



**MINUTES
TOWN OF HILLSBORO BEACH
BOARD OF ZONING & APPEALS MEETING
OCTOBER 4, 2022**

CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Deborah L. Tarrant called the meeting to order at 9:05 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

Town Attorney DJ Doody explained the Quasi-Judicial procedures to be followed throughout the meeting. He explained the types of evidence to be presented and the role of each party.

I. QUASI-JUDICIAL PUBLIC HEARINGS

- A.** Amendment to Conditional Use for Hillsboro Beach Resort, submitted by Debbie M. Orshefsky, Attorney, Holland & Knight; Authorized Agent for the Hillsboro Beach Resort, property located at 1159 Hillsboro Mile, Hillsboro Beach, FL 33062

Mr. Doody swore in all those giving testimony at the hearing.

Jim Hickey, Town Planner with CG&A, presented the item. He explained the matter was originally heard on September 13, 2022, and at that time the applicant and staff had been tasked to work together to come up with additional conditions.

Mr. Hickey reviewed the amended list of proposed conditions for approval, as follows:

1. The Development Order dated July 6, 2021, is hereby modified to delete Condition g. and permit "Special Events," as defined in Section 12-110(E)(I) of the Town Code, to be held at the Hillsboro Beach Resort (the "Resort") subject to the conditions set forth in this Amended Development Order.
2. For a period of nine (9) months commencing December 1, 2022, (the "9-Month Pilot Program"), the Resort may conduct a maximum of 18 Special Events. The Special Event operations shall thereafter be reviewed by the Town Commission at its first meeting in September 2023 for consideration of permitting Special Events to be conducted at the Resort beyond the 9-Month Pilot Program.
3. During all Special Events, the Resort will hire an off-duty police officer to monitor, and if necessary, control, vehicular access at the Resort driveway. The condition will be implemented so long as Special Events are conducted at the Resort.
4. The maximum number of attendees at any Special Event at the Resort shall not exceed 65 persons. This condition will be implemented so long as any Special Events are conducted at the Resort.
5. All Special Events will be conducted within the Special Event Space identified on the second floor of the Resort Site Plan submitted with the May 12, 2022 application for amendment to conditional use. This condition will be implemented so long as Special Events are conducted at the Resort.
6. Special Events may only be conducted during the following times: 8 a.m. – 10 p.m. Sunday through Thursday and 8 a.m. to 12 a.m. Friday and Saturday. This condition will be implemented so long as Special Events are conducted at the Resort.
7. The Town Administrator will be advised of an upcoming Special Event at least seven (7) calendar days before the Special Event and may, in his discretion, send the Town Fire Marshal or Town Code Enforcement Officer to perform a site visit during any Special Event to perform a site visit during any Special Event and confirm compliance with these conditions. This condition will be implemented so long as Special Events are conducted at the Resort.
8. The Hillsboro Beach Resort will engage a Certified Independent Auditor ("CIA") to perform a monthly audit of Special Event operations documenting that: the number of Special Event attendees has not exceeded 65 persons, the off-duty police officer was present, and that all Special Events were conducted within the Special Event Space and in compliance with the permitted times (the "Special Event Audit"). The CIA performing the Special Event Audit will be selected by the Resort and approved by the Town Administrator. In the event a Special Event Audit reveals failure to comply with these conditions at three (3) Special Events in a calendar year, the Town Administrator will place an item on the Town Commission agenda for the Town Commission to consider whether to temporarily or permanently revoke the Conditional Use approval for Special Events or impose

additional conditions to address the incidence of non-compliance; the record title owner of the Resort will be provided a minimum of 60 days' notice prior to the date of any such Town Commission hearing. The Special Event Audits will be provided to the Town Manager on a monthly basis no later than the tenth day of each month. This condition will be implemented so long as Special Events are conducted at the Resort.

Mr. Hickey concluded his report, stating the position of staff had not changed since the September 13 meeting.

Debbie Orshefsky, Esq., attorney with Holland & Knight, presented for the applicant. She showed a resident membership form which had been created to manage the program. Discussion ensued regarding the details of the resident membership.

Mr. Doody agreed to work with the applicant to add language to the development order which would specify that credit cards are not accepted at the table.

Discussion ensued briefly regarding whether the Commission had placed limits on the number of guests. Mr. Doody reviewed the approved order and clarified that it had no limitation on the number of guests a resident can bring.

Ms. Orshefsky shared a *PowerPoint* presentation on the Hillsboro Beach Resort special event space. She shared renderings of the space and discussed the proposed amendment.

Vice Mayor Kirdahy asked whether the 65-person limit was exclusive of servers and other staff. Ms. Orshefsky confirmed that it was.

Ms. Orshefsky continued her presentation, reviewing the proposed conditions of approval.

Mayor Tarrant asked whether the applicant was continuing to request removal of the original Condition D in the Conditional Use permit. Ms. Orshefsky stated they were.

Ms. Orshefsky pointed to the new condition #2 and stated a review of the Special Event Operations requirement could be added to the Conditional Use Permit and the Town Commission can conduct a review at the September 2023 meeting.

Mayor Tarrant argued Condition D was in place to allow the Town to monitor the Hillsboro Beach Resort to ensure they continued to be a good neighbor.

Mr. Doody confirmed that under the amended order currently proposed, the removal of Condition D was not contemplated.

Ms. Orshefsky outlined issues with building the long-term perspective of the hotel if they had to worry that each September they may be shut down.

Mr. Doody pointed out the conditions were intended to protect the Town's interests.

Mr. Serda clarified that staff was not recommending approval of the special event space. He noted the Town would not be hiring the auditor, the auditor would be reviewing reports prepared by the hotel, and the requirement for Police staffing would add pressure to a small Police Department.

Daniel Levenson, BH3 Management, stated everything about the hotel was tailored to match the Town. He asserted the Hillsboro Beach Resort wanted to be compliant. He stated without the event space, the hotel is not a 4 to 4.5-star hotel.

Ms. Orshefsky provided additional clarification, noting that Broward Sheriff's Office (BSO) and other cities' police departments would have to be tapped into in order to provide the staffing required for events. She asked that if a renewal period were included, it be longer than one (1) year. She also recommended that a cost recovery account be set up to address Code Enforcement costs.

Mr. Serda suggested Code violations be a trigger for additional review by the Board, rather than waiting a year or for three (3) violations. Discussion ensued regarding the type of violations which would be included.

Mayor Tarrant stated she did not disagree with Mr. Levenson's assessment of the situation, and noted it was in the best interest of both parties to make the venture work. She discussed her concerns related to the special event space.

Mayor Tarrant stated in-season was the major concern and suggested a plan which would allow for off-season events and limit those events to one (1) per month. Ms. Orshefsky responded that the applicant would not be able to accept that plan, as it would not meet the needs of the hotel.

Commissioner Reiser stated she was concerned that the events would be concentrated in-season, and it would cause issues for the neighboring residents. Ms. Orshefsky explained the special event space was fully enclosed and noise would not disrupt the neighbors. Discussion continued regarding potential disruptions.

Ms. Orshefsky confirmed her client would be comfortable with paying for a Code Enforcement officer to monitor events.

Mr. Doody clarified that a Code Enforcement officer could only write a report and would not be able to shut an event down.

Ms. Orshefsky suggested a requirement that no more than three (3) events be permitted per month. Mayor Tarrant said that would not work due to increased population on the island during season.

Discussion continued regarding parameters of a potential trial period.

Vice Mayor Kirdahy suggested a differentiation between full-capacity events such as weddings and business meetings which would contribute to revenue without being as disruptive of the community.

Mayor Tarrant recommended the following conditions:

- Attendance by a Code Enforcement Officer
- Attendance by an Off-Duty Police Officer
- One (1) business event and one (1) social event allowed per month
- Review after one year

Ms. Orshefsky asked that the conditions be discussed with the proposed changes.

Mayor Tarrant stated while she hated to put it off another month, the Board needed to know what they were voting on, and the revised conditions had not been made available prior to the meeting. She suggested staff and the applicant meet to work out the condition language.

Mr. Doody reviewed the conditions and asked the Board for consensus as to changes to be made. He explained the intent of the conditions as needed. He stated he would meet with the applicant to work out the conditions and make them available as agenda attachments ahead of the next meeting.

Mr. Serda explained the agenda deadline and asked that the details be worked out two (2) weeks prior to the next meeting.

Ms. Orshefsky asked that the event space be available for use to put on events for hotel guests prior to the completed review. She asked that Condition G of the original approval be deleted to allow for this use. Discussion ensued as to whether this use was already a permitted use.

Mr. Levenson asserted it would be more efficient to spend additional time at this meeting working through the details rather than to put it off to the next meeting. He stated the season was coming, and argued the conditions were too restrictive.

Mayor Tarrant asserted it was meant to be a boutique hotel, not an event space. Discussion continued.

Mr. Doody reviewed the request and the action taken to this point and explained the motion which would be required if the Board wanted to make a change to allow for hotel-sponsored guests.

Mayor Tarrant opened a public hearing on the item.

Joel Rosenstein, 1155 Hillsboro Mile, thanked the Board for thinking of the hotel's neighbors. He requested an effort to keep guests from using the neighboring driveway because they have overlooked the hotel's entry sign.

Mayor Tarrant agreed the signage needed to be addressed, especially in the case of special events.

Mayor Tarrant closed the public hearing.

Discussion ensued regarding allowing for hotel-sponsored events.

Commissioner Reiser asked the difference between opening the space for brunch and using the space for restaurant overflow. Ms. Orshefsky responded briefly.

Motion made by Vice Mayor Kirdahy, seconded by Commissioner Baldassarre, to amend the amended development order approved on September 13, 2022, to allow that the internal space labeled BOH/Office on the construction plan may be used for hotel-sponsored events for registered guests between the hours of 8 a.m. and 10 p.m. on Sunday through Thursday, 8 a.m. to 12 a.m. on Friday and Saturday. In a roll call vote, the **motion** passed unanimously. (5-0)

Ms. Orshefsky requested a continuance.

Motion made by Commissioner Reiser, seconded by Vice Mayor Kirdahy, to table the remainder of the application to the November 1, 2022, meeting, once all details are ironed out between the attorneys. In a roll call vote, the **motion** passed unanimously. (5-0)

III. PUBLIC COMMENTS

None.

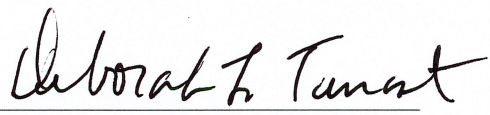
II. ADJOURNMENT

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

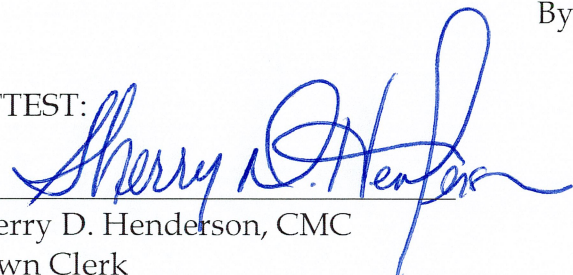
There being no further business to come before the Board of Zoning and Appeals, the meeting was adjourned at 10:44 a.m.

ADOPTED THIS 1ST DAY OF NOVEMBER, 2022

By:


Deborah L. Tarrant, Mayor

ATTEST:


Sherry D. Henderson, CMC
Town Clerk