

RESOLUTION NO. 12-Z-~~2078~~

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURESIDE, FLORIDA, ("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 ("Project"). 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 Stipulation of Settlement in the case of Young Israel of Bal Harbour, Inc. v. Town of Surfside, Civil Action No. 1:10-CV-24392 ("hereinafter referred to as the Settlement Agreement"). 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 with the recommendations of the Development Impact Committee incorporated in conditions of approval; and

**WHEREAS**, on March 29, 2012, 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 additional conditions of approval included herein in accordance with Resolution 12-20 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**, 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 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, charter, or other land use regulations, which are 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, the execution of any attendant agreements or covenants, and requirements of the Code of the Town of Surfside.

**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 90.20 "Development Review Requirements for Submittals other than single-family and two-family" and 90.41 "Regulated Uses" of the zoning code of the Town of Surfside and in accordance with the Settlement Agreement.

## 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, covenants, Settlement Agreement, and the Code required for the Project.

- A. The Applicant's request for approval of the site plan submitted for the Project located at 9580 Abbott Avenue be, and the same is, hereby granted, subject to all of the conditions provided in this Resolution.
- B. 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 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 x cost of \$22,500
  - d. Required Contribution: \$495,000 contribution
  - e. Parking Trust Fund Terms: Applicant shall pay the required contribution by making 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 acceptable to the Town.
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. 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.
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. Applicant shall design the fence and landscaping in consultation with the immediately adjacent neighbors. Said fence and landscaping shall be reviewed by the Design Review Board which shall have the final decision in this matter.

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 shall 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. All signage, stained glass, front entry doors, final landscaping and the wall/fence shall be submitted, reviewed and approved under a separate application for design review only by the Design Review Board *prior* to the issuance of a building permit.
3. The Applicant shall provide a mitigation to six homes (9580 Byron Avenue, 9573 Byron Avenue, 9572 Abbott Avenue, 9564 Byron Avenue, 9565 Byron Avenue, and 9572 Byron Avenue) in an amount not to exceed \$3000 per home to be used to buffer and otherwise mitigate the impacts which will individually depending on the property include but not be limited to additional landscaping, sound deadening

and security. This amount shall be put into escrow prior to the issuance of the building permit. The property owners of the homes shall make the expenditures in accordance with their own needs based on the location of the property provided however they shall comply with design review regulations to the extent applicable.

4. The Applicant shall provide a photometric plan as part of the building permit application.
5. 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.
6. That the Property be developed substantially in accordance with the public hearing and the Plans as they may be modified in that hearing.
7. 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.
8. 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.
9. Applicant shall present evidence of parking plan for the provision of off-street parking for construction workers during the period of construction of the approved project.

**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 including the Settlement Agreement.
2. The Applicant agrees additional landscaping can be required by the Town as necessary to protect the aesthetics and minimize the impacts of the surrounding area.
3. The Town Manager and/or his 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 or 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.

4. Applicant shall provide a recorded covenant that runs with the land in accordance with the terms of Paragraph 2.G. (v.) of the Settlement Stipulation. Said covenant shall have been reviewed and approved for legal sufficiency by the Town Attorney.
5. 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.

**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 or other violations of the Town Code.
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 10<sup>th</sup> day of April, 2012.

Motion by Karukin, second by Olchyk

**FINAL VOTE ON ADOPTION**

Commissioner Sheldon Lisbon  
Commissioner Marta Olchyk  
Vice Mayor Michael Karukin  
Mayor Daniel Dietch

Yes  
Yes  
Yes  
Yes

[Signature]  
Daniel Dietch, Mayor

**ATTEST:**

[Signature]  
Sandra Novoa, Town Clerk

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

[Signature]  
Lynn M. Dannheisser, Town Attorney

**CERTIFICATION OF ISSUANCE:**

I, Sandra Novoa, 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. 12-Z-<sup>2012</sup> adopted by the Town Commission at its meeting held on the 10<sup>th</sup> day of April, 2012.

Issued: 4/10/2012

[Signature]  
Sandra Novoa, Town Clerk