

RESOLUTION NO. 15-Z- 2344

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A SITE PLAN APPLICATION, PURSUANT TO SECTION 90-41 ET SEQ. OF THE ZONING CODE, TO PERMIT DEVELOPMENT OF 28 DWELLING UNITS WITH 50 PARKING SPACES WITH AN ADDRESS OF 201, 203, 205, 207, 209, 215 – 88TH STREET AND 8809 HARDING AVENUE, SURFSIDE, FLORIDA, AS SUBMITTED BY 8809 HARDING DEVELOPMENT, LLC; SUBJECT TO CERTAIN CONDITIONS WHICH SHALL BE INCLUDED IN A RECORDED COVENANT RUNNING WITH THE LAND, AND PROVIDING FOR A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

I. RECITALS.

WHEREAS, 8809 Harding Development, LLC (the “Applicant”), a Florida corporation, owner of the property located at 201, 203, 205, 207, 209, 215 – 88th Street and 8809 Harding Avenue, Surfside, Florida 33154, with a general location on the north side of 88th Street between Collins Avenue and Harding Avenue (the “Property”) submitted an application to the Town of Surfside, Florida on March 16, 2015, amended subsequently as to the number of units, (the “Application”) requesting approval as set forth below:

- A. Pursuant to Section 90-41 et seq., of the Town Zoning Code, site plan approval of 28 residential dwelling units, including 50 parking spaces and a roof top terrace.
- B. Plans are on file and may be examined in the Building Department entitled “8800 Collins”, Surfside, FL 33154, which plans may be modified at public hearing (hereinafter referred to as the “Plans”) and are prepared by Cristina Fandino, AIA, MCID & Associates, Jerry Zamora – Zamora & Associates, and MLA Group, Inc. submitted on March 16, 2015, dated August 10, 2015 and consisting of a set of sheets including the following:

Survey by Bello & Bello
Architectural drawings by Fandino, AIA
Landscape Architecture drawings by MLA Group, Inc.
Civil Engineering drawings by Jerry Zamora – Zamora & Associates

Legal Description: See attached Exhibit “A” “Legal Description”

ADDRESS: 201, 203, 205, 207, 209, 215 – 88th Street And 8809 Harding Avenue, Surfside, FL 33154; and

WHEREAS, on April 2, 2015 and June 6, 2015 the Town’s Development Review Group, pursuant to the Town’s Zoning Code Section 90.20, met to review the site plan application and provide technical comments to the Town staff and to the Applicant; and

WHEREAS, the Town’s Development Impact Committee, after advertised notice and notice posted on the Town’s website, met on July 22, 2015, and during the televised meeting, reviewed the Application and made recommendations to the Town’s Planning and Zoning Board in accordance with the criteria set forth in the Town’s Zoning Code Section 90.20. Its recommendations for approval, subject to certain conditions set out in the Development Impact Committee Report, are incorporated herein under Section IV. Conditions, and, together with all other conditions imposed by the Planning and Zoning Board and the Town Commission, shall be accepted by the Applicant and owner of the Property and their heirs, successors and/or assigns, and shall be made part of a recorded covenant running with the land; and

WHEREAS, on August 27, 2015, the Planning and Zoning Board, at a duly noticed and televised quasi-judicial public hearing, after reviewing the Application and hearing from its professional staff, the Applicant, and members of the public, considered the requirements of Section 90-41 et seq. of the Town Zoning Code for Site Plan Approval and the Application’s consistency with the Town of Surfside’s Comprehensive Plan, and recommended the Application for approval by the Town Commission, subject to all of the conditions recommended by the Development Impact Committee and the additional conditions of approval incorporated herein under Section IV. Conditions.

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

II. INCORPORATION OF RECITALS AND FINDINGS OF FACT.

- A. All recitals set forth above are incorporated into the body of this Resolution as if the same were fully set forth herein.
- B. The Town Commission finds that the proposed Site Plan, with the conditions as incorporated herein, is in compliance with the requirements and criteria set forth in Section 90.41 “Regulated 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 a Building Permit for the Project.

- A. The Applicant's request for approval of the site plan submitted for the property known as "8800 Collins" located at 201, 203, 205, 207, 209, 215 – 88th Street And 8809 Harding Avenue, Surfside, Florida, 33154, with a general location on the north side of 88th Street between Collins Avenue and Harding Avenue, is granted and said site plan approved, subject to all of the conditions provided in this Resolution. The failure of performance of any of these conditions shall be deemed grounds for revocation of the approval.

IV. CONDITIONS.

1. A bond or equivalent amount of cash shall be posted by the Applicant to replace public property damaged during the construction of the project, pursuant to the terms of Section 14.30 of the Town Code. The final determination regarding what property shall be replaced will be in the reasonable determination of the Director of Public Works. The Director of Public Works and the Building Official shall jointly determine the bond or cash equivalent amount. The bond or cash equivalent shall be posted prior to the issuance of a building permit.
2. 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 pursuant to the site plan approval. 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 include this legend: "This bond may not be cancelled or allowed to lapse until 30 days after receipt by the Town, by certified mail, returned receipt requested, addressed to: "Town Manager with a copy to: Town Attorney, both addressed to: Town of Surfside, 9293 Harding Avenue, Surfside, FL 33154" of written notice from the issuer of the bond of its intent to cancel or to not renew." As improvements are made, the Town Manager or designee, within his/her reasonable 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.
3. The Applicant shall maintain all landscaping materials on site in good condition, replacing diseased, dying or dead plant material as necessary so as to present a healthy

and orderly appearance at all times. Based on the proposed landscape plan, including the trees and palms only, the value of the material is \$98,858. Therefore, the Applicant agrees to a landscape bond for one year from the final landscape inspection for the value of the material.

4. The Applicant confirms that the proposed pools and any other amenity are for the sole use of the residents and the guests of the residents.
5. Live, amplified music shall be prohibited outdoors. Recorded music no greater than 75 decibels shall be allowed outdoors from 11:00 a.m. to dusk.
6. The Applicant shall provide the Town with a detailed schedule for the construction of the project (the "Construction Schedule") within thirty (30) days of approval of the Application by the Town Commission.
7. The Applicant shall pay a contribution to upgrade the public beach access at the street end at 88th Street and the ocean bulkhead in the amount of \$20,000. This amount shall be paid 90 days prior to the issuance of a Temporary Certificate of Occupancy ("TCO").
8. The Applicant shall contribute \$20,000 for the Town's Parks and Recreation playground equipment. This amount shall be paid 90 days prior to the issuance of a TCO.
9. The Applicant shall contribute \$800 for the Town's Veteran's Park dog waste station, which shall fund the installation of the station and one year of maintenance. This amount shall be paid 90 days prior to the issuance of a TCO.
10. The Applicant shall contribute \$5,000 to the Town Parks and Recreation Department for placement of benches in Veteran's Park. This amount shall be paid 90 days prior to the issuance of a TCO.
11. The Applicant agrees to pay the maintenance cost of washing the tennis courts at the Surfside Tennis Center during construction. The cost of washing the tennis courts is \$1,000 per month to be paid by the 5th day of each month.
12. The Applicant shall provide a bus shelter, similar to the Town of Surfside style as determined by the Town Manager, located on the west side of Harding Avenue and 88th Street at the current bus stop location, or as permitted by Miami-Dade County. The cost for the bus shelter shall be paid 90 days prior to the issuance of a TCO.

13. The Applicant shall reimburse the Town for any work performed by the Town resulting from the Applicant's need to provide water and sewer service along Harding Avenue, Collins Avenue and 88th Street. Any work necessary within the Florida Department of Transportation ("FDOT") Right of Way shall comply with FDOT regulations. Any work within a Miami-Dade County Right of Way shall be coordinated through Miami-Dade County and the Town of Surfside.
14. The new sidewalk, curbs, and gutter along Collins Avenue, Harding Avenue and 88th Street must be approved and permitted by FDOT. The sidewalk shall be a paver type approved by the Town Manager or designee.
15. The Applicant agrees to provide access for 220 volt capability throughout the garage to offer charging opportunities for electric vehicles to residents as needed.
16. The Applicant agrees to design the project to be LEED Silver Certifiable.
17. In the event of a hurricane warning, all removable items from the pool decks, roof decks and other outdoor spaces shall be removed and secured. Cranes shall be secured. The Applicant shall provide a hurricane safety plan to the Town in advance of construction, including contact information.
18. 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 as of that date, in form and content subject to the approval of the Town Attorney and Town Manager, and shall have paid all professional and other payments required by the Code of the Town of Surfside to be paid as of that date, including but not limited to the connection and development fees in accordance with Section 78-83 of the Code of the Town of Surfside, entitled "development fee imposed; time of payment."
19. The Applicant shall provide water/sewer fees to the Town of Surfside in the amount prescribed in the Town Code Section 78-83 and calculated using all fixtures in the buildings. Said fee shall be paid at the issuance of a Building Permit. There shall be no offset for existing fixtures if such offset is prohibited by law.
20. The Applicant shall present a Construction Parking Plan for the provision of construction workers during the period of construction of the approved project prior to the issuance of a building permit. The Construction Parking Plan shall be subject to the review and approval of the Town Manager. The Construction Parking Plan shall provide that all workers shall park on-site or shall park off-site outside of Town limits. The Applicant and the Applicant's general contractor shall direct all workers not to park

their vehicles in residential neighborhoods or Town parking lots and Town parking metered spaces. The Applicant and the Applicant's general contractor are responsible to enforce the Construction Parking Plan with all employees, contractors and subcontractors. Violations of the Construction Parking Plan will result in penalties, stop work orders or revocation of the building permit.

21. The Applicant shall reimburse the Town for the value of eight (8) lost metered parking spaces located on the north side of the 200 block of 88th Street during the period of construction through Certificate of Occupancy. The value of the metered spaces on a daily basis is calculated at \$1.50 per hour X 12 hours per day X 8 parking spaces equals \$144.00 per day. The annual cost is \$52,560 which amount the Applicant shall pay to the Town prior to the issuance of the first building permit.
22. The Applicant shall maintain an interactive website during construction and provide for a maximum of 24 hour response complaint/response mechanism for nearby property owners.
23. The Applicant shall conduct an audit of the construction costs at the conclusion of the construction and shall pay the difference in the building permit fee, if any.
24. The Applicant, its successors and assigns shall comply with all Town ordinances applicable to development and permit approvals at the time of approval of the site plan and in the event the Applicant does not commence construction within six (6) months from the date a permit is issued, it shall be required to comply with Section 14.55 entitled "Vacant lots or buildings" of the Town of Surfside Code, including but not limited to the posting of a bond to defray the cost the Town may incur if required to secure and maintain the site, if necessary, and as may be required by the Building Official. The Applicant for this purpose shall provide a bond not to exceed five percent of the construction cost, as required by the Building Official. These funds shall be used to secure property and the construction site in the event construction is abandoned, or ceases prior to completion, or to repair public infrastructure damaged by construction, and to maintain site during abandonment.
25. Any change in the ownership of the current owner, 8809 Harding Development, LLC, (also referred to as "Applicant"), greater than twenty percent (20%) shall be fully disclosed in writing to the Town Manager and Town Attorney immediately upon said change occurring. Said change of ownership shall not extend or modify any of the dates for payment or performance included in this Resolution or in any related agreements referenced in this Resolution nor shall any change of ownership modify or excuse or extend any of the payment obligations contained in this Resolution or in any related

agreements referenced in this Resolution. All payment obligations and performance obligations of any kind set forth in this Resolution and in these Conditions are binding on the Applicant, its heirs, successors and assigns.

26. All voluntary proffers and commitments made to the Town of Surfside pursuant to the Resolution, including but not limited to those described in these Conditions, shall be binding upon Applicant, its heirs, successors and assigns, and, as to payments, shall be due and payable, or in the event of an action, shall be performed, in strict compliance with the manner and within the time frames set forth in these Conditions and any change in ownership, or modification of the site plan or design, whether substantial or minor in nature, shall not excuse the performance or the payments, all of which are part of the Conditions subject to which the Applicant's request for site plan approval were granted.
27. The applicant shall provide a Unity of Title in a form acceptable to the Town Attorney for all parcels included in the site plan to the Town prior to the issuance of the first building permit.

V. **SEVERABILITY CLAUSE.** In the event any portion or section of this Resolution is determined to be invalid, illegal or unconstitutional by a court or agency of competent jurisdiction, such decision shall in no way affect the remaining portions of this Resolution, which shall remain full force and effect.

VI. **EFFECTIVE DATE.** This Resolution shall become effective upon adoption.

PASSED AND ADOPTED this 8th day of December, 2015

Motion by Commissioner Cohen.

Second by Commissioner Karukin.

FINAL VOTE ADOPTION

Commissioner Barry Cohen
Commissioner Michael Karukin
Commissioner Marta Olchyk
Vice Mayor Eli Tourgeman
Mayor Daniel Dietch

Yes
Yes
Yes
Absent
Yes




Daniel Dietch, Mayor

ATTEST:



Sandra Novoa, MMC
Town Clerk

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

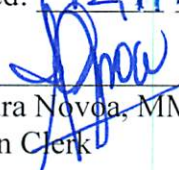


Linda Miller, Town Attorney

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

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. 15-~~2-234~~ adopted by the Town Commission at its meeting held on the 8th day of December, 2015.

Issued: 12/11/2015



Sandra Novoa, MMC
Town Clerk