

Mr. Wells offered the following Resolution and moved on its adoption:

**AMENDING RESOLUTION APPROVING THE PRELIMINARY
AND FINAL MAJOR SITE PLAN AND DESIGN WAIVER
APPLICATION OF B-FOUR ENTERPRISES, LLC FOR, BLOCK
72, LOTS 8 & 8.01; BLOCK 69, LOTS 13 & 13.01; BLOCK 72,
LOTS 9.001, 9.011 & 9.012**

WHEREAS, the applicant B-Four Enterprises, LLC (hereinafter referred to as the “applicant”) is the owner of the above captioned lots, which lots are located in the WC-2 Zone in the Borough of Highlands, New Jersey; and

WHEREAS, the applicant has applied for preliminary and final major site plan approval with a design waiver for the purpose of operating a tiki bar and restaurant on the site previously occupied by the Clam Hut Restaurant in the Borough. The applicant intends to use the existing structures at the site for lavatory purposes and the tiki bar and the existing parking lot areas. All of the details of the proposed new and existing structures and proposed parking areas are set forth on the plans and maps submitted with the application, and submitted into evidence at the public hearing of the application by the Board held on May 14, 2015. All of the foregoing are incorporated herein by reference thereto. The applicant has also applied for a design waiver to permit new light fixtures to be attached to the existing utility poles at the site at an elevation of 24 feet, where the applicable ordinance permits a maximum elevation of 15 feet; and

WHEREAS, all jurisdictional requirements have been met and proper notice has been given pursuant to the Municipal Land Use Act and Borough Ordinances, and the Board has jurisdiction to consider this application; and

WHEREAS, the Board considered this application at a public hearing held on May 14, 2015; and

WHEREAS, Thomas Morford, a principal of the applicant testified on the operational details and the general layout and uses proposed at the site; and

WHEREAS, Michael James Monroe, a licensed architect in the State of New Jersey testified on the architectural elements and addressed the ADA compliance issues; and

WHEREAS, members of the public cross examined the applicant’s witnesses and expressed their opinions on the project; and

WHEREAS, the Board makes the following factual findings in connection with this application based on the testimony and plans and maps submitted on behalf of the applicant and the members of the public:

1. The proposed uses at the site are permitted pursuant to the applicable Borough Development and Zoning Ordinances.

2. The applicant intends to operate the tiki bar from mid-May to mid-September and use the area for boat storage during the months in between during the off-season.

3. The applicant will provide cross-easements for ingress, egress, parking and lavatory uses at the subject property.

4. The portable kitchen proposed to be located on the site will be contained in a trailer that will be placed on the site at the beginning of the season in May and be removed at the end of the season in September.

5. The applicant will operate the bar and restaurant seven (7) days per week from 11:00 am to 11:00 pm during the season.

6. The applicant will employ 10-15 employees during the season.

7. The applicant proposes to install two (2) dumpsters at the site that will be emptied at least two (2) times per week and more often if necessary.

8. It is contemplated that deliveries to the Tiki Bar operation will be in a box-type truck or similar type of truck. On occasion the deliveries may be in a different type of truck. Insofar as the marina is concerned there may be occasions where other types of trucks will service and make deliveries to that operation.

9. The applicant will have entertainment that complies with the Borough noise ordinance.

10. There will be two (2) lavatories located in each of the existing structures at the site. Two (2) lavatories will be ADA compliant.

11. The project is located in the CAFRA zone and requires CAFRA approval or a letter from the NJDEP exempting the project from the jurisdiction of the NJDEP.

12. The requested design waiver will be granted so long as the light fixtures are shielded if necessary (as determined by the municipal engineer), to prevent light from shining on the contiguous properties that border the subject site.

13. The Board finds that there is a pre-existing non-conforming lot coverage variance that is not affected by this application.

14. The Board finds that the number of parking spaces proposed meet the requirements of the applicable ordinances and are adequate for the uses proposed at the subject premises; and

WHEREAS, the Board finds that the preliminary and final site plan application can be approved and the design waiver granted so long as the applicant complies with Board imposed conditions set forth hereinafter.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Borough of Highlands that the application for preliminary and final major site plan approval and design waiver for the aforementioned lots is hereby approved contingent on the following conditions being met:

1. All testimony, evidence and representations made by the applicant and its witnesses are incorporated herein.
2. Taxes, fees and escrow accounts shall be current.

3. The applicant shall comply with all of the outstanding comments and conditions if any set forth in the Board Engineer's letter dated May 11, 2015, which is incorporated herein in full by reference thereto.
4. The applicant agrees to post performance bonds and/or inspection fees as determined by the Borough Engineer if any.
5. The applicant shall obtain the approval of all outside governmental agencies that have jurisdiction over this project prior to the issuance of any permits for any construction at the site.
6. The applicant shall supply a permit from the NJDEP for the construction of the existing deck, tiki bar and the construction of the remainder of the proposed site improvements and the location of the mobile kitchen including the sink and grease trap at the premises or a letter indicating that the NJDEP has no jurisdiction over the installation of any one or all of these items. In the event the applicant supplies documentation indicating that the deck and tiki bar construction does not require any approval or permitting from NJDEP, the applicant is permitted to use the deck and tiki bar area provided that the structures are built to be compliant with the FEMA coastal construction guidelines and V-Zone Standards. Additionally should the Tiki Bar area receive all permits and/or approvals from all required agencies, it shall be permitted to open for business without the deck area being completed and/or not yet having received necessary approvals.
In the event any outside agency requires the applicant to make any changes to the plans approved by this Board, the applicant must submit those changes to this Board for its review and approval.
7. The applicant shall obtain the approval of the Highlands Regional Sewerage Authority for the project if required by law.
8. The applicant shall construct the project in accordance with the plans and maps submitted with the application and/or submitted into evidence at the public hearing or any plans or maps hereinafter supplemented to conform to these conditions of approval and/or the representations made by the witnesses for the applicant at the public meeting.
9. The applicant shall submit the proposed cross-easements for ingress, egress, parking and lavatory use to the Board Engineer and Attorney for their review and approval.
10. The applicant shall repair and stripe the parking areas and replace all damaged sidewalk and curbing at the site where necessary at the direction of the municipal engineer. The applicant shall also install adequate traffic and parking signage at site as per the requirements of the Board Engineer and remove the existing "Private Property- No Trespassing" signs at the site.
11. No boats will be permitted to tie-up to the deck area if the applicant uses the deck area for dining and/or drinking purposes.
12. The applicant shall submit amended site plans to the Board (and Board Engineer) depicting the topography of the area (elevations) and flood

zone information requested by the Board Chairman and Board Engineer at the public hearing.

13. The applicant is permitted to have a maximum of 12 boats stored on property during the time period that the bar and restaurant are in operation so long as that does not result in a loss of the amount of the approved parking spaces required by Ordinance or approved by this Board.
14. The applicant will shield the proposed pole mounted light fixtures to prevent light spillage onto contiguous properties if necessary at the direction of the municipal engineer.
15. The applicant shall comply with the Borough sound or noise ordinances.
16. The applicant shall confirm with the Borough Tax Assessor the correct (current) lot and block numbers for the subject property and so designate the correct lots and block numbers on revised plans.
17. The applicant shall submit revised plans showing the number of parking spaces approved for the site; 130 boat slips; 26 seats at the tiki bar; 29 tables with seating for 4 patrons per table on the deck area and around the tiki bar.
18. All construction and equipment shall be compliant with FEMA V-Zone Coastal Construction requirements, NJDEP, CAFRA and Flood Hazard Area construction requirements.
19. The applicant shall be required to install backflow prevention valves on all existing storm drainage outfall pipes. .

Seconded by Mr. Hill and adopted on the following roll call vote:

Ayes: Mr. Hill, Mr. Redmond, Mr. Wells, Mr. Stockton

Nays: None

Abstain: None

September 10, 2015.

Carolyn Cummins, Board Secretary

I certify this to be a true copy of the Resolution adopted by the Borough of Highlands Planning Board on September 10, 2105.

Board Secretary