

RESOLUTION NO. 2023-2971

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A SITE PLAN APPLICATION TO PERMIT THE DEVELOPMENT OF PROPERTY LOCATED AT 9116 HARDING AVENUE AND 303 SURFSIDE BOULEVARD, SURFSIDE, FLORIDA, FOR A MULTIFAMILY RESIDENTIAL DEVELOPMENT CONSISTING OF UP TO 6 TOWNHOUSE DWELLING UNITS AND UP TO 14 PARKING SPACES; PROVIDING FOR CONDITIONS; PROVIDING FOR VIOLATION OF CONDITIONS; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, 303 Surfside Blvd, LLC (the “Applicant”), fee simple owner of the property located at 9309-9317 Collins Avenue, Surfside, FL 33154 and legally described in Exhibit “A” attached hereto (the “Property”), submitted an “Application” on August 31, 2022, requesting site plan approval from the Town of Surfside, Florida for a multifamily residential development with up to six townhouse units and 14 parking spaces; and

WHEREAS, the Property is currently vacant; and

WHEREAS, the Application was reviewed by the Town’s Design Review Group on October 17, 2022, and all Town officials or departments raised their concerns but had no objection to the Application going forward for consideration at public hearings provided adequate conditions were implemented; and

WHEREAS, on December 15, 2022, 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 Zoning Code and the Application’s consistency with the Town of Surfside Comprehensive Plan and recommended the Application for approval with staff conditions; and

WHEREAS, on February 14, 2023, 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 Zoning Code, 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.

A. All recitals set forth above are incorporated into the body of this Resolution as if same were fully set forth herein.

B. The Town Commission finds that the proposed Site Plan as conditioned, is in compliance with the requirements and criteria set forth in the applicable Town Code and the Comprehensive Plan.

SECTION 2. SITE PLAN APPROVAL. The request to approve a site plan is hereby approved based on the plans submitted to the Building Department as part of the Application dated January 16, 2023 by Robert M. Swedroe, consisting of the following sheets: Survey, A-0 through A-10, C-1 through C-5, LA-1 through LA-5, and P-1, all signed and sealed September 1, 2022.

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

A. Special Conditions.

1. Prior to and throughout construction, the Applicant shall:

- a. Comply with all applicable requirements of Section 14-104 of the Town Code regarding construction sites.
- b. Comply with Section 14-32 of the Town Code regarding construction hours and noise.
- c. Comply with Section 14-55 of the Town Code regarding vacant lots.

2. Prior to Obtaining a Building Permit for New Construction, the Applicant shall:

- a. Provide the Building Official with all documentation required under Section 14-104 of the Town Code regarding construction sites.
- b. To assist the Town with undergrounding of utilities to serve the Property, and with right-of-way improvements to enhance and beautify 91st Street between Harding Avenue and Abbott Avenue, provide the Town with the Applicant's voluntary proffer of \$70,000.00. Said funds may be used, at the Town's discretion, for design, engineering, planning, permitting, relocation and/or construction of undergrounded utilities and right-of-way improvements.

- c. Demonstrate compliance with Section 14-30 of the Town Code regarding the required bond for damage to Town property.
- d. Comply with calculating the cost of construction and auditing procedures pursuant to Section 14-29 of the Town Code.
- e. Provide water/sewer fees to the Town of Surfside in the amount prescribed in Town Code Section 78-83 and calculated using all fixtures in the buildings. Said fee shall be paid prior to the issuance of a Building Permit and there shall be no offset for existing fixtures if such offset is prohibited by law.
- f. Provide the Town with an easement, in a form acceptable to the Town Attorney, for access to, and maintenance of (including replacement), water and sewer facilities located on the western portion of the subject property.
- g. Pay all cost recovery fees and costs prior to the issuance of a Building Permit, in accordance with Sections 90-11, 90-12 and 90-13 of the Town Code.

3. Prior to Temporary Certificate of Occupancy, or Permanent Certificate of Occupancy if a Temporary Certificate of Occupancy is not granted, the Applicant shall:

- a. Restore and improve 91st Street adjacent to the Property in accordance with civil plans approved by the Public Works Director, and install a six (6) foot wide sidewalk extending from Harding Avenue to Abbott Avenue.
- b. Construct replacement sidewalks, curb, and gutter on Harding Avenue to the east property line of the Property; removing curb cuts where no longer needed and modifying drainage structures as necessary.
- c. Tie-in to existing water and sewer mains within the Harding Avenue right-of-way.
- d. Ensure the Town's water/sewer infrastructure is ready to receive the approved utility connections referenced in condition no. 3.c above.
- e. Restore the existing sewer main or adjacent water main if damaged in connection with Applicant's development activities, to the satisfaction of the Town's Public Works Director.
- f. Plant at least five (5) shade trees within the restored 91st Street right-of-way for providing shade to pedestrians using the sidewalk. The trees should be chosen from the Florida Friendly roster of trees.
- g. Restore all adjacent roadways damaged by construction to Town of Surfside standards.
- h. Post a bond in the amount determined by the Town Manager or designee to ensure the survival of landscaping material installed in the right-of-way for five (5) years after the Certificate of Occupancy is issued.

4. General Conditions:

- a. Utilities will be installed underground by the Town as part of a Town-wide undergrounding project.
- b. 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.
- c. In the event the Applicant obtains a building permit and the permit expires, 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 (5) percent of the construction cost, as required by the Building Official. These funds shall be used to secure the Property and the construction site in the event construction is abandoned or ceases prior to completion.
- d. The Applicant shall design the project to be certified LEED silver or Florida Green Building Coalition level Silver for Homes certification within 12 months of issuance of the Certificate of Occupancy and maintain such certification thereafter. Continuing compliance with this requirement shall be included as a condition of the final Certificate of Occupancy.
- e. The Applicant shall meet all requirements of the Department of Public Works and Miami-Dade County for storm drainage services.
- f. 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 designee within 45 days of the effective date of this Resolution.
- g. 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.
- h. If the Town Manager deems necessary, the Applicant shall provide more frequent reports and develop additional preventive measures to protect the residential neighborhoods.

- i. Any change in ownership of the current property owner shall be fully disclosed in writing to the Town Manager and Town Attorney immediately upon said change occurring. Any change of ownership of the Property 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.
- j. The Applicant shall only apply for a Certificate of Occupancy and Certificate of Use from the Town once in compliance with all terms and conditions of this Development Order are met and documented. The Certificate of Occupancy and Certificate of Use shall be subject to cancellation upon violation of any of the Conditions, in accordance with the law.
- k. Consistent with Section 90-44.1 of the Town of Surfside Code, all structures above the structural roof shall be constructed as non-habitable spaces and shall be used and maintained in such non-habitable condition.

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. 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 by the Town Commission, following a public hearing, that the Applicant is in non-compliance with the Town Code or the conditions of this Approval and has failed to cure, or to provide an acceptable plan to timely cure, the non-compliance.

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 14th day of February, 2023.

Motion by: Vice Mayor Rose


Second by: Commissioner Meischeid

FINAL VOTE ON ADOPTION

Commissioner Fred Landsman	<u>Yes</u>
Commissioner Marianne Meischeid	<u>Yes</u>
Commissioner Nelly Velazquez	<u>Yes</u>
Vice Mayor Jeffrey Rose	<u>Yes</u>
Mayor Shlomo Danzinger	<u>Yes</u>

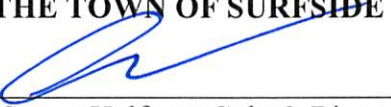


 Shlomo Danzinger, Mayor

ATTEST: 

 Sandra N. McCready, MMC, Town Clerk

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

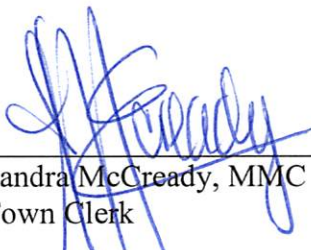


 Weiss Serota Helfman Cole & Bierman, P.L.
 Town Attorney

STATE OF FLORIDA)
 COUNTY OF MIAMI-DADE)

I, Sandra N. McCready, 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. 2023-2971 adopted by the Town Commission at its meeting held on the 14th day of February 2023.

Issued: February 22, 2023



 Sandra McCready, MMC
 Town Clerk

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

Lots 1 and 2, less the North 39' thereof, Block C, of: "SEAWAY SUBDIVISION", according to the Plat Thereof as Recorded in Plat Book 34, Page 69, of the Public Records of Miami-Dade County, Florida.
Folio #:14-2235-003-0010

And

The North 39' of Lots 1 & 2 and all of Lot 6, Block C, of: "SEAWAY", according to the Plat Thereof as Recorded in Plat Book 34, Page 69, of the Public Records of Miami-Dade County, Florida.
Folio #:14-2235-003-0020