

**RESOLUTION NO. 19- 2661**

**A RESOLUTION OF THE TOWN COMMISSION OF  
SURFSIDE, FLORIDA; APPROVING A SITE PLAN  
APPLICATION FOR PROPERTY LOCATED AT 8995  
COLLINS AVENUE, SURFSIDE, FLORIDA FOR  
DEVELOPMENT CONSISTING OF 34  
CONDOMINIUM UNITS; PROVIDING FOR  
CONDITIONS; PROVIDING FOR SEVERABILITY;  
AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Graham Penn, Esq., on behalf of Surf House Ocean Views, LLC, formerly Surf House Condominium Association, Inc. (“Applicant”), owner of the property located at 8995 Collins Avenue, Surfside, Florida 33154 and legally described on Exhibit “A” attached hereto (“Property”), submitted a revised application to the Town of Surfside, Florida (“Town”) requesting site plan approval for the renovation and addition to an existing nine-story building, to add three (3) additional stories and include 34 condominium units; and

**WHEREAS**, an application was submitted to the Planning and Zoning Board on March 13, 2017 requesting that the building be determined to be architecturally significant pursuant to Section 90-33(3) of the Town Code, and was heard by the Planning and Zoning Board on April 27, 2017 which made an architecturally significant determination for the existing building; and

**WHEREAS**, the Applicant submitted the original site plan application on May 19, 2017 and the application was reviewed by the Town’s Development Review Group (DRG) on June 19, 2017, where technical comments were provided by Town staff to the Applicant; and

**WHEREAS**, subsequent to the DRG meeting on June 19, 2017, the Applicant revised the Site Plan and resubmitted, and a second DRG meeting was held on August 24, 2017, with further comments provided to the Applicant; and

**WHEREAS**, plans were resubmitted after the DRG meeting on August 24, 2017 and a final DRG meeting was held on September 28, 2017; and

**WHEREAS**, the Application was heard and deferred by the Planning and Zoning Board on February 22, 2018, due to concerns regarding traffic and architectural significance; and

**WHEREAS**, the revised Application was resubmitted on March 29, 2018 with changes addressing a second parking lift, reducing the encroachment onto the public right-of-way and modifying the architecture, and was heard by the Planning and Zoning Board on April 26, 2018, which deferred the matter to its meeting on May 31, 2018 to further address traffic; and

**WHEREAS**, the Applicant further revised the Site Plan to eliminate the request for three variances, the conditional use and the right-of-way encroachment, and resubmitted the Application on July 26, 2019; and

**WHEREAS**, a final DRG meeting was held on July 26, 2019 with staff providing additional technical comments to the Applicant, and final revised plans were submitted to the Town on September 19, 2019; and

**WHEREAS**, the Applicant has proffered to contribute to enhancements and improvements to the 90th Street Beach Access and Promenade, two solar powered trash cans and two diverter dunes at a location to be specified to be specified and agreed to in the future, for a total amount of \$736,050 in proffers, to address and mitigate impacts of the development; and

**WHEREAS**, on October 24, 2019, the Planning & 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 the Town 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 the conditions of approval incorporated herein under Section 3. Conditions; and

**WHEREAS**, on December 10, 2019, the Town Commission, at a duly noticed and televised quasi-judicial public hearing, reviewed the Application and heard from its professional staff, the Applicant, and members of the public, and considered the recommendation of the Planning & Zoning Board, the requirements of the Town Code for Site Plan Approval and the Application's consistency with the Town of Surfside's Comprehensive Plan, and the substantial competent evidence presented at the hearing.

**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:**

**SECTION 1. RECITALS AND FINDINGS OF FACT.**

1. All recitals set forth above are incorporated into the body of this Resolution as if same were fully set forth herein.
2. The Commission finds that the proposed site plan is in compliance with the requirements of the Town Code for Site Plan Approval and the Application is consistent with the Town of Surfside's Comprehensive Plan.

3. Pursuant to Section 90-33 of the Town Code, the Commission makes the following determinations: (a) That the proposed alteration or addition does not require demolition or alteration in a manner that would render the building no longer architecturally significant; and (b) The proposed alteration or addition is designed in a manner that is compatible with the existing building.

**SECTION 2. SITE PLAN APPROVAL.** The request to approve a site plan is hereby granted as shown on the site plan submitted to the Town on July 26, 2019 and prepared by Kobi Karp Architecture and Interior Design, Inc., dated July 23, 2019, and revised on September 19, 2019, and provided for the public hearing, except as modifications are required by this approval or the Building Official.

**SECTION 3. CONDITIONS.** The APPROVAL granted herein is subject to the following conditions:

1. The construction and uses shall be in accordance with the submitted plans for the hearing as detailed in Section 2 herein above, and incorporated into this document as Exhibit “B” except as modifications may be required by this approval and any changes required by the Building Official.
2. Pursuant to Section 90-20.3 of the Town Code, the site plan approval shall remain valid for a period of 24-months from the date of approval of this Resolution by the Town Commission. 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 unless extensions of time are requested and obtained pursuant to law. Neither the expiration of permits or expiration of the site plan approval, nor the obtaining or failure to obtain extensions of time shall excuse or delay the obligation of the Applicant, its heirs, successors and/or assigns to make the payments as set forth in these Conditions.
3. The underground utilities on the approved site plan shall be installed in accordance with said site plan, unless administratively modified by Town staff.
4. The Applicant shall contribute to the Town and fund in cash \$626,050.00 for Town-wide improvements, which may include, at the Town’s discretion, beautifying 90<sup>th</sup> Street from Harding Avenue east to the street end or beach, sidewalk improvements between Harding and Collins Avenues, landscaping, traffic improvements, an enhanced promenade at the beach entry, a planted coral stone gateway with signage, benches and a shower (the “90<sup>th</sup> Street Improvements”). The funds shall be due to the Town on or before the issuance of the foundation permit for the project. Any excess funds not utilized by the Town for the 90<sup>th</sup> Street Improvements or other Town-wide improvements shall be transferred to the Town’s Resiliency Fund and utilized for such

purposes.

5. The Applicant has proffered to purchase and install two (2) new solar powered trashcans in the amount of \$30,000 to be placed at a location specified by the Town. The solar powered trashcans shall be installed at the sole cost and expense of the Applicant prior to issuance of a temporary certificate of occupancy for the Property.
6. The Applicant has proffered to install two (2) new diverter dunes in the amount of \$20,000 at locations to be specified by the Town. The diverter dunes shall be installed at the sole cost and expense of the Applicant prior to issuance of a temporary certificate of occupancy for the Property.
7. The Applicant's has proffered to contribute \$60,000 to the Town's Resiliency Fund to address adaptation and/or mitigation of climate change, to be paid upon the issuance of the first building permit.
8. All voluntary proffers and commitments made to the Town of Surfside pursuant to this 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.
9. No delivery or moving truck servicing the Property may be larger than a single unit truck.
10. The Applicant has submitted evidence of a Parking Valet Operational Plan and agrees to comply with the following additional conditions to be imposed upon operations:
  - a. The Applicant, building owner and/or condominium association shall maintain a service contract with the manufacturer or manufacturer-approved service company at all times to ensure continued operation of the parking lifts and car elevators. Proof of the service contract shall be provided to the Town Manager annually.
  - b. The parking system shall be a licensed and insured valet parking company, and staffed by the number of personnel adequate to accommodate demand at all times. Proof of the valet service contract shall be provided to the Town Manager annually.

- c. Maintenance and Repairs of the parking lifts and car elevators shall not take place between the hours of 7:00 am and 7:00 pm on weekdays and between the hours of 9:00 am and 7:00 pm on Saturdays and Sundays.
  - d. The Applicant shall store and maintain adequate replacement mechanical parts for the car elevator system on the Property, and shall retain a contract with a licensed and insured elevator repair company ensuring 24/7 service. Proof of the elevator service contract shall be provided to the Town Manager annually.
  - e. Within 365 days of the issuance of a certificate of occupancy for the project, the Applicant shall provide the Town Manager with a report on the functionality of the parking system prepared by a licensed professional. If the report indicates that the parking system is causing negative impacts on the safety of pedestrians and/or the reasonable flow of traffic on 90<sup>th</sup> Street because of the queuing of vehicles entering or exiting the system, the Applicant shall be required to undertake modifications to the system or increase staffing to resolve the issue. These modifications may include the utilization of the existing parking lot at the NW corner of Collins Avenue and 90<sup>th</sup> Street for additional vehicular queuing. If the Town Manager determines, after reviewing the report, that no excessive vehicular queuing is occurring at the time of the report, no further reports will be required.
  - f. All mechanical parking lifts and/or car elevators shall be maintained and kept in good and safe working order and shall be regularly inspected by a licensed and insured engineer at least once annually.
11. The Applicant shall present evidence of a Construction Parking Plan for the provision of off-street parking outside of Town limits or on Applicant's property within the Town, for construction workers during the period of construction of the approved project prior to the issuance of a building permit. The Applicant and the Applicant's general contractor shall direct all workers not to park their vehicles in residential neighborhoods or lease parking spaces from Town residents or park in Town parking lots and Town parking metered spaces. The Construction Parking Plan shall be reviewed and approved by the Town Manager prior to the issuance of a building permit.
12. The Applicant and the Applicant's general contractor are responsible to enforce the Construction Parking Plan with all employees, contractors and subcontractors. The Applicant shall be fined five hundred dollars (\$500) for each parking ticket issued to construction workers for parking in residential neighborhoods or Town public parking while working on the construction site (limit of one fine per vehicle per day). The construction parking plan shall provide the following:
- a. No workers shall park their vehicles in residential neighborhoods or Town public parking spaces; and

- b. The Applicant shall provide monthly reports to the Town Manager of any problems or complaints with regard to workers parking their vehicles in residential neighborhoods; and
  - c. If the Town Manager deems necessary, the Applicant shall provide more frequent reports and develop additional preventive measures to protect the residential neighborhoods.
- 13. The Applicant agrees that all contractor and subcontractor agreements applicable to this development shall include a separate clause prohibiting construction workers from parking on residential streets or public parking lots and that Applicant shall submit the proposed clause for the approval of the Town Manager or Town Manager Designee within 90 days of the effective date of this Resolution.
- 14. Applicant shall furnish a payment and performance bond, cash or letter of credit, issued in a form and by a bank reasonably acceptable to the Town, in an amount not to exceed five (5) percent of the total construction cost, to ensure repair or replacement of 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 Town Manager. The Town Manager, together with the Director of Public Works and the Building Official, shall determine the amount jointly. The bond or cash equivalent shall be posted prior to the issuance of the first building permit.
- 15. Applicant shall furnish a payment and performance bond, cash or letter of credit, issued in a form and by a bank reasonably acceptable to the Town, in an amount not to exceed five (5) percent of the total construction cost, to secure the Property and the construction site in the event that construction is abandoned, or ceases prior to completion. The bond required in this condition and the immediately preceding condition may be satisfied by posting one bond that includes both conditions.
- 16. Following the issuance of a temporary certificate of occupancy for the project, all employees shall be required to park on-site on the Property.
- 17. The Applicant shall restore all adjacent roadways and sidewalks damaged by construction to the Town of Surfside and FDOT standards, at all times and up to and including the issuance of a certificate of occupancy.
- 18. All deliveries and loading after certificate of occupancy, during business operations, shall occur on-site and shall not block the streets, sidewalks, or any right-of-way.
- 19. The Applicant shall comply with calculating the cost of construction and auditing procedures pursuant to Section 14-29 of the Town Code.

20. The Applicant shall provide the Town with a detailed schedule for the construction of the project (the "Construction Schedule") within sixty (60) days of approval of the application by the Town Commission. Any modification shall be submitted in the same manner.
21. Applicant shall use its own off-site lot for staging of construction to minimize lane closures.
22. The Applicant agrees to design and build the project to the "Florida Green High-Rise Residential Building Standard" and to obtain such certification within 12 months of issuance of the certificate of occupancy and maintain such certification thereafter.
23. Pursuant to Section 90-60.1(5) of the Town Code, the Applicant shall provide and execute a perpetual, irrevocable easement in favor of the Town and the public encumbering the eastern area of the Property, including the area commonly referred to as the "hardpack" ("the "Easement"), substantially in form and content as provided by the Town Manager and Town Attorney. Within 90 days of the date of this Resolution, but in no event later than the issuance of the first building permit for the project, the Easement shall be executed by the Applicant, contain a signed and sealed survey and legal description of the easement area, and shall be recorded in the public records of Miami-Dade County, Florida, at the Applicant's cost.
24. The Applicant shall provide for maintenance of the dune along the eastern area of the Property, located west of the Erosion Control Line, in accordance with the State of Florida, Department of Environmental Regulation, and Miami-Dade County standards.
25. Any change in ownership of the current property owner, up to and including the turnover of ownership to a condominium association, greater than twenty-five percent (25%) shall be fully disclosed in writing to the Town Manager and Town Attorney immediately upon said change occurring. Any change of ownership of the project 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. The approved site plan does not in any way create a right on the part of the Applicant to obtain a permit from a state or federal agency, and does not create liability on the part of the Town for issuance of the approval if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes

action that result in a violation of federal or state law.

27. The Applicant shall comply with all applicable conditions and permit requirements of Miami-Dade County's Department Regulatory and Environmental Resources, the Miami-Dade County Fire/Rescue Department, the Water and Sewer Department, Florida Department of Environmental Protection (FDEP), the Florida Department of Transportation (FDOT) and all other applicable regulatory agencies, prior to and during construction of the project.
28. The Applicant shall provide the Town with a detailed maintenance plan for the maintenance of the project before and during construction of the project (the "Maintenance Plan") within sixty (60) days of approval of the application by the Town Commission. The Maintenance Plan shall comply with the requirements of Article III of Chapter 14 of the Town Code for maintaining the exterior in a clean, sanitary, and safe condition throughout construction and shall specifically require that all exterior surfaces, including walls, trim, doors, and signs be properly maintained in a clean and sanitary condition, free of dirt, mold, mildew, and faded or chipped paint. Further, the Maintenance Plan shall require that landscaping be maintained so as not to constitute a blighting or deteriorating effect in the neighborhood. The Maintenance Plan shall also require compliance with Sections 34-66 through 34-70 of the Town Code relating to lot clearing.
29. The Applicant shall utilize building glass that provides for the protection of birds.
30. The Applicant shall install high quality construction fencing around the perimeter of the Property (not chain link fencing) with small openings for viewing.
31. The Applicant shall not use any herbicide or fertilizer products on the Property containing glyphosate (including roundup).
32. The Applicant, or any contractors or subcontractors performing work or services to the Property, shall not lease or rent single family homes in the Town for business or other uses related to the project.

**SECTION 4. VIOLATION OF CONDITIONS.** Failure to adhere to the terms and conditions of this Resolution shall be considered a violation of the Town Code and persons found violating the conditions shall be subject to the penalties prescribed by the Town Code, including but not limited to, the revocation of any of the approval(s) granted in this Resolution and permits. The Applicant understands and acknowledges that it must comply with all other applicable requirements of the Town Code before it may commence construction or operation, and that the foregoing approval in this Resolution may be revoked by the Town at any time upon a determination that the Applicant is in non-compliance with the Town Code, all permits issued or the conditions of this Approval.



**SECTION 5. 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.

**SECTION 6. EFFECTIVE DATE.** This Resolution shall become effective upon adoption.

**PASSED AND ADOPTED** this 10th day of December, 2019.

Motion by: Commissioner Cohen

Second by: Commissioner Karukin

**FINAL VOTE ON ADOPTION**

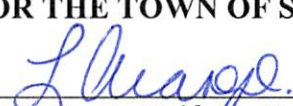
Commissioner Barry Cohen	<u>Yes</u>
Commissioner Michael Karukin	<u>Yes</u>
Commissioner Tina Paul	<u>Yes</u>
Vice Mayor Daniel Gielchinsky	<u>Yes</u>
Mayor Daniel Dietch	<u>Yes</u>

  
\_\_\_\_\_  
Daniel Dietch, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Sandra Novoa, MMC, Town Clerk

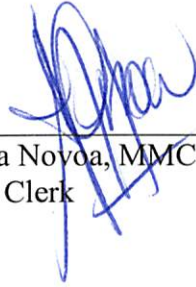
**APPROVED AS TO FORM AND LEGAL SUFFICIENCY  
FOR THE TOWN OF SURFSIDE ONLY:**

  
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Weiss Serota Helfman Cole & Bierman, P.L.  
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. 19 - 2661 adopted by the Town Commission at its meeting held on the 10<sup>th</sup> day of December, 2019.

Issued: January 15, 2020



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Sandra Novoa, MMC  
Town Clerk

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

Lots 1 and 2, Block 1-A of the Second Amended Plat of Normandy Beach Subdivision, Plat Book 16, Page 44, of the Official Records of Miami-Dade County, Florida

**AND**

A Parcel of land lying Easterly of and adjacent to Lots 1 and 2, Block 1-A, SECOND AMENDED PLAT OF NORMANDY BEACH, according to the plat thereof recorded in Plat Book 16, Page 44, of the Public Records of Miami-Dade County, Florida and Westerly of the Erosion Control Line as shown on 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, more particularly described as follows:

Begin at Northeast Corner of said Lot 1 and 2, thence run North 86°50'51" East along the Easterly extension of the North Line of said Lots 1 and 2 for a distance of 93.90 feet to a point on the Erosion Control Line as shown on said Plat Book 105 at Page 62; thence run South 05°37'30" East, along said Erosion Control Line, for a distance of 72.83 feet to a point on the Easterly extension of the South line of said Lots 1 and 2; thence run South 86°50'51" West, along the aforesaid Easterly extension of said Lots 1 and 2, for a distance of 93.40 feet to the Southeast corner of said Lots 1 and 2; thence run North 06°00'58" West, along the Easterly line of said Lots 1 and 2, for a distance of 72.85 feet to the Point of Beginning.

**EXHIBIT "B"**  
**APPROVED PLANS**

**COPIES OF SITE  
PLANS ARE  
AVAILABLE AT  
THE TOWN  
CLERK'S OFFICE.**

PLEASE CALL 305-861-4863 FOR MORE  
INFORMATION OR EMAIL TOWN  
CLERK SANDRA NOVOA AT  
[SNOVOA@TOWNOFSURFSIDEFL.GOV](mailto:SNOVOA@TOWNOFSURFSIDEFL.GOV)