

RESOLUTION NO. 11-Z-03

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, (“TOWN”) APPROVING A SITE PLAN APPLICATION, PURSUANT TO SECTION 90-41 ET SEQ. OF THE ZONING CODE TO PERMIT A 341 ROOM HOTEL AND PARKING GARAGE AND CONDITIONAL USES TO CONSTRUCT TWO ROOFTOP JACUZZI’S AND TWO SWIMMING POOLS ON THE WEST BUILDING ON THE SITE, AND CONDITIONAL USES TO ALLOW OUTDOOR DINING, A SPA WITH TWO JACUZZI’S AND TWO LOBBY LEVEL SWIMMING POOLS, A HOTEL BAR ON THE ROOF LEVEL, AND A SWIMMING POOL AND TWO JACUZZI’S ON THE ROOF ON THE EAST BUILDING ON THE SITE (ALL AMENITIES ARE A PART OF THE HOTEL) SUBMITTED BY M.B. DEVELOPMENT, LLC., (THE “APPLICANT”), ALL ON THE PROPERTY LOCATED AT 9449 COLLINS AVENUE AND 9148 COLLINS AVENUE DESCRIBED HEREIN; AND PROVIDING FOR AN EFFECTIVE DATE.

I. RECITALS.

WHEREAS, on May 2, 2011 Applicant submitted an application to the Town of Surfside, Florida (“the Application”) requesting the following:

- A. Pursuant to Section 90-41 et seq., of the Town Zoning Code, site plan approval a hotel on two parcels; the east parcel will include a hotel with 269, rooms, approximately 206 parking spaces, 24-hour valet, roof top deck, pools, Jacuzzis, meeting rooms, a restaurant, and 2 bars; the west parcel will include a four-story hotel with 72 hotel rooms, approximately 178 parking spaces, 24-hour valet service, roof top deck, pool, and Jacuzzis; monument signage proposed for corner of 94th Street and Collins Avenue (Monument and wall signage to be applied for under separate permit to be reviewed by the Design Review Board); hotel pedestrian entrance fronting 94th Street and Collins Avenue; vehicular entrance from Collins Avenue and 94th Street with drop off interior to the parking garage (one-way in/one-way out); and loading entrance from Collins Avenue. The combined number of parking spaces between the east and west parcels shall not be less than 369 as required by the code for the project.
- B. Pursuant to Section 90-23 of the Town Zoning Code, conditional use approval for two rooftop Jacuzzi’s and two swimming pools on the west building on the site, and conditional uses to allow outdoor dining, two Jacuzzi’s and two lobby level swimming pools, a hotel bar on the roof level, and a swimming pool and two Jacuzzi’s on the roof on the east building on the site (all amenities are a part of the hotel) as part of the development of the property at 9449 and 9148 Collins Avenue, Surfside, Florida for a hotel with approximately 341 hotel rooms and related accessory uses.

Plans are on file and may be examined in the Building Department entitled “Grand Beach Hotel II”, (more recently renamed “Grand Beach Hotel Surfside”) prepared by Revuelta Architecture

International PA, submitted July 8, 2011 consisting of 75 sheets total including “Cover Sheet and Index of Drawings”. Prepared by prepared by V.S.N Engineering, Inc., signed and sealed July 11, 2011 consisting of 3 sheets; “Conceptual Signing and Pavement Marking Plan” (C-1), “Conceptual Grading and Drainage Plan” (C-2), and “Conceptual Site Utilities Plan” (C-3).

Architecture Sheets: A-000 “Location Plan and Index of Drawings: A-001 “Data Sheet”, A-002 “Context Pictures – East Parcel”, A-003 “Context Pictures – West Parcel”, A-004 “Overall Site Plan”.

East Parcel Pages: A-101 “Site Plan”, A-102 “Level 0 Parking”, A-103 “Level 1 Lobby”, A-104 “Level 2 Conference”, A-105 “Level 3 Units”, A-106 “Level 4 Units”, A-107 “Level 5 Units”, A-108 “Level 6 Units”, A-109 “Level 7 Units”, A-110 “Level 8 Units”, A-111 “Level 9 Units”, A-112 “Level 10 Units”, A-113 “Level 11 Units”, A-114 “Level 12 Units”, A-115 “Roof Level”,

East Parcel Elevation Pages: A-401 “Overall Elevations”, A-402 “West Elevation”, A-403 “West Elevation”, A-404 “East Elevation”, A-405 “South Elevation”, A-406 “North Elevation”, A-501 “Section A-A”, A-502 “Section B-B”, A-503 “Roof Level Key Plan and Lobby Level Key Plan”,

West Parcel Pages: A-101 “Site Plan”, A-102 “Level 1 Lobby”, A-103 “Level 2 Units”, A-104 “Level 3 Units”, A-105 “Level 4 Units”, A-106 “Roof Level”

West Parcel Elevation Pages: A-401 Overall Elevations”, A-402 “East Elevation”, A-403 “West Elevation”, A-404 “South Elevation”, A-501 “Section A-A and Section B-B”, A-502 “Sections”

Lighting: Prepared by Revuelta Architecture International and UCI Engineering signed and sealed July 11, 2011: LIG-001 “East Parcel Landscape Fixtures”, LIG-002 “East Roof Deck Fixtures”, LIG-003 “West Basement/Level Lighting Plan”, LIG-005 “West Roof Deck Fixtures”

Signage: Prepared by Revuelta Architecture International and UCI Engineering signed and sealed July 11, 2011: SIG-001 “East Parcel Parking Signage”, SIG-002 “East Parcel Lobby Signage”, SIG-003 “East Beach Signage”, SIG-004 “East Roof Signage”, SIG-005 “West Lobby Signage”, SIG-006 “West Roof Signage”, SIG-007 “East/West Signage Identification”, SIG-008 “East/West Signage Identification, continued”, SIG-009 “East/West Monument Signage”

Landscape: Prepared by Revuelta Architecture International and Section L Landscape Architecture, signed and sealed July 11, 2011: LO.01 “Tree Survey”, L3.00 “Landscape Calculations”, L3.01 “Landscape Plan – Trees and Palms”, L3.02 “Landscape Plan – Shrubs and Groundcovers”, L3.03 “Landscape Plan – West Roof”, L3.04 “Landscape Plan – East Roof”, L3.05 “East Terraces – Levels 4,7,9, 11”, L3.06 “East Terraces – Level 12”, L3.07 “West Terraces – Level 2”, L4.01 “Landscape Details, FDEP Submittal”, L5.01 “Irrigation Plan”, L5.02 “Irrigation Plan – East and West Roofs”, L6.01 “Irrigation Details, FDEP Submittal”, L6.02 “Irrigation Details, FDEP Submittal”, L7.01 “Landscape Sections, East Building”, L7.02 “Landscape Sections, West Building”

Legal Description: Lots 4 thru 7, Block 1 and Lots 1 thru 6, Block 4 of Altos Del Mar No. 6 as recorded in Plat Book 8, Page 106 of the Public Records of Miami-Dade County Florida and that portion of land lying east of Lots 4-7 of Block 1; bounded on the North by the Easterly extension

of the North line of Lot 7; bounded on the East by the Erosion Control Line, according to the plat thereof, as recorded in Plat Book 105 at Page 62, of the Public Records of Miami-Dade County, Florida; bounded on the South by the Easterly extension of the South line of Lot 4; bounded on the West by the East line of Lots 4, 5, 6 and 7, Block 1.

ADDRESS: East Parcel 9449 Collins Avenue and West Parcel 9418 Collins Avenue

WHEREAS, on June 30, 2011, the Development Impact Committee heard and reviewed this Application and referred this Application for recommendation by the Design Review Board and Planning & Zoning Board, the recommendations of the Development Impact Committee are incorporated in the additional conditions of approval attached here to and incorporated herein under Section IV. Conditions; and

WHEREAS, on July 28, 2011, the Design Review Board and the Planning & Zoning Board heard and reviewed this Application and referred this Application for approval by the Town Commission with the additional conditions of approval attached here to and incorporated herein under Section IV. Conditions; and

WHEREAS, on September 13, 2011, the Town Commission conducted a public hearing on the Application as modified by the Applicant per the conditions of approval; and

WHEREAS, the public hearing of the Town Commission was posted, advertised, and held as required by law, all interested parties concerned in the matter were heard, and due and proper consideration was given to the matter and to the positive recommendation contained in the joint memorandum from the Town Planner; and

WHEREAS, notice was provided to all interested parties regarding the Application; and

WHEREAS, the Town Commission reviewed the Application, the written and oral recommendations of the Town Planners and other consultants who render reports with respect to the Application, including the recommended conditions, and found substantial competent evidence to support a showing by the Applicant that the requests for the approval of the conditional use and for site plan approval are in compliance with the zoning code and the Comprehensive Plan of the Town and maintain the basic intent and purpose of the zoning, subdivision or other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community; and, further, found that said requests should be granted, subject to all of the conditions set forth in this Resolution and the execution of any attendant agreements.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPLICABLE TO APPLICANT, ITS SUCCESSORS OR ASSIGNS, AS FOLLOWS:

II. INCORPORATION OF RECITALS AND FINDINGS OF FACT.

- A. All recitals are incorporated into the body of this Resolution as if same were fully set forth herein.
- B. The Commission finds that the site plan is in compliance with the requirements and criteria set forth in sections 90.41 "Regulated Uses" and 90.23 "Conditional Uses" of the zoning code of the Town of Surfside.

III. APPROVALS.

The approvals set forth in this Section III are subject to all of the conditions set forth in this Resolution and the execution of all attendant agreements prior to the issuance of the Building Permit for the Project.

- A. The Applicant's request for approval of the site plan submitted for the Proposed Grand Beach Hotel II (more recently renamed "Grand Beach Hotel Surfside") located at 9449 and 9418 Collins Avenue be, and the same is, hereby granted and said site plan is hereby approved, subject to all of the conditions provided in this Resolution. The failure of performance of any of these conditions shall be deemed a denial of this Application.
- B. The Applicant's request for approval of a conditional use for two rooftop Jacuzzi's and two swimming pools on the west building on the site, and conditional uses to allow outdoor dining, two Jacuzzi's and two lobby level swimming pools, a hotel bar on the roof level, and a swimming pool and two Jacuzzi's on the roof on the east building on the site be, and the same is, hereby granted subject to conditions of approval.

IV. CONDITIONS.

A. Agreed Upon Conditions

1. Rooftop Pool shall be limited to the following hours of operation: dawn to dusk.
2. Live, amplified music in the outdoor areas shall be prohibited. Recorded music shall be allowed from 11am to dusk at no greater than seventy-five (75) decibels.
3. The pool, pool bar, if any, and related pool deck uses shall be subject to Conditional Use approval and will require annual review and approval by the Town.
4. The Applicant shall have prepared an operational traffic study that includes, but not limited to, a 24-hour valet operational analysis, queuing of vehicles, the relationship/function of the two buildings with each other as it relates to shared

parking, pedestrian safety devices needed, the use of the alley, if any, for traffic circulation for the west building and any other operational improvements necessary to mitigate any impacts. Included as part of the parking study, the Applicant shall ensure that a single taxi cab stand on the west side of Collins Avenue is provided, if allowable by FDOT, and one additional taxi cab stand be allowed to be located at an appropriate location within the entrance of the east building. The Scope of Work shall be agreed upon by the Applicant's consultant and the Town's Traffic Engineer. This study shall be completed prior to the final review by the Town Commission.

5. The parking garage gate at the 94th Street entrance (west building) shall remain open between 6 am – 10 pm to avoid any stacking of vehicles on 94th Street or the delay of arriving and departing guest vehicles.
6. The Applicant acknowledges that FDOT will repave Collins Avenue during the time of construction for the project and should it cause any damage to same during hotel construction, the Applicant commits to funding the cost of repairs necessary for the FDOT project to include paving, curb, gutter, and striping, but not to include subsurface improvements.
7. The Applicant shall contribute up to 50% of the costs of undergrounding but not greater than a total of \$150,000 for the undergrounding of utilities within the alley east of Harding Avenue, west of Collins Avenue, north of 94th Street and south of 95th Street. Of the \$150,000, \$125,000 shall be used for the undergrounding of utilities at the project site and \$25,000 shall be used to cover the cost of converting the utilities to underground service for the businesses located along Harding Avenue, between 95th Street and 94th Street. If the \$25,000 becomes unnecessary, then the \$25,000 shall be added to the \$125,000 for undergrounding the utilities. Upon completion of the engineering plans, the Applicant and Town agree to cooperate to have required vault(s) installed. After the undergrounding of the utilities, the Applicant shall be responsible for the drainage and overlay of the alley east of Harding Avenue, west of Collins Avenue, north of 94th Street and south of 95th Street up to the maximum indicated above unless the overlay is required due to an upgrade of water, sewer and/or storm drainage as a result of the project. If due to the upgrading of water, sewer and/or storm drainage as a result of the project, the Applicant shall pay for the overlay. The payments described hereunder shall be due prior to issuance of the Certificate of Occupancy as more particularly discussed in Section C. 7. hereinbelow.
8. The Applicant shall meet all requirements of the Department of Public Works for trash containers prior to the issuance of a building permit. The service roll gate shall be at least fifteen (15) feet high.
9. The applicant shall contribute 35% of the project cost, not to exceed \$200,000, for the funding of the 95th Street Grand Concourse project that include landscape and

streetscape improvements from Abbott Avenue to the 95th Street Beach access point or for other beautification projects in the immediate vicinity of the Project as determined by the Town Commission provided that in the event this or such other beautification project as described herein is not initiated within two (2) years from the issuance of the CO for the Project, \$20,000 of these funds shall be used to replace playground equipment at the 96th street park and the balance shall be refunded to the Applicant. The payments described hereunder shall be due prior to issuance of the Certificate of Occupancy as more particularly discussed in Section C. 7. hereinbelow.

10. The Applicant agrees to design the project beginning immediately or sooner upon final approval of the site plan by the Town Commission so that the hotel will be LEED Silver Certifiable. Determination that the building has achieved LEED Silver certification shall be made by LEED at the appropriate time, which may not be prior to issuance of a Certificate of Occupancy. Applicant shall make necessary changes during the course of its construction and prior to final determination by LEED to ensure that LEED Silver Certification is achieved but should the cost for such changes become excessive (defined as a cost which is 0.5% greater than the original permitted value plus any change orders), the Applicant shall not be required to make changes beyond this amount and will be free to apply for its Certificate of Occupancy at the completion of its construction. Notwithstanding the above, Applicant will continue to construct and commission the building otherwise in accordance with its LEED certifiable design. Should the cost become excessive as defined above and applicant opts not to carry out further changes, Applicant will pay any balance remaining out of the defined amount, not already spent on changes during construction or commissioning, required to ensure the building remains LEED Silver certifiable into a Town fund to be used for Town-wide energy conservation programs.
11. The Applicant commits that "Surfside" shall be an element of the naming of the hotel and included in all marketing materials.
12. The Applicant shall fund a contribution of \$25,000 to the City's Way finder initiative six months after the issuance of the building permit to assist the City in accommodating visitors to the Town.
13. The Applicant shall furnish brochures that feature businesses located in the downtown in the hotel rooms and in any room directory or any similar information provided as guest information about the hotel. The Applicant agrees to encourage the use of local vendors where feasible.
14. The Applicant's counsel shall provide a legal opinion that the Application does not violate the terms of Section 4 of the Town Charter, Comprehensive Plan, and Zoning Code or in lieu thereof provide an agreement in a form sufficient and acceptable to the Town Attorney to defend the Town against any suits, claims or demands arising from this approval.

15. In addition to cost recovery for all other professional fees attributable to the Project, Applicant agrees to include legal fees not to exceed seven thousand and five hundred dollars (\$7500).
16. At one year subsequent to issuance of C.O. the hours of the Sunset bar and lounge will be reviewed by the Town Manager. The Town Manager will determine if there is evidence of a significant number of complaints regarding noise, upon such a determination, the Applicant will agree to reduce the hours of operation of the Sunset bar and lounge.
17. The applicant agrees to secure a Florida Green Lodging Facility designation by the Florida Department of Environmental Protection's (DEP).
18. The Applicant shall contribute ten thousand dollars (\$10,000) per year for the three (3) years from Fiscal Year 2014-2015 should the Town determine a need for a life guard station between 94th Street and 96th Street.
19. During peak hours, there shall be a minimum of three (3) valet runners on the east building and one (1) valet runner on the west building, to be adjusted upward according to occupancy.
20. The Applicant shall replace any dead or dying plant materials within 30 days of the death or dying condition occurring.
21. The Applicant agrees to comply with SS4.3 Alternative Transportation Low-Emitting and Fuel Efficient Vehicles found in the LEED 2009 Guidelines for New Construction and Major Renovations and will provide a minimum of 2 electric vehicle charging stations.
22. The Applicant agrees to comply with SS4.2 Alternative Transportation, Bicycle Storage and Changing Rooms found in the LEED 2009 Guidelines for New Construction and Major Renovations which requires the provision of bicycles racks.
23. For the east building, the Applicant agrees to include one taxi stand fully inside the east building, to provide a 45-foot bus passenger drop-off area fully on the property in the north garage ramp area, and a luggage unloading area for up to 45-foot buses to be fully inside the building's garage.
24. For the west building, the Applicant agrees to include one taxi stand fully inside the west building and to provide a luggage and passenger drop-off area for buses up to 31 feet fully inside the building.

B. Conditions to be completed before grade or building permits are issued.

1. Applicant shall enter into an agreement, recorded in the public records at the expense of the owner, which shall run with the land and shall bind the heirs, successors, and assigns of said owner, which requires all developments having any tandem parking spaces to provide twenty-four (24) hour valet parking service.
2. The new sidewalk, curb, and gutter along Collins Avenue must be approved and permitted by FDOT. The new sidewalk and curb and gutter along 94th Street must be approved and permitted by Miami-Dade County.
3. All pedestrian features shall comply with the Americans with Disabilities Act (ADA), including but not limited to detectable warning features at driveway locations and be identified with details of ADA conforming handicapped ramps at the time of engineering permit.
4. All restrictions of vehicle sizes, heights, and signage shall be on the requested signing and pavement-marking plan, which shall be provided.
5. Prior to construction approvals, applicant must meet with the Town's Public Works Department and reach a written agreement allowing landscaping to be placed in the new water main easement on the north side of the proposed hotel.
6. Per the survey for the west building, FEMA base flood elevation is 8.0 NGVD. Per Code Section 42-92 applicant must flood proof building to one foot above the FEMA base flood elevation and be certified flood proofed by a registered professional engineer or architect using a FEMA Flood Proofing Certificate.
7. Proof of an FDOT permit for closing the existing driveways, utility construction, and other work on State Road A1A shall be required prior to any work being performed within the Right-of-way.
8. Proof of vacation of the onsite Bellsouth easement must be provided prior to commencement of construction.
9. Applicant shall have provided copies of approvals from MD-DERM for storm water, sanitary, sewer, and MD Public Health UNIT for water.
10. An irrigation plan for the planters to be placed on the eyebrows of the parking garage shall have been provided and approved by the Town.
11. The site plan shall conform to the survey in the following ways: a) legal description; b) the site boundaries shall conform with the angles and distances reflected on the survey; c) the site plan shall show section, township and range with adjacent property owners on its location sketch.

12. The survey needs an owner affidavit that no changes have occurred since the survey.
13. A bond or equivalent amount of cash up to twenty-five thousand dollars (\$25,000) shall be posted to replace public property damaged during the construction of the hotel. The final determination regarding what property shall be replaced will be the sole reasonable determination of the Director of Public Works. The amount shall be determined jointly by the Director of Public Works and the Building Official. The bond or cash equivalent shall be posted prior to the issuance of the building permit.
14. That upon the submittal of an application for a building permit, the plans submitted shall meet with the approval of the Planning Consultants and shall be consistent with the modified Site Plan approved by the Town Commission. Plans shall include all the required elements of the Site Plan pursuant to the Town's Zoning Code and recommendations and these conditions.
15. That the Property be developed substantially in accordance with the public hearing and the Plans as they may be modified in that hearing.
16. That the Applicant shall submit a Declaration of Restrictive Covenants (the "Declaration") in recordable form acceptable to the Town, prior to issuance of a building permit relating to tandem parking in perpetuity as well as the provision of twenty-four (24) hour valet parking services for owners and their guests which shall be included in such Declaration.
17. That the Applicant comply with all conditions and permit requirements of the Department of Environmental Resource and Management (DERM), the Miami-Dade County Fire Department (MDFD), Water and Sewer Department, Department of Environmental Protection (DEP), Florida Department of Transportation (FDOT).
18. That the Applicant shall submit plans for the construction of an appropriate barrier between the construction site and adjoining properties in order to minimize blowing of sand and debris. The Applicant will comply with the regulations of the Code of the Town of Surfside relating to construction site operations including construction fencing. The Applicant will use its efforts to minimize vibration and noise during the construction of the project.
19. That the Applicant has submitted all documents required under this Resolution and all impact fees, and professional fees (cost recovery as set forth in Section 90-11 as billed or as agreed, to wit: fixed fee of \$7500 for legal services) incurred in the review and processing of this Application and permitting as more fully described in Paragraph C.6. hereinbelow.

20. No building permits shall be issued (except for demolition, temporary power, and construction trailers) unless the Applicant has submitted all documents required under this approval and shall have paid all professional and other fees required by the Code of the Town of Surfside (including but not limited to, the connection and development fees in accordance with Section 78-83 of the Code of the Town of Surfside) are paid.
21. Applicant shall present evidence of parking plan per agreement for the provision of off-street parking for construction workers during the period of construction of the approved project.
22. The Applicant's civil engineer, in conjunction with the Town's Public Works Director and consultants shall confirm all code requirements for the water, sewer, and storm drainage systems shall be met prior to the issuance of the building permit. Should the conclusion of this analysis require a contribution to the Town in as much as the project has a demonstrable impact on those services, this contribution shall be paid prior to the issuance of the building permit. However, this shall not delay the issuance of a building permit if the Town is unable to provide cost estimates by the time the Applicant's building permit application is deemed complete by the Building Official.
23. The Applicant must maintain an interactive website during construction and provide for a complaint/response mechanism from nearby property owners.
24. The Applicant has proffered it shall address any noise issues in the following manner and that their plans and specifications shall so reflect, including as follows:
 - The pool decks ambient background music will be via a distributive sound system using speakers as described and proposed at the September 13, 2011 Town Commission Meeting.
 - All exterior speakers will have decibel limiters set to 75dba and those limiters shall be maintained in good working order as a condition of the renewal of the Conditional Use Permit each year.
 - Interior parking ramps will have sand set into the sealer to reduce noise and tire squeal.
 - All ground level venting will use Tectum (or similar) insulation material.
 - Signage will be installed on the driveway to discourage use of vehicle horns.

C. Conditions to be completed before any Certificate of Occupancy is issued:

1. That the Applicant demonstrates that it is in compliance with all terms and conditions under this approval.

2. All signage shall be submitted, reviewed and approved under a separate application for review by the Design Review Board prior to the issuance of a Final C.O.
3. The Applicant shall fund the cost of one standard design litter receptacle and one standard design recycling receptacle along Collins Avenue and two standard design litter receptacles along 94th Street acceptable to the Department of Public Works. Cost and the design of the litter receptacles shall be determined by the Department of Public Works before issuance of the final C.O.
4. The applicant shall pay a contribution of \$15,000 to upgrade the public beach access point at 94th Street and/or the beach walk between 94th and 95th Streets. This amount shall be paid as a condition of the Certificate of Occupancy.
5. The Applicant agrees to develop a job-training program designed to provide employment opportunities for Surfside residents. The program will be provided to the Town Manager for review approximately three (3) months prior to the issuance of the C.O. The Applicant agrees to the use of local vendors wherever possible.
6. The Town Manager and/or his/her designee, in review of any application prior to the issuance a building permit or thereafter if there are any material amendments to the site plan approval, may refer any such application presented to such engineering, planning, legal, technical, or environmental consultant or professional(s) employed by the Town as the Manager shall deem reasonably necessary to enable him/her to review such application as required by law. Charges made by such consultants or professionals shall be in accord with the charges customarily made for such services in Miami Dade County, and pursuant to an existing contractual agreement by and between the Town and such consultant. Charges made by the Town shall be in accord with the hourly rates charges by such consultants or hourly rates of employed professionals and shall be paid within thirty (30) days on submission of Town voucher.
7. The Applicant shall furnish payment and performance bond, cash, or letter of credit issued in a form and by a bank reasonably acceptable to the Town to ensure Applicant's performance of the public improvements required pursuant to site plan approval (including, but not limited to, those improvements described in Paragraphs IV.A. 7. And 9. hereinabove) provided however, if the Town has completed these improvements prior to the issuance of the C.O., the Town shall be paid the sums due in cash immediately upon demand but no earlier than C.O. Any such bond shall be issued by a surety having a minimum rating of A-1 in the Best's Key Rating Guide, Property/Casualty Edition, shall be subject to the approval of the Town, and shall provide that "this bond may not be cancelled or allowed to lapse until 30 days after receipt by the Town, by certified mail, return receipt requested, of written notice from the issuer of the bond of intent to cancel or not to renew". As improvements are made the Town, within its discretion, may

reduce or eliminate the bond amount. These rights reserved by the Town with respect to any construction bond established pursuant to this section are in addition to all other rights and remedies the Town may have under this Resolution, in law or in equity.

8. That paving within the front setback shall consist of pavers or other decorative materials approved by the Building Official. Under no circumstances shall asphalt concrete or plain concrete be utilized as paving in the front setback.
9. The Applicant shall pay for the repaving and any related work (including curb, gutter and striping, but not to include subsurface improvements) along the frontage of the Applicant's property to the north side of 94th Street between Collins Avenue and Harding Avenue. This project shall be completed prior to the issuance of a Certificate of Occupancy. Applicant will be responsible for completing design plans and obtaining any necessary permits from Miami-Dade County and/or other permitting agencies, if necessary. The maximum contribution required by Applicant towards this work shall be \$15,000 and will only be required if the Town carries out the same work of repaving to the remainder of 94th Street adjacent to the Applicant's property. Notwithstanding the above, Applicant shall be responsible to repair any damage caused to the road by its construction, should the contribution not be required.

D. Other Conditions:


1. That the Applicant shall obtain a Certificate of Occupancy and a Certificate of Use from the Town upon compliance with all terms and conditions. The Certificate of Occupancy and Certificate of Use shall be subject to cancellation upon violation of any of the conditions.
2. That the approved site plan shall remain valid for a period of 24-months from the date of approval. If no building permit is issued within the 24-month time period, the site plan shall be considered null and void and of no force and effect.
3. That the Applicant shall comply with all Town Ordinances applicable to development and permit approvals at the time of application of the site plan and in the event the Applicant does not commence construction within six (6) months from the date the a permit issued, it shall be required to comply with Section 14.55 of the Surfside Code in effect at the time of the passage of this Resolution, as may be amended from time to time, including the posting of a bond to defray the cost of the Town having to perform these tasks, if necessary, and as may be required by the Building Official.

PASSED and ADOPTED on this 13TH day of September, 2011.

Motion by Commissioner Kopelman, second by Commissioner Karukin.

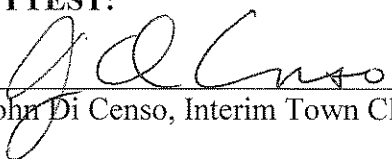
FINAL VOTE ON ADOPTION

Commissioner Michael Karukin	<u> Y </u>
Commissioner Edward Kopelman	<u> Y </u>
Commissioner Marta Olchyk	<u> Y </u>
Vice Mayor Joseph Graubart	<u> N </u>
Mayor Daniel Dietch	<u> Y </u>



 Daniel Dietch, Mayor

ATTEST:



 John Di Censo, Interim Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:**



 Lynn M. Dannheisser, Town Attorney

CERTIFICATION OF ISSUANCE:

I, John Di Censo, Interim Town Clerk of the Town of Surfside, Florida, do hereby certify that the above and foregoing is a true and correct copy of Resolution No. 11-Z-03 adopted by the Town Commission at its meeting held on the 13 day of SEPTEMBER 2011.

Issued: 9/26/11



 John Di Censo
 Interim Town Clerk

