remains, outraged at the allegations that he would abuse his position as a legislator, and says the attitude of the residents changed his mind completely about how the project would be conducted.

"It's a matter of principle now," he said. "I've developed properties in Texas, in Atlantic Beach, North Carolina,

all over. I've done this for 30 years and I've never had anything like this happen. And the funny thing is, we could have helped the Hatteras Civic Association. When we were building in Atlantic Beach, the town needed a fire truck, so we bought them one. We bought the fieldhouse for a high school in Myrtle Beach. But that's not going to happen here. The money that could have done something like that is going straight to our lawyers."

Inquiries about the letters to the Gaston Gazette and other newspapers found no evidence that they were received there, or if they were, reporters did not follow up on the allegations. Ted Sampson, at the North Carolina Division of Coastal Management, the agency that issues the primary CAMA permit for coastal developments, said that he had indeed received "an outpouring" of letters and phone calls from the public concerning the environmental impacts of the proposed marina at the Slash development, "but we did not get anything in writing that would question Senator Hoyle's involvement in the permitting process." Sampson adds, "This is the most citizen response I guess I've ever seen, but as I understand it, the Slash is a sensitive, valuable estuary, located right beside an ecologically important inlet, so the public involvement is welcome."

Hoyle says that he and his partner will comply with all environmental regulations, but that it bothers him that environmental considerations are being used as a blockade simply because some residents don't want the project to go through, and they have no other way to say so.

"Now they are using the environment as the issue to try and stop us, but everybody knows exactly what the issue really is. Ten years ago these same people said 'hell no' to zoning. They didn't want anybody telling them what to do with their property. They want to blame me for raping the place, for doing something bad, when the whole blame rests with them. I'm a private citizen, trying to make a living. I didn't take a vow of poverty when I signed on

at the legislature. I put my occupation right down there. I'm proud of what I do."

The people who are opposing his project are actually lucky that he and Dixon bought the property, Hoyle said. "You could put anything on that place. I could build myself a nice Putt-Putt golf course in there if I wanted to. Have a big orange tiger's ass revolving around for people to hit balls into. Or some go-carts, how about that? Run 'em at 1 in the morning. But I'm not doing any of those things. I've got to build something nice so we can sell it and make some money. Those people are saying they are drawing the line in the sand, I say fine, just draw it on the other side of me."

Hoyle's partner Skip Dixon has a local reputation for being an aggressive and successful developer. He is a very plainspoken man who tends to let the chips fall where they may.

"We have a small, vocal group of very nasty people in Hatteras, and we've had a bellyfull," Dixon said. "We feel that what we are doing is within our rights, and we are not going to sell the property, or donate the property to anybody. We've tried to please these people, and there's no way to do that, so fuck 'em. I'll eat that property grain by grain before I'm forced by a bunch of obstructionists to do anything that I don't want to do."

Dixon said that, contrary to what some Hatteras residents seem to believe, Hoyle's political position has actually been a hindrance to the project. "Because of his position, we cannot just go to the agencies ourselves and check on the progress of the permits. We have to go through engineers and lawyers, and it takes so much more time. It is extremely frustrating." Like Hoyle, Dixon reminds the people opposing his project that the lack of zoning gives him a lot of options. "I can build whatever I want. I can put a crematorium in there, whatever. I can cut that land into 10 lots, build a 10 bedroom house on each one, and put it all on a septic tank, let the wastewater pour right down into the ground. Instead, we've got a multi-

family development, with its own wastewater treatment plant. Believe me, if you really care about the environment, you'd support our project, not oppose it."

But the planned wastewater treatment plant worries residents, too. Some of the oldest houses in Hatteras Village have holes drilled in the floors (usually covered by rugs) to drain away floodwaters. According to Ricky Shepherd, the site of the Slash project has been completely flooded by storms six times in the last 12 years. The developers are adding several feet of fill to the area, which will displace some of the floodwaters ("To where?" Shepherd asks, and answers her own question. "Into the rest of the village, that's where") in future storms. But in the aftermath of Hurricane Emily in 1993, state floodplain maps were revised to place all of Hatteras Village within the 100-year floodplain. A combination of storm surge and rainfall during Emily caused floodwaters that were described as "waist deep" in the village. "Waist-high waves broke through windows and rolled through living rooms," wrote Jay Barnes in his book, North Carolina's Hurricane History. Surveys taken during Emily's storm surge showed floodwaters as high as 6.98 feet. Joe Lassiter, an environmental engineer hired by Dixon to oversee and develop the treatment plant, says that the planned treatment facility will be built one foot above what is called "the base flood elevation," of 6 feet, as required by law.

Such "package facilities" for wastewater treatment have a mixed reputation. At best, they represent what Rick Scheiber, of the North Carolina Division of Water Quality calls "a compliance challenge." That challenge becomes greater, Scheiber says, once the plants become the property of the homeowners. "You need the expertise, and everybody has to contribute the money, to keep these plants operating to standard," he said. "Sometimes the homeowners are able to do that, sometimes they aren't." He adds, "A lot depends on how sensitive your site is, how much land you've got for disper-

sal, how close to the water it is.”

Initially the development plans called for dredging a 1,500 foot channel through the Slash estuary to permit passage of boats into what the developers call “the marina body.” The public reaction to this proposal was angry and immediate. At a town meeting in March 2002, resident Raymond Austin addressed a representative of the developers, “We’ve got enough erosion on the beach and on the soundside. Now you want to dig up the center of our village? ... The bottom line, it’s greed.” Written comments from state and federal agencies (such as the National Marine Fisheries Service) made it clear that the developers faced their most significant hurdle with the dredging proposal. The developers eliminated that hurdle by simply dropping the dredging proposal from the project. But both Hoyle and Dixon said that they would still build the marina, even though the estuary is only 1- to 3-feet deep, and most boats will not be able to enter or leave it.

Dixon said that in dropping the dredging request, they are simply trying to guide their project to completion against outrageous and irrational opposition.

“I’ve got one woman down there, Jane Oden [of the Hatteras Civic Association], whose family owns three docks,” said Dixon. “And she’s fighting us over a little marina with a bunch of outboard boats. What can you say to that? We’ve got a federal agency saying that creek is manatee habitat. A manatee couldn’t get up that creek if it was walking upright. Do you see how ridiculous this is?”

With the dredging question out of the way, the North Carolina Division of Coastal Management issued a FONSI (finding of no significant impact), allowing the clearing and filling of the property to begin.

According to Doug Huggett, of the Raleigh office of the Division of Coastal Management, it is not particularly unusual for developers to drop controversial permit requests in order to keep a project moving. “There is nothing to stop them from revisiting

this permit later,” Huggett said, “and it is very likely that they will.” Many Hatteras residents believe that Dixon and Hoyle plan to build the marina and sell the condominiums, and then let the buyers pressure state agencies for the dredging permit.

In January 2003, following a record-breaking snowstorm and during a long period of cold and violent wind, a team of local excavators hired by Hoyle and Dixon moved onto the Slash property. The trees on the property were very old, the live oaks interlocking in places, trained by the wind and salt to dense, tent-like shapes that sheltered the understory from both freezing winds, blowing salt, and the summer sun. Residents of the village had kept the yaupon and other brush cut back so that the property provided access in places to the water of the Slash. In other places, paths meandered under the protection of the trees, leading to grassy clearings that once had been grazed by stock, and where big weather-twisted red cedars grew. The bulldozers made short work of the woods, rooted as they were only in sand, and made huge, orderly piles of them, like islands on a smooth sea. The clearing of these trees, in a place where trees have always been valued as protection from the elements, was so dramatic that cars slowed down on the highway in front of the property to watch. Photos of the piles of trees and brush appeared in the *Coastland Times* and the *Island Breeze*, along with angry and disheartened letters to the editors.

A lot would happen during the first two months of 2003. Work on filling the property was halted after Dennis Hawthorne, of the Division of Coastal Management, found that the excavators were dumping fill outside the permitted area, at the edge of the Slash itself. Hawthorne issued what would be Dixon’s fifth environmental violation since 2001.

One afternoon in February, in the pouring rain, Hawthorne walked along the silt fence that was built to prevent the fill from entering the black needle rush and spartina grass at the edge of the water. “You know,” he said, “I

recommended an EIS (environmental impact statement) for this project. Anybody can see that this is sensitive wetlands. But the office in Raleigh decided against it.” He looked out over the clean-shaven property. “This guy is a bulldozer. There’s no real excuse for the way he talks to me when I have to meet with him. But he’s a rich man. He must know what he’s doing.”

The Hatteras Civic Association met in February and, in another unanimous vote, approved zoning and planning regulations that would prohibit any future high-density developments like the Slash condominiums. The vote would have no effect whatsoever on either of Hoyle and Dixon’s projects in the village, but it showed clearly how things had changed. “I guess you could say I did the community a favor,” said Hoyle. “They finally have some control over their own destiny.”

Captain Ernie Foster lives on a quiet side street in Hatteras Village and operates the Albatross Fleet of charter boats. His father, Ernal Foster, founded the fleet in 1936 and was a pioneer of big game fishing, the first captain to run charter boats out of Hatteras and one of the first captains to advocate catch-and-release angling. Ernie Foster was mate on the Albatross boat that caught the then-world record blue marlin off Diamond Shoals in 1962, the mounted marlin that is still displayed in a glass case in front of the Hatteras Library. He taught school in Raleigh for a decade, and in the Dare County schools for 20 years before returning to fishing.

In July 2002, Foster wrote a guest column for the *Island Breeze* that was called “Thoughts on watching a village die.” The column was the most articulate explanation of what development, as typified by the Dixon-Hoyle project at Hatteras Harbor, and the proposed Slash project, was doing to Hatteras. In an interview shortly after the clearing of the trees on the Slash property, Foster explained why he wrote the column, which he knew would infuriate at least some of the people with whom his family had shared the island for generations.

"The situation had reached the tipping point," he said. "It is like a fire--there is that certain moment when everybody decides to run. I had one of our county commissioners say, at a public meeting, that it was OK to criticize these developments, but I should recognize that other people feel differently. And I looked around, and everybody at the meeting opposed the Slash project. Everybody says no, don't let it happen. Where are the ones that feel differently? Where are the people that say 'We want less salt marshes, less trees, more condos?' Is there anybody, other than Hoyle and Dixon, who wants to see this happen to our town?"

Foster said that for the first time in the history of Hatteras, the tax base was high enough that they didn't need any more development to bolster their finances. "Our tax base is no longer predicated on growth. Imagine that. We said yes to everything for as long as anybody can remember, because we were poor. In some ways, that made our town better, our lives better, but now it has turned, and turned fast." Foster pauses. "I know that I have lived too close to this to be objective about it. One of our commissioners said to me, 'There are always a handful of people that cause trouble about these things, then they get built anyway, and everybody adjusts.' But you can't adjust to this. These guys literally and figuratively bulldoze their way to whatever they want, and they don't care about the fallout. We are the fallout--you can't even afford to live where you were born. If your children want to live here, they can't, because you'd have to be a millionaire to buy a house. There's no fishermen, no mechanics, nothing, because where would they live? Those condos and those 16-bedroom rental houses have another cost that they don't want anybody to talk about, and that cost is the death of my community."

Already, land prices are so high that older houses in the village are for sale to buyers who will jack them up and move them away, allowing the land underneath them to go on the market to investors, who will build "rental ma-

chines," Foster said. "Last year, my wife and I traveled to Africa to see some of the wildlife. We passed through a part of Zimbabwe where there had been all the land confiscations and the fighting, and it was weird to me, but I couldn't help but think of my hometown. I do not want to seem overly dramatic--I don't want to compare fire and killings with what is happening here in Hatteras. But I can tell you that the result--the extermination of a place, and of a way of life, is the same. The towns are wrecked, and something ugly is coming in to replace them. You know, my family always said that we were just too remote here to attract the wealthy. What we didn't foresee was that the wealthy would send their money here from far away and just cash in on us."

"I have been able to see some of the humor in this," he continued, "if only as a way to keep from going crazy. I can look over there at those palm trees at the 'Lonesome Palms' and try to imagine what they must have been thinking when they planted them there. But the arrogance of this whole development, the idea of a senator, with the power structure behind him, doing something like this. É You know, after I wrote the column for the *Island Breeze*, a friend of mine at the restaurant overheard a local realtor, a guy that I have known all my life, say 'Yeah, I read it. That Ernie Foster! Just when we get to the point where our land is finally worth something, he wants to wake up in the morning and hear the birds sing!' Well, I have to admit, I am guilty of that!" Foster raises both hands, as if surrendering. "Guilty!" he repeats, and collapses with laughter.

Until the ferocious hurricanes of September 1846 opened the Hatteras Inlet (and the Oregon Inlet at Nag's Head), Hatteras Village was just a collection of land grants on a narrow spot in the Banks, grazed by the livestock of the Ballance and Stowe and Rollinson families, who had already been there for a hundred years. The land was heavily timbered with pine and oak, home to flocks of cedar waxwings, a few whitetailed deer, and to creatures

like the Ocracoke kingsnake, which is still found on the Outer Banks and nowhere else on earth. Like the human inhabitants, there were many animals and plants from far away that were tossed ashore by the ocean and took root and became natives. A century and a half later, in the last week of February 2003, odd tracks in the sand on the beach at Frisco, just north of Hatteras Village, revealed the presence of an errant seal, swept by winds and currents from the northern seas. Near where the seal came ashore, the surf tossed and broke over a wide strip of asphalt that had once been a parking lot for a beach access, less than a decade ago, when the land was wider.

There are many people now, Ernie Foster among them, who believe that the banks are dwindling, that they were built over eons by the pumping of sand and mud from the great rivers of North Carolina, rivers that are now dammed deep on the mainland and subjugated to the needs of mankind. Other theorists believe that the Banks are maintained by periodic overwash, storm surges that transport sand from one side to the other, creating a kind of slow-motion perpetual migration. Nobody really knows the answer. The world of Hatteras Island, 40 miles out at sea, is still a mysterious place. Fortune seekers are still drawn to its possibilities. They have come up against people who view their own fortune as the place itself, as it exists right now, in a crowded and homogeneous world growing more so by the hour. The Outer Banks may move east or west, may overwash, may disappear or grow more solid, but in the short term, in Hatteras Village, someone is going to prevail, and someone is going to lose.