

September 6, 2020

Gail Coniglio, Mayor
Danielle Moore, Council President
Margaret Zeidman, Council President Pro-Tem
Bobbie Lindsay, Council Member
Julie Araskog, Council Member
Lew Crampton, Council Member

Town of Palm Beach
360 South County Road
Palm Beach, FL 33480

Dear Mayor and Town Council Members,

Objections to Special Exception Application by The Colony Hotel (Z-20-00281)

Sadly because of business conflicts it is highly unlikely that I will be able to attend the Town Meeting on Sep 9th so I would like my comments and objections to be considered by the Town Council.

Having now read and considered the application details submitted by The Colony Hotel, we (the owners of Unit 5, 129 Hammon Ave) are objecting to the granting of the special exception as described in the application. **Our principle objection relates the use of amplified sound and the potential noise from live music and musicians.** We fully understand and appreciate that the Hotel is a unique local business and is seeking to improve its ability to be successful. **We do not object to the use of the space for events that are pre- function and limited in scope.**

To allow the hotel to use the newly renovated East Garden as described in the application would have a significant and detrimental impact on our home, which is adjacent to the east garden and are separated only by a fichus hedge line. Whilst we welcome the hotels offer to install a white vinyl fence as it will enhance the privacy and security it will offer no barrier or buffer to the sound from events held in the space. A similar fence around our property had no impact on the sound.

The Colony is seeking to use this newly renovated space, the plans for which whilst noticed to residents, contained no indication that they wanted to make use of the grounds to hold events. While we understand the investment, the hotel may have made in this space and the future plans they may have for the west area may limit the use of that area we believe, transferring events to this area changes substantially the residential nature of our homes. We were of the belief that the garden was to be a quiet space, one where guests could relax and enjoy tranquility offered by the new garden.

The new application is seeking to provide background music or live music of no more than four instruments. The application suggests that a microphone will only be used for officiants of wedding services. The hotel has installed in advance of this application a purpose-built sound amplification system. Notwithstanding the assurances we have received from the Hotel management in our discussion that the new sound system will be less invasive than we experienced at the 2 prior events, we still believe any amplified sound system so close to our homes will annoy and disturb us; it will impact our peace, comfort, health and repose. It will be exactly as the town as described in S42-196 of the Town Ordinance – Prohibited and consequently should not be permitted.

The hotel conducted a sound check last week when some residents were able to hear the potential impact, following this test, not all residents could agree on how they felt about the amplified sound system and subsequently will be writing individually to express their views.

While we were not able to make the test it is our view the test was not representative of the types of events or planned use and so was not an effective or appropriate measure of future activity:

- There were no guests present, the hotel has indicated that such events could have over 100 people present. We understand that the hotel staff monitored the levels of the test. However, what happens when the event organizers say they cannot hear the music and wishes for it to be turned up?
- The test did not include the use of a microphone and speeches (a use the hotel has indicated will take place). Consequently, the noise level and impact of such activity was not evaluated.
- There were no amplified musicians or singing. These are examples of activities that were conducted at the last 2 events held, and are proposed in the new application - we therefore have no indication of the impact of live music or musicians. During the first event 3 wind musicians had their instruments amplified and the increase in volume was significant.

The application goes on to dismiss all of the conditions that are required to be considered in the special exception as having no impact.

Issue 1 – the garden has not been used in conjunction with the ballroom ever. It was previously a tandem parking space and an open path and unkept space, it was used by hotel staff and some pedestrians; a significantly different use to that proposed in the application.

Issue 2 – the proposed use will clearly impact public health, safety and welfare of the occupants of Ocean Colony. Noise is a health issue, amplified noise on a regular basis in this space will impact our personal health and welfare. Moreover, large congregations of people at events in this space with no substantial barrier between our properties has the potential to become a

safety issue for home owners. There will now be crowds of people so close to our homes. Inevitably, alcohol will be involved and the possibility exists that drunken individuals will encroach into our property. During one of the recent events, we experienced people from the event congregating around our entrance, smoking (as it was not allowed on The Colony Grounds) disposing of both cigarette butts and other articles in to the hedge at the front of our property. While we understand the hotel has no control over this, we would not be experiencing this type of behavior if there was no event space in the east garden.

Issue 3 – The application makes a huge presumption that this will not cause substantial injury to the value of properties. There is no evidence to substantiate this claim or the impact as the space is not currently used in the way proposed.

Issue 4 – The proposed use is NOT compatible with the residential neighborhood. This space has not been used in conjunction with the Ballroom (as described above it was passive space used for pedestrians) moving the events from the west side of the hotel to the east clearly will have more impact on the homes which will now be much closer to events.

Issue 7 – This proposed use will have substantial impact with noise, glare on the adjoining properties. It makes no sense to position such use directly adjacent to the residential properties that abut the garden. The amplified sound system, the illumination / flood lights that have been installed along the property hedge all will have impact on the adjacent homes. The hotel's long standing use has been to the west and we suggest that is **where it continues, for events that need amplified sound or live music.**

Issue 8 – We do not agree that there will be no impact to traffic flow or the ingress and egress to the space. We also are of the view that loading and unloading of equipment and increased pedestrian traffic to the area will become a problem. Trucks loading and unloading have from the recent experience shown that they reverse up to the gate of the new garden blocking the pedestrian footpath. The trucks do not park in the Hotel's car park but remain on the street occupying scarce residents' parking bays. Vehicle traffic for guests no longer pulls into the ballroom area as pedestrians are walking from the car park opposite into the garden, this flow increases significantly the traffic patterns and flows to the area. This change to the east garden for events will have impacts on the safety of pedestrians and home owners.

Issue 12 – There is no data provided to back up the suggestion that 50 per cent of the attendees at these events will be town's persons.

Issue 14 – It is very likely if this change of use is agreed that there will be an additional impact on police and parking enforcement. Any disturbance from noise at events, unsocial behavior from guests and the impact of parking in residents' bays will inevitably result in complaints to the police and enforcement authorities to deal with.

We purchased our property in Ocean Colony because of its unique quiet nature and location. We understood we were buying next to a hotel, however there was no indication that the

passive space alongside was planned to be turned into a event space. If this application is approved as requested, we will no longer be able to sit around our pool, enjoy the peace and tranquility inside our patios, or have our windows open because of the potential noise and disturbance that will be generated by an amplified sound system so close to our property. This will fundamentally change the ambience of the area and the way we live.

We do not believe there is any justification to extend the existing Hotels special exception to the east garden.

We ask the town to deny this application.

If the town is of a mind to allow the hotel to make use of this space, we believe that as a minimum the declaration of use agreements should have conditions which should include:

- **No use of amplified sound (including speeches) at any event.**
- **No wind instruments or singing.**
- **No more than 3 stringed instruments for unamplified background music.**
- **No DJ or live music.**
- **Events should be completed by 8 pm and clean up completed by 9 pm.**

Sincerely,

Paul Wood & Matt Leeson

CC: Paul Castro - Zoning Manager