

**RESOLUTION NO. 2024 - 3254**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A REQUEST FOR RELIEF SUBMITTED BY 9300 COLLINS OWNER, LLC UNDER THE RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000, 42 U.S.C. SEC. 2000CC ET SEQ. ("RLUIPA") AND THE FLORIDA RELIGIOUS FREEDOM RESTORATION ACT OF 1998 ("RFRA") PURSUANT TO SECTION 90-99 OF THE TOWN CODE TO ALLOW A RELIGIOUS USE AT THE PROPERTY LOCATED AT 9300 COLLINS AVENUE, SURFSIDE, FLORIDA; PROVIDING FOR CONDITIONS; PROVIDING FOR VIOLATION OF CONDITIONS; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, 9300 Collins Owner, LLC ("Applicant"), fee simple owner of the property located at 9300 Collins Avenue, Surfside, FL 33154 and legally described in Exhibit "A" attached hereto (the "Property"), submitted an application on October 15, 2023, requesting site plan approval from the Town of Surfside, Florida ("the Town") for an eighty-seven (87) dwelling unit multifamily residential development with 184 parking spaces (the "Site Plan Application"), along with a request for relief under the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. Sec. 2000cc et seq. ("RLUIPA") and the Florida Religious Freedom Restoration Act of 1998 ("RFRA") pursuant to Section 90-99 of the Town's Code of Ordinances (the "Code") to permit a religious use on the Property (the "Religious Use Request"); and

**WHEREAS**, Section 90-99 of the Code implements the policy and procedures of the Town for addressing reasonable relief from the Town's land development regulations or use restrictions to address possible unintended violations of RLUIPA or RFRA; and

**WHEREAS**, Section 90-99 of the Code implements Policy 10.6 of the Future Land Use Element Plan of the Town Comprehensive Plan, which permits the Town Commission to grant relief to qualifying claimants on property depicted on Map FLU-8 of the Town Comprehensive Plan; and

**WHEREAS**, the Property is located in the H40 District and is within the area identified in Map FLU-8 of the Town Comprehensive Plan as "allowable" area for application of religious land use relief procedures; and

**WHEREAS**, Section 90-41 of the Code does not permit religious uses in the H40 District but does reference the possibility of a request for relief; and

**WHEREAS**, the Town Planner reviewed the Religious Use Request and recommends a whole or partial approval, subject to certain conditions; and

**WHEREAS**, on January 9, 2024, the Town Commission held a public hearing and evaluated whether the Applicant has established the criteria set forth in Section 90-99(4) of the Code; and

**WHEREAS**, the Town Commission having reviewed the Religious Use Request and heard from its professional staff, the Applicant, and members of the public, and considered the recommendation of the Town Planner, the requirements of Section 90-99 of the Town Code, and [approved/denied] the Religious Use Request.

**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 and adopted as if same were fully set forth herein.

**B.** The Town Commission finds that the Religious Use Request [establishes/does not establish] the criteria set forth in Section 90-99(4) of the Code as follows:

- a. The Applicant is a claimant under RLUIPA or RFRA; and
- b. The Town has imposed a substantial burden on the religious exercise of the Applicant, whether a person, religious assembly or instruction, and the burden is not a result of the Town furthering a compelling governmental interest and is not the least restrictive means of furthering that compelling governmental interest; and
- c. The Town has imposed or implemented a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution, discriminates on the basis of religion or religious denomination, excludes religious assemblies from a jurisdiction or unreasonably limits religious assemblies, institutions or structures within a jurisdiction.

**SECTION 2. RELIGIOUS USE REQUEST [APPROVAL/DENIAL].** The Religious Use Request is hereby [approved/denied].

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

- A. ADA compliant access to the Religious Use be available from a public right-of-way.
- B. Use of the designated space be restricted to a specified religious congregation or assembly. The space may not be utilized as a party room for the residential use at the Property or otherwise used or rented as gathering or event space for persons or entities other than the specified religious congregation or assembly.
- C. Any changes to the use or design of the religious use space as described in the Site Plan Application presently under review must be approved by the Town Commission.
- D. A separate folio may not be established for the religious use separate from that of the residential portion of the Property.
- E. The designated space shall be accessible only from the outdoors and not from within the building.

**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 9th day of January, 2024

Motion by: Vice Mayor Rose

Second by: Commissioner Landsman

**FINAL VOTE ON ADOPTION**

Commissioner Fred Landsman	<u>Yes</u>
Commissioner Marianne Meisheid	<u>No</u>
Commissioner Nelly Velasquez	<u>No</u>
Vice Mayor Jeffrey Rose	<u>Yes</u>
Mayor Shlomo Danzinger	<u>Yes</u>

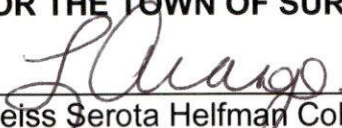
  
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Shlomo Danzinger, Mayor

ATTEST:

  
\_\_\_\_\_  
Sandra N. McCready, 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 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. 24-3254 adopted by the Town Commission at its meeting held on the 9<sup>th</sup> day of January, 2024.

Issued: January 12, 2024



*Sandra McCready*  
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Sandra McCready, MMC  
Town Clerk

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

Lots 1-12, and Lot 19, Block 3 of the Altos Del Mar No. 5 Subdivision recorded in Plat Book 8, page 92 of the Public Records of Miami-Dade County, Florida.