



**MINUTES
TOWN OF HILLSBORO BEACH
BOARD OF ZONING & APPEALS MEETING
JULY 6, 2021**

9:00 A.M.

CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Deborah L. Tarrant called the meeting to order at 9:00 a.m. Roll was called with the Commission members and staff present as listed below.

Town Commission:

Mayor Deborah L. Tarrant
Vice Mayor Irene Kirdahy
Commissioner Jane Reiser

Commissioner Barbara Baldassarre
Commissioner Vicky Feaman

Town Staff:

Mac Serda, Town Manager
DJ Doody, Town Attorney
Sherry D. Henderson, CMC, Town Clerk

Also Present:

Jim Hickey, Development Planner with CG&A Solutions
Debbie Orshefsky, Esq. with Holland & Knight, LLP
Charlie Carreno, Director of Development with BNH IV TRI, LLC

I. QUASI-JUDICIAL PUBLIC HEARINGS

- A.** Conditional Use Request Submitted by Debbie Orshefsky, Esq., with Holland & Knight LLP, Authorized Agent for BNH IV TRI, LLC – Hillsboro Beach Resort, property Located at 1159 Hillsboro Mile, Hillsboro Beach, FL 33062.

Town Attorney DJ Doody swore in all those giving testimony at the hearing.

Jim Hickey, Development Planner with Calvin, Giordano & Associates (CG&A) presented the item. He explained the applicant, BNH IV TRI, LLC – Hillsboro Beach Resort, formerly known as Seabonay, was requesting Conditional Use Approval to permit a restaurant with beer, wine, and alcoholic beverage service within the Hillsboro Beach Resort, pursuant to Ordinance No. 2021-03. He stated building permits were originally submitted in 2018. Mr. Hickey reviewed the criteria for Conditional Use established in the Ordinance and explained the staff analysis of the application.

Mr. Hickey discussed concerns regarding people attending events at the Hillsboro Beach Resort who were not staying at the hotel. He stated that at this point, staff is not comfortable with how the event space would function. He noted concern regarding adequate parking. Continuing, Mr. Hickey stated that staff believed the Conditional Use would enhance the hotel and asserted that the project was consistent with the Comprehensive Plan. He discussed harmony with the surrounding community.

Mr. Hickey stated staff was recommending that the application not be approved at this time to allow for further review of the event space and to work with the applicant to address how the existing requirements for parking were being met and how the event space would be integrated. Mr. Hickey added that if Commission wished, the restaurant and bar could be approved separately from the event space.

Mr. Hickey noted seven (7) conditions recommended by staff if the application were to be approved, including:

1. Provide a parking demand study that shows that the current supply of parking accommodates all of the proposed uses for the resort.
2. Hours of operation for the restaurant shall be limited to 7 a.m. to 10:30 p.m. daily.
3. Any outdoor music associated for the resort shall be limited to the times food and alcoholic beverages are served onsite. No amplified music is allowed in the outside areas of the resort.
4. No food or drinks shall be prepared outside the resort building at this time.
5. The Town Commission may wish to re-evaluate the conditions of approval within one (1) year from approval.
6. Applicant shall work with the Town to establish trash pick-up relative to the restaurant facility.
7. For any hotel sponsored event or any special event, the owner must contact the Town staff within three (3) working days of the event to determine if an off-duty officer is required.

Commissioner Reiser asked the maximum capacity of the proposed event space as allowed by fire regulations.

Steve Mitchell, Town Building Official, explained in the use contemplated, the fire safety requirement would be approximately five (5) square feet per person.

Commissioner Reiser noted that parking would need to accommodate the full number of people permitted, including staff. Discussion ensued regarding hours of operation.

Debbie Orshefsky testified that the applicant would like to withdraw the request for the special event space at this time. She shared an updated graphic, limiting the restaurant to 3,107 square feet. She stated the second-floor event space would still be fitted out but would not be used as event space until such time as the applicant returns to the Town Commission for approval as required.

Ms. Orshefsky discussed the age of the building and explained the applicant had virtually rebuilt the hotel to turn what was a run-down building into a full-service boutique hotel. Continuing, Ms. Orshefsky noted that the use did not include a bar, and alcoholic beverage service would be supplementary to the restaurant. She stated that hotel guests only would be permitted to use the service, and there would be no outdoor food or drink prep. She noted speaker locations for ambient music which would not leave the site. Ms. Orshefsky stated all staff conditions were acceptable to the applicant except condition one (1), which she believed was no longer applicable with the removal of the event space from the application.

Ms. Orshefsky commented on the parking questions, stating there were 72 rooms and 80 on-site parking spaces. She added that the project had received its Temporary Certificate of Occupancy (TCO) the previous Friday and a grand opening was tentatively scheduled for Labor Day weekend. Ms. Orshefsky noted the traffic study completed had determined that putting a restaurant on-site reduced the trips associated with the hotel.

Commissioner Baldasarre asked how many employees would be on site per shift.

Ms. Orshefsky responded that there would be approximately 15 employees per shift and stated that a plan was pending to offer employees a shuttle.

Commissioner Baldasarre asked if valet parking would be used.

Ms. Orshefsky stated that valet parking was not planned for the hotel.

Commissioner Baldasarre asked if some of the 80 parking spaces were across the street.

Ms. Orshefsky responded that they were. Discussion ensued regarding historical issues with hotel guests parking on other properties and off-premises alcohol consumption.

Commissioner Baldasarre expressed concern guests would order drinks at the bar and then bring them across the street to enjoy the view. She stated she did not want the community to be impacted by that. She added that she supported the addition of a restaurant and bar and had from the beginning. Commission Baldasarre agreed with Mr. Hickey's assertion that it was unrealistic to expect everyone attending an event to stay at the hotel.

Ms. Orshefsky stated this was the reason that the special event space was removed from the application and explained further research would be done. She stated once that information was available, the applicant would come back with a complete plan that includes a parking plan and addresses concerns.

Vice Mayor Kirdahy stated that trespassing is a problem up and down the island and asked if the hotel would have a security guard.

Charlie Carreno, Director of Development with BNH IV TRI, LLC, responded that there would be a security guard on each shift.

Commissioner Reiser stated if she read the May 2021 Police Activity Report correctly, trespassing was by far the highest number of calls. She noted it is a problem that everyone thinks the beaches are free and open to the public.

Mayor Tarrant asked if a traffic study was required.

Mr. Serda noted that a traffic study for the restaurant was included with the application.

Mayor Tarrant asserted the special event space was not discussed in the application, and agreed it was completely unrealistic to expect that a space rented for an event would have hotel guests only as listed in the traffic letter. Mayor Tarrant stated there was no room for special events, and they should not be allowed. She added that she did not know that they wanted a Grand Opening event on Labor Day weekend.

Ms. Orshefsky responded that the applicant would work with the Town Manager to make sure the event met all restrictions and stated that she understood there was a level of trust that would have to be built up.

Mayor Tarrant reviewed the staff conditions. She noted that she believed the first condition needed to include employee parking as part of the parking study which had not been done.

Ms. Orshefsky stated that part of the difficulty was that the Town's Code did not have a parking standard for hotel use. She explained that some nearby communities require 0.65 and 0.7 parking spaces per hotel room and stated that number was clearly exceeded, while leaving spaces for guests of the hotel and staff. She noted this was the existing use of the hotel, and the only question at this time was the alcoholic beverages.

Mayor Tarrant stated that she would like to amend the review period to six (6) months instead of one (1) year.

Mayor Tarrant opened a public hearing on the application.

Joel Rosenstein, 1155 Hillsboro Mile, stated that his unit was adjacent to the pool. He asked the hours of the ambient music and expressed concern about the interruption.

Mr. Carreno responded that music would be played from 7:30 a.m. to 10 p.m., and clarified that it would be background music, so the neighboring properties would not hear it.

Mayor Tarrant stated that she thought this was a fair concern.

Ms. Orshefsky pointed out the speakers on the plan. She stated there were eight (8) small speakers on the covered pool deck and noted that it was enclosed on the roof and two (2) complete sides. She added that any outdoor music would be required to comply with the Town's noise ordinances and would not be able to leave the property.

Vice Mayor Kirdahy stated that ambient music should not be heard beyond the specific area and pointed out that if a neighbor was disturbed by it, there was enforcement available. She said hopefully it would be a non-issue.

Mr. Carreno stated that they planned to be good neighbors and encouraged anyone with an issue to come and speak with the manager so it could be adjusted. He added that they were not there to be a problem and wanted to be in harmony with the neighborhood. He addressed the history of the property briefly.

Town Clerk Sherry D. Henderson read emails received in advance, as follows:

Joel Rosenstein, 1155 Hillsboro Mile, wrote asking questions regarding the project, including the occupancy, hours of operation, whether the restaurant would be limited to hotel guests, parking, and outdoor dining.

David Black, Property Manager at Hillsboro Island House, 1160 Hillsboro Mile, stated his property was the neighbor across the street. He expressed concern that an independent traffic study be completed and discussed issues with parking. He discussed issues with the Seabonay Hotel and guests trespassing.

Karen Olsen, 1160 Hillsboro Mile, #501, wrote in opposition of granting a liquor license to the hotel, and shared experiences with Seabonay Hotel guests causing issues in the neighborhood. She stated parking was an issue, especially for events, and stated adding alcohol would create safety issues.

Don and Sharon Julian, 1160 Hillsboro Mile #102, stated there were already issues with trespassing and parking, and granting the request would impact the quality of life of residents on Hillsboro Mile.

Herb and Andrea Lapin, 1150 Hillsboro Mile #207, wrote that they disapproved of the application due to safety concerns. They stated they had no objection if the restaurant was only available to guests of the Hillsboro Beach Resort or on a limited members only basis.

Jose Gomez, 1160 Hillsboro Mile, #407, expressed concern that the addition of a restaurant would add on to the trespassing concerns in the community. He stated there was limited parking that would be insufficient for hotel guests and events and asked that hotel guests were explicitly told not to trespass on neighboring properties.

Thomas Caliendo, 1150 Hillsboro Mile, #408, stated he chose to purchase his condominium because of the quietness and safety. He asserted that he was opposed to alcohol being served at the hotel because of drinking and driving concerns.

Ms. Orshefsky offered a clarification to the first email, noting she believed it to be the only question not previously answered. She stated the restaurant capacity was 49 seats inside and 17 seats outside for a total of 63 seats. Ms. Orshefsky stated it sounded as though the remaining concerns related to the “sins of our fathers,” and asserted if people can have food and drink at their hotel, they are less likely to get on the road inebriated. She noted the applicant understood the trespassing issue and would put a plan in place to address the issue.

Mr. Doody asked a question regarding Ms. Orshefsky’s reference to a bar.

Ms. Orshefsky explained there would be a service bar in the back of house for preparation of drinks.

Mayor Tarrant clarified that there were no bar stools in the establishment, and the space would not be open to the public.

Ms. Orshefsky agreed, adding that there was no bar.

Mayor Tarrant stated that people were making assumptions that the Town had not considered things when in fact they had, with the exception of the pool music.

Mayor Tarrant noted that she thought the addition of a six (6) month review to the conditions would be helpful. She asked counsel if a condition could be added to allow the Town to review the Conditional Use annually.

Mr. Doody stated that an annual review was an option. He clarified that the annual review would be limited to compliance with the conditions and noted that basis for adjusting the conditions should be provided. He explained the Code Enforcement process would be the recourse in case of violation.

Vice Mayor Kirdahy responded to the public comment objections and noted that a lot of them had to do with trespassing, particularly for the building across the street. She encouraged the residents to call the Police Department in response to any issues that might come up, even if they feel silly doing so. Our police force encourages us to call for assistance rather than approach trespassers ourselves and the police will resolve the issue. It also helps the police department understand how severe a problem might be.

Ms. Orshefsky asked for clarification on the annual review and how that would differ from staff condition five (5).

Discussion ensued regarding the intent of the conditions and the course of action to be taken should issues arise.

Mr. Doody stated that condition five (5) could be revised to allow the Town Commission to reevaluate the conditions of approval and ensure compliance with the conditions after six (6) months from Certificate of Occupancy and annually thereafter, rather than adding a new condition. He clarified the intent of the conditions.

Ms. Orshefsky stated that the applicant would reach out to the management team at Hillsboro Island House to open a dialogue.

Commissioner Baldasarre asked that the next-door neighbors be included in the dialogue, as well, and stated that would be great.

Ms. Orshefsky stated that the hotel management would reach out to both and make sure they had a point of contact should any issues arise.

Mr. Doody offered revised language for condition five (5).

Mayor Tarrant asserted she wanted to keep the conversation regarding any issues with the property in the forefront and not let it fester in the background, like it did with the Seabonay Hotel.

Discussion ensued regarding the wording and intent of the conditions.

Mr. Serda addressed concerns related to traffic and parking for the event space. He stated that the last-minute issue was troublesome and expressed concern regarding

communication. He added that he wanted to be cooperative and have a successful hotel, but he did not know how to bridge the communication issue.

Mayor Tarrant added that it was also concerning that the special event space was still hanging out there.

Ms. Orshefsky responded that candidly, there were conversations like this, and it was not until she received Mr. Hickey's staff report and understood what was being asked for that they realized the difference between the hotel and special event space. She stated at that time, she spoke with her client, and they determined they were not ready to talk about the special event space, so needed to take it out and come back with a plan if they can come up with a way to address all the concerns. Ms. Orshefsky asserted that's what they're here about - a full-service restaurant that serves beer, wine, and alcohol.

Mr. Doody asked how the Town would enforce the removal of the special event space, and what would happen if the applicant changed their mind in two (2) months.

Ms. Orshefsky stated that she would work with staff to come up with a way to evaluate the special event space.

Mr. Doody asserted that there should be an additional condition regarding the event space. He suggested that the special event space would not be considered until the six (6) month review.

Ms. Orshefsky stated that they expected to be back with a plan for the event space in September or October. She noted that if they cannot come up with a plan that addresses the concerns, it may be that the space is not permissible in the Town of Hillsboro Beach.

Discussion ensued regarding the special event space and how to exclude it from the Conditional Use approval.

Mr. Serda explained that since the inception of the plan, what was being called the special event space had been a void on the site plans. He stated that they were here because the special event space and the kitchen area were not declared at the beginning and the plans were morphing.

Mr. Hickey echoed Mr. Serda's comments that the original plan did not include the event space. He stated that a condition should be added to note that this approval did not include the event space and said staff would work with the applicants to come up with a study that incorporates all of the discussions during the meeting. Mr. Hickey stated at that time the Conditional Use could be amended to reconsider the event space, rather than having a new application.

Mr. Serda commented on the definition of special events, noting that hotel sponsored events were not included. He stated Super Bowl night, Fight Night, or similar events would be allowed, and the Town would have no idea how that space was used.

Mr. Hickey stated the space was identified as back-office space on the original plan.

Mayor Tarrant asserted that event space in this hotel was a square peg in a round hole.

Commissioner Reiser commented on staffing and parking. She stated if all 72 rooms are booked and management decides they need staff, there would be nowhere for those people to park. She added that they all want the hotel to be successful and said it would add prestige to an already prestigious Town, but she was trying to look at the big picture.

Mr. Hickey shared research staff had done on parking requirements in surrounding communities. He stated staff was comfortable with the parking for the hotel and restaurant, but not for anything beyond that until additional work was done.

Mayor Tarrant asked if a problem was identified over the next six (6) months, whether the Town could ask during that review that employees be shuttled onto the site.

Mr. Hickey stated that the initial review period was intended to make sure the requirements within the agreement were being followed to the letter of the law.

Mayor Tarrant asserted that she thought everyone would learn a lot over the next six (6) months.

Mr. Serda asked if the special event space could be excluded from public space.

Mr. Hickey asserted that if the applicant was removing the event space from the application, it could not be used for food and beverage service.

Mr. Doody agreed and asked the applicant for clarification as to the intent for the special event space.

Ms. Orshefsky stated the space may be used initially for back-of-house office space as outlined on the building plans submitted. She added that the applicant was happy to agree to the six (6) month reviews and noted they may get to the point the Town finds it no longer necessary.

Mr. Doody asked the Commissioners for clarification as to whether condition one (1)

should be included or excluded. He reiterated that staff had made the recommendation and the applicant had asked for its removal.

Ms. Orshefsky asserted that Mr. Hickey had testified staff was comfortable with the parking demand excluding the event space.

Mr. Doody asked Mr. Hickey to provide clarification.

Mr. Hickey stated staff was comfortable moving forward with the restaurant and bar with parking as currently provided. He noted he had consulted with his traffic consultant, and they were both comfortable with the removal of condition one (1).

Gail Wiser, Hillsboro Island House Board Member, stated most of her residents had commented in opposition to serving liquor and voiced their concerns about trespassing. She added that the hotel has a responsibility to be pro-active and stated that visitors need to understand condo living and that the Intercoastal space is private property, not a park. She asserted that the hotel was also responsible to educate their guests that they can not bring plastic cups onto the beach, and stated she thought more than one (1) security guard was needed.

Mayor Tarrant suggested “no trespassing” signs on the park-like area.

Ms. Wiser responded that there were plenty of signs, but they are ignored.

Mayor Tarrant noted that the hotel guests were allowed to take their plastic cups down to the beach because it is private property and could not be restricted.

Mayor Tarrant closed the public hearing.

Mr. Doody read the conditions for the record:

1. The hours of operation for food and beverage service shall be limited to 7 am to 10:30 pm daily.
2. Any outdoor music associated with the resort and generated by the resort shall be limited to the times food and alcoholic are served onsite. No amplified music shall be allowed in the outside areas of the resort.
3. No food or drinks shall be prepared outside the resort building at any time.
4. The Town Commission shall re-evaluate the conditions of approval and ensure compliance with all conditions of approval six (6) months subsequent to the issuance of the Certificate of Occupancy for the hotel and every twelve (12) months thereafter.
5. Applicant shall work with the Town to establish trash pick-up relative to the restaurant facility.

6. For any hotel-sponsored event or any special event, the owner must contact the Town staff within three (3) working days of the event to determine if an off-duty officer is required.
7. The internal space labeled "BOH/Office" on the construction plans approved by the Town for renovation of the hotel shall be used for only office space. The use of the "BOH/Office" space for any other purpose is prohibited unless a new application for a conditional use is filed and subsequently approved by the Town Commission.

Ms. Orshefsky confirmed the applicant agreed to the conditions.

Motion made by Vice Mayor Kirdahy, seconded by Commissioner Feaman, to approve the Conditional Use subject to conditions listed by counsel. In a roll call vote, the **motion** passed unanimously. (5-0)

Mr. Doody asked for clarification as to whether it was the applicant's intent to seek additional consideration by the Commission for the event space.

Ms. Orshefsky stated that they would try.

Discussion ensued regarding the additional application.

Mr. Doody stated that the applicant should understand they would be starting a new application for use of the special event space.

II. ADJOURNMENT

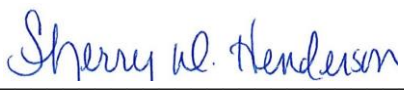
Motion made by Commissioner Baldassarre, seconded by Commissioner Feaman, to adjourn the meeting. In a roll call vote, the **motion** passed unanimously. (5-0)

There being no further business before the Board of Zoning and Appeals, the meeting was adjourned at 10:49 a.m.

ADOPTED THIS 7th DAY OF SEPTEMBER, 2021.

By: 
Deborah L. Tarrant, Mayor

ATTEST:


Sherry D. Henderson, CMC, Town Clerk