

RESOLUTION NO. 12-Z-Q

**A RESOLUTION OF THE PLANNING & ZONING BOARD (“TOWN”) APPROVING A SITE PLAN APPLICATION, PURSUANT TO SECTION 90-41 ET SEQ. OF THE ZONING CODE TO PERMIT A SYNAGOGUE ON THE SITE, AND SUBMITTED BY YOUNG ISRAEL CONGREGATION. (THE “APPLICANT”), ALL ON THE PROPERTY LOCATED AT 9580 ABBOTT AVENUE DESCRIBED HEREIN; AND PROVIDING FOR AN EFFECTIVE DATE.**

**I. RECITALS.**

**WHEREAS, on February 23, 2012, the 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 Synagogue on one parcel; the proposed Synagogue is a 23,784 square feet Public Assembly Facility comprised of a sanctuary, social hall, accessory office/classrooms and an underground parking garage consisting of thirty-one (31) parking spaces. Signage to be applied for under separate permit to be reviewed by the Design Review Board; vehicular entrance to the parking garage from Abbott Avenue.

Plans are on file and may be examined in the Building Department entitled “Young Israel Congregation,” prepared by Shapiro Associates, submitted February 23, 2012, consisting of 19 sheets total, including “Cover Sheet .”

**Architecture Sheets:** A-0 “Cover Sheet,” A-1 “Site Plan/Location Plan,” A-2 “Parking Level”, A-3 “Ground Floor Plan,” A-4 “Second Floor Plan,” A-5 “Roof Plan,” A-6 “North Elevation/Details,” A-7 “West, East, and South Elevations,” A-8 “Lighting Plan”.

**Civil:** Prepared by AB Engineers, Inc. and Marvin Abarca signed and sealed February 21, 2012: PD-1 “Paving and Drainage Plan,” PD-2 “Paving and Drainage Details,” PD-3 “Grading and Drainage at Basement,” PM “Paving Marking and Signage Plan,” WS-1 “Water Sewer Plan.”

**Landscape:** Prepared by Rhett Roy Landscape Architecture – Planning, P.A., Section L Landscape Architecture, signed and sealed January 18, 2012: L-1 “Tree Survey and Disposition Plan,” L-1.1 “Tree Survey & Disposition Notes and Details,” L-2 “Landscape Plan,” IR-1 “Irrigation Plan.”

**Legal Description:** Lots 11 thru 14, Block 7 of Altos Del Mar No. 6 as recorded in Plat Book 8, Page 106 of the Public Records of Miami-Dade County, Florida, less the following described land, heretofore conveyed to the Town of Surfside for highway purposes:

The north 31 feet of lots 12 and 13 in Block 7 of Altos Del Mar No. 6 according to the plat thereof as recorded in Plat Book 8, Page 106, of the public records of Miami-Dade County, Florida; and the external area formed by a 25-foot radius arc concave to the southwest tangent to the south line of the north 31 feet of said Block 7 and tangent to the east line of said Block 7; and

the external area formed by a 25-foot radius are concave to the southeast tangent to the south line of the north 31 feet of said Block 7 and tangent to the west line of said Block 7.

**ADDRESS:** 9580 Abbott Avenue

**WHEREAS**, on January 23, 2012, the Town Commission voted on Resolution 2012-2068, approving a settlement agreement in the case of Young Israel of Bal Harbour, Inc. v. Town of Surfside, Civil Action No. 1:10-CV-24392. As part of the settlement agreement under the Town RLUIPA Relief Procedures Ordinance 2009-1510 to grant reasonable relief to Young Israel from those requirements they allege would create a substantial burden on their religious practice, the Town, without making a specific finding of a substantial burden but in furtherance and as part of the settlement, granted relief on the items contained in the settlement agreement.

**WHEREAS**, on March 1, 2012, 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 hereto and incorporated herein under Section IV Conditions; and

**WHEREAS**, the public hearing of the Planning & Zoning Board jointly with the Design Review Board 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**, on March 29, 2012, the Design Review Board and the Planning & Zoning Board after a full public hearing and debate, now refers this Application for approval by the Town Commission with the additional conditions of approval incorporated herein under Section IV; and

**NOW THEREFORE, BE IT RESOLVED BY THE PLANNING & ZONING BOARD JOINTLY WITH THE DESIGN REVIEW BOARD OF THE TOWN OF SURFSIDE, FLORIDA, APPLICABLE TO APPLICANT, ITS SUCCESSORS OR ASSIGNS, RECOMMENDS APPROVAL TO THE TOWN COMMISSION 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 Design Review and Planning & Zoning Boards find that the site plan is in compliance with the requirements and criteria set forth in sections 90.41 "Regulated Uses" of the zoning code of the Town of Surfside and in accordance with the Settlement Stipulation

dated January 23, 2012, relating to the case of YOUNG ISRAEL OF BAL HARBOUR, INC V. TOWN OF SURFSIDE Case No.1:10-CIC-24392

### III. APPROVALS.

The Planning & Zoning Board jointly with the Design Review Board recommend approval of the site plan 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 Young Israel Synagogue located at 9580 Abbott Avenue be, and the same is, hereby granted, 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.

### IV. CONDITIONS.

#### A. Agreed Upon Conditions

1. The Applicant will purchase twenty-two (22) parking spaces from the Town at a cost of \$22,500, per parking space, for a total contribution to the Parking Trust Fund of \$495,000.
  - a. Offsite Parking Contract: At the time of Applicant's application for a building permit, it shall have obtained a written and recordable license agreement or lease agreement that gives use on demand of the required offsite parking spaces. Said agreement shall have an initial term of no less than 5 years.
  - b. Parking Trust Fund: In the event that the Applicant is unable to obtain or renew an offsite-parking contract, it shall make a contribution to the Town's Downtown Parking Trust Fund.
  - c. Parking Trust Fund Cost: twenty-two (22) spaces multiplied by the cost of \$22,500
  - d. Required Contribution: \$495,000 contribution
  - e. Parking Trust Fund Terms: Applicant shall pay the required contribution by making thirty (30) equal annual payments, each in the amount of 1/30<sup>th</sup> of the total amount.
  - f. Payment Due: The first payment of the required contribution will be due on the last day of the term of the then-existing offsite parking contract, and each subsequent payment will be due promptly on the same month and day of each following year. If there is no offsite parking contract at the time of building permit application, the first payment will be due when the Applicant requests a Certificate of Use from the Town, and shall be due on the same month and day of each following year.
2. The Applicant shall coordinate with the Town's Public Works Department to move underground utilities, where possible, to provide the maximum amount of landscaping.

3. The Applicant shall provide landscaping in the abandoned bus bay, relocate the sidewalk, and provide additional landscaping in front of the building.
4. The Applicant will absorb the cost of curb, gutter, and landscaping for the abandoned bus bay.
5. The Applicant agrees that when the existing bus stop is eliminated, the existing four Medjool palms shall be relocated and incorporated in a curvilinear along with two new Medjool palms inclusive of a six-foot wide walkway. The six total Medjool palms are to be located in the green areas of the curvilinear design similar to the conceptual sketch as attached. The green areas shall also include a low-lying groundcover such as Green Island ficus. The walkway shall be inlaid with Jerusalem stone from the same quarry as the building stone.
6. The Applicant shall provide greater aesthetic detail for the loading, trash, and mechanical doors. These details will be reviewed by the Design Review Board.
7. The Applicant shall provide the number of fixtures in the bathrooms on the site plan to confirm consistency with the Florida Building Code.
8. The Applicant agrees to mitigate sound from the mechanical equipment and will work with the Town's Building Official to meet this requirement.
9. The Applicant agrees that the Design Review Board shall review all signage separately from the site plan application.
10. The Applicant agrees that the Design Review Board shall review the stained glass separately.
11. The Applicant agrees that the Design Review Board shall review the front entrance doors separately *and southern glass wall and landscaping.*
12. The Applicant shall demolish the existing wall on the south side of the property. The Applicant will install a temporary construction fence per the code requirement on the Applicant's southern property line during the entire construction period. The Applicant shall begin construction on a new wall/fence thirty (30) days prior to the Applicant applying for a Temporary Certificate of Occupancy (TCO), the construction shall be completed prior to issuance of the TCO. The Applicant agrees that said wall/fence shall be located two feet north of the property line and landscaping of both sides of said wall/fence shall be installed at Applicants expense.
13. Applicant shall, subject to approval by FDOT, utilize the bus bay as a construction staging area and shall complete the required installation of the new curb, gutter and landscaping prior to issuance of the TCO.

14. The Applicant agrees to change the location of the proposed separate irrigation meter located on the irrigation plans to match the civil plans.
15. The Applicant shall install a hedge to the top of the FPL box and the Applicant also agrees that if the proposed deep injection well or sediment box are installed above ground they will need to ensure that they be hedged to the top of the element.
16. The Applicant acknowledges that there will be no spillover of lighting to the adjacent southern property line.
17. The Applicant agrees to obtain permitting and approval from Miami Dade County Department of Permitting, Environmental Regulatory Affairs (PERA) for the proposed removal of the existing landscaping.
18. The Applicant agrees that they shall ensure all utilities including telephone, cable, and electrical systems shall be installed underground and shall reemerge at the existing southern utility pole. The final details shall be subject to approval of the Town's Public Works Department and the utility companies requirements.

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

1. The Applicant shall address all handicapped access and restroom issues during the building permit process.
2. The Applicant agrees that all open design review board issues shall be completed prior to the issuance of a building permit.
3. The Applicant shall provide a mitigation payment to six homes (9580 Byron Avenue, 9573 Byron Avenue, 9572 Byron Avenue, 9564 Byron Avenue, 9565 Byron Avenue, and 9572 Byron Avenue.) These improvements shall be \$3000 per home, which shall be used as those homeowners see fit to mitigate the impacts including but not limited to additional landscaping, sound deadening and security. This amount shall be put into escrow prior to the issuance of the building permit.
4. 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 Site Plan AS MAY BE 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.

5. That the Property be developed substantially in accordance with the public hearing and the Plans as they may be modified in that hearing.
6. 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) incurred in the review and processing of this Application and permitting as more fully described herein.
7. 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.

**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 agrees additional landscaping can be required as necessary to protect the aesthetics and minimize the impacts of the surrounding area.

**D. Other Conditions:**

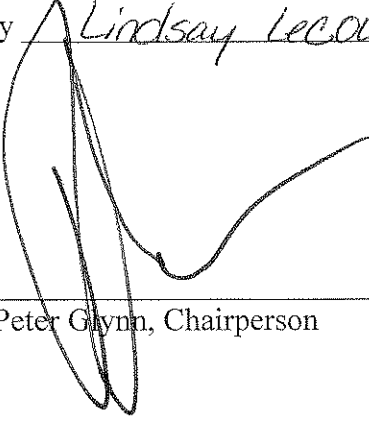
1. That the Applicant shall obtain a Certificate of Occupancy and a Certificate of Use from the Town upon compliance with all terms and conditions. The Certificate of Occupancy and Certificate of Use shall be subject to cancellation upon violation of any of the conditions.
2. That the approved site plan 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 29<sup>th</sup> day of March, 2012.

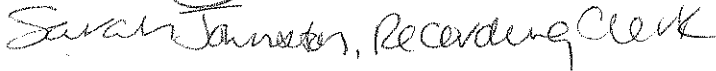
Motion by Jorge Gutierrez, second by Lindsay Lecour.

**FINAL VOTE ON ADOPTION**

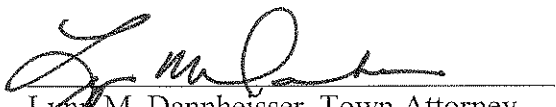
  
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Peter Glynn, Chairperson

**ATTEST:**

  
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Sandra Novoa, Town Clerk

  
Sarah Johnston, Recording Clerk

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

  
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Lynn M. Dannheisser, Town Attorney