

RESOLUTION NO. 2023-Z-3236

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 8851 AND 8873 HARDING AVENUE, SURFSIDE, FLORIDA, FOR A MULTIFAMILY RESIDENTIAL DEVELOPMENT CONSISTING OF EIGHT (8) DWELLING UNITS AND 17 PARKING SPACES; PROVIDING FOR CONDITIONS; PROVIDING FOR VIOLATION OF CONDITIONS; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Pampa Sunbelt 19, LLC (“Applicant”), fee simple owner of the properties located at 8851 and 8873 Harding Avenue, Surfside, FL 33154 and legally described in Exhibit “A” attached hereto (the “Property”), submitted an “Application” on 8/22/2023, requesting site plan approval from the Town of Surfside, Florida (“the Town”) for an eight (8)-dwelling unit multifamily residential development with 17 parking spaces; and

WHEREAS, the Property is currently improved with one single-family home and one 6-unit multi-family building and

WHEREAS, the Application was reviewed by the Town’s Design Review Group on 9/15/2023, and all attending Town officials or departments commented on the Application but had no objection to the Application going forward for consideration at public hearings provided adequate conditions were implemented; and

WHEREAS, on 9/28/2023, 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 November 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'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/is not] in compliance with the requirements and criteria set forth in the applicable Town Code and the Comprehensive Plan.

SECTION 2. SITE PLAN [APPROVAL/DENIAL]. The request to approve a site plan is hereby [approved/denied] based on the plans dated 10/19/2023 by Gaviria Architects submitted to the Building Department as part of the Application for La, consisting of the following sheets:

A0-00, A0-01, A0-02, A0-03, A0-04, A0-05, A0-06, A0-07, A0-08, A0-09, A0-10, A1-01, A1-02, A1-03, A1-04, A1-05, A1-06, A1-07, A1-08, A2-01, A2-02, A3-01, A3-02, A4-01, A4-02, A4-03, L-00, L-01, L-02, L-03, L-04, L-05, L-06, C-01, C-02, C-03, C-04, and E0-02

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

A. **Special Conditions.**

1. **Prior to and throughout demolition and 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 lots.
- d. Take all measures necessary, as determined by the Town Manager, to prevent off-site carry and drift of any dust, particulates or other airborne demolition and construction materials, including but not limited to, constructing a construction barrier of sufficient height on the south side of

the construction site, acceptable to the Town Manager or his designee, to shield the roadway from impacts from construction.

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

- i. Provide the Building Official with all documentation required under Section 14-104 of the Town Code regarding construction sites.
- ii. To assist the Town with undergrounding of utilities to serve the Property, and/or with right-of-way improvements to enhance and beautify Harding Avenue, prior to obtaining a building permit for new construction, provide the Town with the Applicant's voluntary proffer of \$80,000.00. Said funds may be used, at the Town's discretion, for design, engineering, planning, permitting, relocation and/or construction of undergrounded utilities and/or right-of-way improvements adjacent to the Property. Funds can be used for other projects as necessary.
- iii. Demonstrate compliance with Section 14-30 of the Town Code regarding the required bond for damage to Town property.
- iv. Comply with calculating the cost of construction and auditing procedures pursuant to Section 14-29 of the Town Code.
- v. 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.
- vi. Coordinate with the Town's Public Works Department on water, sewer and solid waste facilities; on-site drainage; and, utility access.
- vii. Secure FDOT approval for the curb cut on Harding Avenue
- viii. 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 eastern portion of the Property.
- ix. Make any necessary modifications to the landscape plans to meet minimum "Florida Friendly" requirements under the Town Code, as confirmed by the Town Planner.
- x. Execute and record a Unity of Title acceptable in form and substance to the Town Attorney.
- xi. Provide a 10-foot-wide easement for access to, construction, and maintenance of underground utilities along the west property line of the Property adjacent to the sidewalk, said easement to be acceptable in form and substance to the Town Attorney.

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

- i. Restore and improve Harding Avenue adjacent to the subject property in accordance with civil plans approved by the Public Works Director. Restore any damage to rights of way caused by the construction to Town of Surfside standards.
- ii. Construct replacement sidewalks, curb, and gutter on Harding Avenue to the west property line of the Property; removing curb cuts where no longer needed and modifying drainage structures as necessary.
- iii. Tie-in to existing water and sewer mains within the Harding Avenue right-of-way.
- iv. Ensure the Town's water/sewer infrastructure is ready to receive the approved utility connections referenced in condition no. 3.iii above.
- v. Any damage to the existing sewer main or adjacent water main caused by the Applicant's development activities will be restored by the Applicant to the satisfaction of the Town's Public Works Director.
- vi. Plant six (6) shade trees along Harding Avenue for providing shade to pedestrians using the sidewalk in accordance with the plans.
- vii. Resurface, improve, and expand the sidewalk on Harding Avenue adjacent to the Property to match existing width of abutting sidewalks.
- viii. Post a bond or provide a letter of credit in an amount not to exceed \$3,000 as determined by the Town Manager or designee to ensure the survival of landscaping material in the right-of-way for five years after the Certificate of Occupancy is issued.

4. General Conditions:

- i. All utilities shall be installed underground, subject to approval of undergrounding by affected utilities.
- ii. 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.

- iii. 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.
- iv. The Applicant shall design the project to be LEED silver certifiable and obtain Silver or its equivalent certification including, but limited to, Florida Green Building Coalition certification and obtain the certification, within 12 months of issuance of the Certificate of Occupancy and maintain such certification thereafter.
- v. The Applicant shall meet all requirements of the Department of Public Works and Miami-Dade County for storm drainage services.
- vi. 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.
- vii. 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.
- viii. If the Town Manager deems necessary, the Applicant shall provide more frequent reports and develop additional preventive measures to protect the residential neighborhoods.
- ix. 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.
- x. 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.

- xi. Consistent with Section 90-49.5 of the Town of Surfside Code, A nonhabitable understory may consist of enclosed and unenclosed spaces, but all enclosed elements must conform to subsection 42-11(c)(3), the Florida Building Code and this section. All enclosed space below design flood elevation shall used solely for parking of vehicles, building access and storage and shall be constructed and hydrostatically vented per Federal Emergency Management Agency National Flood Insurance Program rules and regulations, the Florida Building Code and the Town of Surfside Floodplain Management Ordinance. The nonhabitable understory shall be constructed as a non-habitable space and shall be used and maintained in such non-habitable condition.
- xii. The Applicant shall 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.

5. Ongoing Operational Conditions required for the duration of the Certificate of Occupancy:

- i. All deliveries and loading after Certificate of Occupancy, shall occur on-site and shall not block the street, sidewalk or any right-of-way unless a permit is granted by FDOT.
- ii. The Applicant or successor Condominium Association shall be responsible for care and maintenance of landscaped areas within the public right-of-way until the plant species are well established, for a period of at least 5 years. If plants die or and damaged during this period, the Applicant or successor Condominium Association will bear the cost of replacing them. If the Applicant or successor Condominium Association does not timely replace dead or dying landscaping, the Town reserves the right but not the obligation to draw on the bond described in Condition 3.ix above and install replacement landscaping of its choice.
- iii. 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.

6. Revisions to Plans:

- i. A reduction in the total number of units, with no other exterior or operational changes, shall not require formal amendment of this site plan approval.

- ii. Landscape material changes including lighting and irrigation plans that comply with the zoning code, shall not require formal amendment of this site plan approval.
- iii. Any other changes to the approved site plan, including changes to lot coverage, volume, height, or massing of the building, shall require a formal site plan amendment.

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 November, 2023.

Motion by: **Vice Mayor Rose**

Second by: **Commissioner Fred Landsman**

FINAL VOTE ON ADOPTION

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

ATTEST:

[Handwritten signature]

Sandra N. McCready, MMC, Town Clerk



[Handwritten signature]
Shlomo Danzinger, Mayor

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

[Handwritten signature]
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-Z- 3236 adopted by the Town Commission at its meeting held on the 14th day of November, 2023.

Issued: Nov 28, 2023

[Handwritten signature]
Sandra McCready, MMC
Town Clerk

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

Lots 9 and 10, Block 3, **SECOND AMENDED PLAT OF NORMANDY BEACH**, according to the plat thereof, as recorded in Plat Book 16, Page 44 of the Public Records of Miami-Dade County, Florida

TOGETHER WITH

Lots 11 and 12, less East 10 feet thereof, Block 3, **SECOND AMENDED PLAT OF NORMANDY BEACH**, according to the plat thereof as recorded in Plat Book 16, Page 44 of the Public Records of Miami-Dade County, Florida