



**MINUTES
TOWN OF HILLSBORO BEACH
BOARD OF ZONING & APPEALS MEETING
NOVEMBER 9, 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:

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

I. QUASI-JUDICIAL PUBLIC HEARINGS

- A.** Site Plan Approval Request submitted by Ronald J. Rickert, II, with IntelAE, LLC, authorized agent for the property located at 981 Hillsboro Mile, Hillsboro Beach, FL 33062.

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

Daniel Mantell, Town Planner with Calvin, Giordano & Associates (CG&A) presented the item. He explained the applicant was requesting Site Plan Approval for improvements which include a two (2) story, 4,245 square foot guest house addition with site improvements to include a modification of the existing driveway. He stated no improvements were proposed west of A1A.

Mr. Mantell stated staff found the application met requirements, and noted four (4) comments remaining to be addressed, to be conditions recommended by staff if the application were to be approved, including:

1. Submit a Broward County Tree Removal Permit if applicable. If a Tree Removal Permit is not required, provide a notation indicating as much.

2. Provide a Construction Site Management Plan, per Section 12-50.
3. Provide a notation indicating compliance with Section 3-9, Requirements for Marine Turtle Protection, will be met.
4. Provide a computation of pervious, impervious, and paved surface, in square footage and percentage for the total lot with the inclusion of the guest house addition in the site data table.

Mr. Mantell provided a brief history of the property, explaining it was a double lot with unity of title.

Mayor Tarrant asked for further explanation of unity of title and Mr. Mantell explained.

Mayor Tarrant stated the setbacks had been removed on the north side. Mr. Mantell explained the setbacks on the north apply to the distance between the regular house and the guest house and were more than sufficient.

Jim Lambert, owner of 981 Hillsboro **Mile**, provided additional explanation. He shared a story of his mother having space for a 30-foot dining table and wanting to emulate that. He noted the proposed guest house did not have bedrooms.

Town Attorney DJ Doody asked the owner if he would agree to a condition to the unity of title cannot be revoked without Town Commission approval.

Ronald Rickert, IntelAE, stated demolition of the guest house would require going back before the Town Commission.

Jim Hickey, Town Planner with CG&A, provided additional explanation of the unity of title. He stated separating the properties would require a variance or site plan approval before the Town Commission. Discussion ensued regarding the required setbacks and the process.

Mayor Tarrant stated the mechanical did not fit within the setbacks if the parcels were separated. Discussion continued regarding conforming and nonconforming lots.

Mr. Lambert argued he had no intention of leaving the property, but also did not want to limit himself or his children from utilizing the property fully.

Mr. Doody stated he was not wanting to alienate the property owner's rights but wanted the Town to be informed of any division of the properties.

Mayor Tarrant asked if the mechanical could be moved out of the side setback. Mr. Rickert stated that they could.

Mayor Tarrant clarified the dune elevation in the staff report was the average dune height. Mr. Mantell confirmed this was correct.

Mayor Tarrant stated the application had requested the building permit and site plan process could run concurrently. Mr. Mantell explained.

Steve Mitchell stated the Building Department will look at the plans concurrently if requested, and noted it is a service the applicant pays additional for.

Mayor Tarrant asked if the Building Permit could be issued prior to the site plan approval. Mr. Mitchell stated it did not and provided further detail of the time saved through the process.

Mayor Tarrant referenced the site plan and asked about the existing retaining wall shown. Mr. Lambert stated the wall was built prior to his parents purchasing the property and was not structural. He explained further.

Mayor Tarrant asked if the wall met current Code, as it is in the middle of the dune. Mr. Mantell stated it was existing nonconforming, so could not be rebuilt or replaced.

Mayor Tarrant asked for clarification on the hydraulic door. Mr. Rickert explained the doors and their benefits.

Mayor Tarrant continued asking questions regarding the plans, including locations of windows and doors, aesthetics, and the stairs. Mr. Rickert and Mr. Lambert explained.

Vice Mayor Kirdahy asked if there was a capacity requirement for the guest house. Mr. Mitchell explained there were not restrictions in similar family homes, except a certain number of parking spaces per the plan. He noted there was no recourse if it was exceeded.

Mayor Tarrant asked how they keep it from being sold as a party space, or a place to have a wedding on Hillsboro Mile. Mr. Mitchell stated it was not zoned for Commercial, so that would involve Code Enforcement and the Police Department.

Mayor Tarrant asked if a remodel to add bedrooms would require going before the City Commission. She noted bedrooms could be added to the garage space. Mr. Lambert stated the basement was not inhabitable under the Code.

Discussion ensued regarding hosting events at private homes on the island.

Vice Mayor Kirdahy inquired as to availability of parking in the garage. Mr. Lambert stated there were five (5) parking spaces in the garage.

Vice Mayor Kirdahy asked if additions to the Code should be considered. Mr. Doody discussed use as commercial space and stated they could review future legislation.

Mr. Doody asked if the applicant agreed to the conditions included in the staff report. Mr. Lambert stated that he did.

Mayor Tarrant confirmed the mechanical equipment would be moved. Mr. Rickert stated they would move the air conditioners from the north side of the property to accommodate the setbacks.

Commissioner Reiser asked how many cars could park on the property. Mr. Lambert stated with a valet, he could fit 25 cars.

Mayor Tarrant opened a public hearing on the application, however there being none to speak, closed the public hearing.

Motion made by Commissioner Baldassarre, seconded by Commissioner Feaman, to approve the Site Plan Approval Request for 981 Hillsboro Mile with conditions as outlined by staff and the moving of the mechanical equipment. In a roll call vote, the **motion** passed unanimously. (5-0)

- B.** Request for Conditional Use Approval to Allow Beach Chair Management Service on property submitted by applicant and owners, BNH IV HM TRI, LLC and 1159 Hillsboro Mile, LLC, for 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, Town Planner with CG&A, presented the item. He explained the Hillsboro Beach Resort, formerly Seabonay Hotel, was requesting a conditional use to utilize the beach area for a commercial enterprise. He explained the details for the fees was outlined in the meeting materials.

Mr. Hickey explained the commercial use of the property remained under the 10 percent requirement within the Code. He reviewed three (3) conditions recommended by staff if the application were to be approved, including:

1. All beach chairs and umbrellas must be removed from the beach or stacked nightly with the shortest edge facing the shoreline in a way to reduce the possibility of entrapment by marine turtles.

2. Supply high-quality beach equipment, including lounge chairs and umbrellas, which shall always be maintained in excellent condition in order to ensure the best quality and comfort of Hillsboro Beach Resort guests.
3. Placed lounge chairs and umbrellas at the location of business are only allowed for the following hours:
 - a. Winter 9 a.m. to 5 p.m.
 - b. Summer 9 a.m. to 6 p.m.
 - c. Seven (7) days a week, weather permitting.

Mayor Tarrant referenced two (2) places in the application and stated it was not clear the service was limited to guests of the hotel only.

Mr. Serda stated that was a requirement of the property, and noted the payment was only through room rental.

Mayor Tarrant asked for additional information to make sure people could not pay the attendants directly. Mr. Hickey stated the agreement contemplated the fee being added to all occupied rooms.

Mr. Serda asserted the agreement could be changed, as long as it was for guests only and there were no transactions on the beach.

Mayor Tarrant stated no transactions on the beach ever was the issue. She asked what process would be used to make sure the chairs went only to guests.

Commissioner Feaman asked if all of the chairs come out at once, or only come out as requested. She asked how others would be kept from using the chairs. Discussion continued regarding security and management of the chairs.

Vice Mayor Kirdahy stated they would need to have something in their security plan to identify guests, such as a bracelet. She noted it is an issue all along the beach, including at the condominiums.

Commissioner Baldasarre stated the security issue was not the Town's issue, but they wanted to make sure there were not transactions on the beach. She argued if the chairs are used by non-guests, the guests would complain.

Mayor Tarrant asserted it was the hotel's problem until the word gets out that it is a place where people can go and use a chair on the beach or slip money to the attendant.

Commissioner Reiser asked if there wouldn't be tipping. Mayor Tarrant stated they needed more information.

Vice Mayor Kirdahy stated she did not believe outbuildings were allowed and referenced a previous application at her condominium which was denied. Discussion ensued regarding the storage building for the chairs.

Mr. Doody pointed out the application was for commercial use and did not include a building permit or site plan for an outbuilding.

Mr. Serda stated the approval did not include putting a hut or other accessory structure on the beach. He noted the conditional use contemplated stacking the chairs at night.

Mr. Hickey noted it looked as though the plan included a small shade structure and a storage space for the umbrellas. He noted one was four (4) foot by eight (8) foot and the other was two (2) foot by four (4) foot.

Mr. Doody asked if there was a representative of the applicant present. None responded.

Mayor Tarrant stated the service itself was not in question, but there was no mention as to whether they were asking to build a structure. She asked if it was feasible to approve the service without approving the storage structures.

Mr. Hickey explained the Commission could approve the use and state there were to be no structures.

Mr. Serda asked if the Commission would want to approve whatever was allowable within the Code. He reiterated that they were approving the business, and unpermitted structures would not be allowed.

Mr. Doody stated he would not focus on the drawing, as that was not the request.

Mr. Hickey added that staff could let the applicant know the extent of the approval.

Mayor Tarrant stated the Commission was not necessarily averse to the structures, but they were not part of the discussion at this time. She asked that a condition be added that stipulated equipment must remain on the resort property. Continuing, Mayor Tarrant suggested a six (6) month conditional approval similar to what was given the restaurant.

Commissioner Reiser agreed the six (6) months was probably a good idea. She pointed to the hours of operation and stated 9 a.m. seemed late for the opening and asked if a change to the times would have to come before the Commission. Mr. Doody stated it would need to be reviewed.

Mayor Tarrant asked for a definition of winter and summer. Discussion ensued regarding daylight savings as the line.

Mr. Serda asked if the Commission was looking to approve an earlier start. Vice Mayor Kirdahy suggested 8 a.m.

Mr. Doody stated winter would be defined as November 1 to March 31, and summer be April 1 to October 31.

Mayor Tarrant asked that a representative of the applicant be required at future meetings. Discussion ensued.

Mayor Tarrant opened a public hearing on the item.

Nancy Robbins asked how many chairs and umbrellas would be set up each day.

Mr. Hickey stated the plan showed 27 umbrellas, with two (2) chairs under each, for a total of 54.

Mayor Tarrant closed the public hearing.

Commissioner Baldasarre pointed out there was nothing stopping the hotel providing chairs, the question was as to the commercial aspect.

Discussion ensued as to whether the item should be tabled until a representative of the applicant was present.

Mr. Mitchell stated when addressing structures, it was important to note that temporary structures smaller than 10x10 were not covered within the Florida Building Code. He noted if that structure were attached to the ground, it would require Department of Environmental Protection (DEP) approval. He suggested the condition be no structures.

Mr. Doody clarified the approval was for the business and the umbrellas and chairs only.

Motion made by Commissioner Reiser, seconded by Vice Mayor Kirdahy, to approve the Conditional Use Application for 1159 Hillsboro Mile with conditions as outlined below. In a roll call vote, the **motion** passed unanimously. (5-0)

1. All beach chairs and umbrellas must be removed from the beach or stacked nightly with the shortest edge facing the shoreline in a way to reduce the possibility of entrapment by marine turtles.

2. Supply high-quality beach equipment, including lounge chairs and umbrellas, which shall always be maintained in excellent condition in order to ensure the best quality and comfort of Hillsboro Beach Resort guests.
3. Placed lounge chairs and umbrellas at the location of business are only allowed for the following hours:
 - a. November 1 to March 31 hours – 8 a.m. to 5 p.m.
 - b. April 1 to October 31 hours – 8 a.m. to 6 p.m.
 - c. Seven (7) days a week, weather permitting.
4. Hotel guests only, no residents and no visitors.
5. Equipment must remain within property line.
6. Six (6) month probation period.
7. No structures without separate approval.

II. ADJOURNMENT

Motion made by Commissioner Baldassarre, seconded by Commissioner Reiser, 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 10:25 a.m.



ADOPTED THIS 7th DAY OF December 2021

By: Deborah L. Tarrant
Deborah L. Tarrant, Mayor

ATTEST:

Sherry D. Henderson 12/7/2021
Sherry D. Henderson, CMC, Town Clerk