

RESOLUTION NO. 2024 - Z - 3246

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A SITE PLAN AMENDMENT APPLICATION FOR THE PROPERTY LOCATED AT 9133-9149 COLLINS AVENUE, SURFSIDE, FLORIDA, TO AMEND THE NUMBER OF RESIDENTIAL UNITS AND ABANDON THE HOTEL USE, AS ORIGINALLY APPROVED BY RESOLUTION NO. 2018-2489 AND LATER AMENDED BY RESOLUTION NO. 2021-2782, CHANGING FROM 29 RESIDENTIAL UNITS AND 26 HOTEL UNITS TO 24 RESIDENTIAL UNITS WITH SEVEN (7) CARETAKER UNITS AND NO HOTEL UNITS; APPROVING A CONDITIONAL USE APPLICATION TO ALLOW AN ACCESSORY RESTAURANT PURSUANT TO SECTION 90-41 OF THE TOWN CODE; RETAINING SITE PLAN AND CONDITIONAL USE APPROVALS, CONDITIONS, AND ALL OTHER ASPECTS OF THE ORIGINAL APPROVAL SET FORTH IN RESOLUTION NOS. 2018-2489 AND 2021-2782; PROVIDING FOR CONDITIONS; PROVIDING FOR VIOLATION OF CONDITIONS; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, SCR Trust LLC, (the "Applicant"), fee simple owner of the property located at 9133-9149 Collins Avenue, Surfside, FL 33154 and legally described in Exhibit "A" attached hereto (the "Property"), submitted an application on November 16, 2023, requesting an amendment to the site plan (the "Application") previously approved by Town of Surfside, Florida ("the Town") Resolution No. 2018-2489 as later amended by Resolution No. 2021-2782 (collectively, the "Previous Resolutions"), to: (i) amend the number of residential dwelling units from 29 residential dwelling units to 24 residential dwelling units with seven (7) caretaker units, (ii) abandon the hotel use in its entirety, foregoing the previous approval for 26 hotel units, and (iii) seek approval of a restaurant pursuant to Sec. 90-41 of the Town Code; and

WHEREAS, the Property is under construction with the structures approved by the Previous Resolutions; and

WHEREAS, the amendments contemplated in the Application can be implemented into the project presently under construction; and

WHEREAS, Section 90-41(36) of the Town Code sets forth specific criteria for accessory restaurants in the H120 district; and

WHEREAS, the Application was reviewed by the Town's Design Review Group on November 17, 2023, and reviewing Town officials or departments had no objection to the Application going forward for consideration at public hearings provided adequate conditions were implemented; and

WHEREAS, Town staff has reviewed the application and found it meets the criteria for approval, and thus recommends approval; and

WHEREAS, on November 30, 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's Comprehensive Plan and recommended the Application for approval; and

WHEREAS, on January 9, 2024, 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 and adopted 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 Town's Code and the Comprehensive Plan.

C. The Town Commission finds that the accessory restaurant in the H120 district [meets/does not meet] the criteria for approval of a Conditional Use.

SECTION 2. SITE PLAN APPROVAL. The request to approve a site plan is hereby approved based on the plans (the "Plans") submitted to the Planning Department as part of the Application titled "Seaway" prepared by ODP Architecture and Design Corporation. Plans are dated August 29, 2023 and consisting of the following sheets: A-000, A-001, A-004, A-005A, A-031, A-114A, A-115A, A-116, L-000, L-200, L-201, L-202, L-203, L-204, L-205, L206, L-250, L-251, L-252, IR-300, IR-301, IR-302, IR-303, IR-304, IR-350, IR-351, IR-354, IR-353.

SECTION 3. CONDITIONAL USE APPROVAL. The request to approve the conditional use for an accessory restaurant in the H120 district is hereby approved.

SECTION 4. CONDITIONS. The approval granted herein is subject to the following conditions:

A. Special Conditions.

1. Prior to any certificate of occupancy, the Applicant shall execute and record a Declaration of Use in form and substance acceptable to the Town Attorney, providing that only unit owners can own or rent caretaker units.
2. The accessory restaurant shall comply with the following operational restrictions:
 - a. The restaurant is a full-service restaurant providing table service employing server staff to take orders and deliver food;
 - b. The restaurant use shall be limited to the areas depicted for restaurant use and the number of seats set forth in the Plans;
 - c. Parking for the restaurant use shall be served by valet parking. Prior to issuance of a certificate of use, the Applicant shall provide a copy of the valet operations agreement to the Town Manager to confirm the required number of valet attendants to optimize the on-site vehicle queuing.
 - d. Outdoor dining areas shall not operate outdoor speakers and all restaurant operations and activities shall close no later than 11 PM.
 - e. Lighting for outdoor dining areas shall be internally oriented so as to avoid any spillover or impact onto residential areas; and
 - f. The restaurant shall be limited to one wall sign of up to 20 square feet with Planning and Zoning Board approval provided it is smaller and less prominent than the primary sign for the residential building.

3. **General Conditions:**

- a. The Applicant shall substantially comply with the Plans during development and all ongoing operations of the restaurant use.
- b. 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.
- c. 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 within the Town 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.
- d. 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.
- e. If the Town Manager deems necessary, the Applicant shall provide more frequent reports and develop additional preventive measures to protect the residential neighborhoods.
- f. 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 Resolution 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.
- g. 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.
- h. The Applicant shall comply with the location, timing and procedures for sanitation and recycling pickup at the Property, as required by the Town and/or other agencies with jurisdiction.

4. **Revisions to Plans:**

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

- b. Landscape revisions are subject to Town approval and shall not require formal amendment of this site plan approval.
- c. Increases to (i) the restaurant area up to 5% of the multifamily project's total floor area, or (ii) to the number of seats supported by a parking utilization study, may be approved by the Town Planner without requiring a formal amendment of this site plan approval.

SECTION 4. RETAINING SITE PLAN AND CONDITIONAL USE APPROVALS, CONDITIONS, AND ALL OTHER ASPECTS OF THE ORIGINAL APPROVAL SET FORTH IN RESOLUTION NOS. 2018-2489 AND 2021-2782. All other aspects of the Previous Resolutions, including, but not limited to, the site plan approval, the conditional use approval, and all conditions, continue in full force and effect.

SECTION 5. 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 6. 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 7. 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>YES</u> |
| Commissioner Nelly Velazquez | <u>ABSENT</u> |
| Vice Mayor Jeffrey Rose | <u>YES</u> |
| Mayor Shlomo Danzinger | <u>YES</u> |



Shlomo Danzinger, Mayor

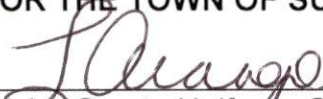
ATTEST:



Sandra N. McCready, MMC, Town Clerk



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

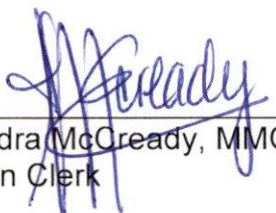


Weiss Serota Helfman Cole & Bierman, P.L.
Town Attorney

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. 24-2-324 adopted by the Town Commission at its meeting held on the 9th day of January, 2024.

Issued: January 12, 2024



Sandra McCready, MMC
Town Clerk

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

Lots 1-3, Block 2 of the Altos Del Mar No. 4 Subdivision recorded in Plat Book 10, page 63 of the Public Records of Miami-Dade County, Florida.