

RESOLUTION NO. 2024-Z-3255

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 9300 COLLINS AVENUE, SURFSIDE, FLORIDA, FOR A MULTIFAMILY RESIDENTIAL DEVELOPMENT CONSISTING OF UP TO EIGHTY-SEVEN (87) RESIDENTIAL DWELLING UNITS AND 184 PARKING SPACES; PROVIDING FOR CONDITIONS; APPROVING THE TERMINATION OF A COVENANT OF RESTRICTIONS AFFECTING THE PROPERTY; 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 (the “Application”) from the Town of Surfside, Florida (the “Town”) for an eighty-seven (87) dwelling unit multifamily residential development with 184 parking spaces (the “Project”); and

WHEREAS, the Property is largely vacant, with the exception of a building with a façade (the “Historic Facade”) designated historic by the Miami-Dade County Historic Preservation Board (the “Historic Preservation Board”) on December 18, 2014, pursuant to Chapter 16A of the Miami-Dade County Code (the “Historic Preservation Ordinance”); and

WHEREAS, the Property is the subject of Resolution No. 19-Z-2591 (the “Eden Hotel Resolution”) which approved a site plan to construct a development consisting of 205 hotel units and 348 parking spaces (the “Eden Hotel Project”); and

WHEREAS, the Property is also the subject of Covenant of Restrictions (the “Covenant”) recorded in Official Records Book 31635 at Page 3665 of the Public Records of Miami-Dade County, Florida, which restricts the property owner’s ability to alter the landscaping approved as part of the Eden Hotel Project; and

WHEREAS, the Covenant may be released or cancelled by the owner of the Property with Town Commission approval if the Eden Hotel Project is not constructed; and

WHEREAS, because the Applicant does not intend to construct the Eden Hotel Project, it wishes to voluntarily abandon the Eden Hotel Project and Eden Hotel Resolution, and terminate the Covenant; and

WHEREAS, pursuant to Historic Preservation Ordinance, the Miami-Dade County Office of Historic Preservation and Historic Preservation Board have sole jurisdiction over the Historic Facade; and

WHEREAS, the Historic Preservation Board issued Board Resolution No. 2023-13 (the "Historic Preservation Order") approving a Special Certificate of Appropriateness to demolish and reconstruct portions of the north and south facades and to alter the treatment of the west façade; and

WHEREAS, the Application was reviewed by the Town's Design Review Group on November 16, 2023, 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 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 Applicant has voluntarily abandoned the Eden Hotel Resolution, that the Eden Hotel Project will not be constructed, and that, in light of the landscaping proposed by the Application, the Covenant is no longer reasonably necessary to preserve and protect the Property as required by the Eden Hotel Resolution and the Covenant.

SECTION 2. SITE PLAN APPROVAL. The request to approve a site plan is hereby approved based on the plans submitted to the Planning Department as part of the Application titled "9300 Collins Avenue" prepared by Jo Palma and Partners Corporation, *Langan Engineering and Environmental Services, Inc., and Savino Miller Design Studio*, dated December 8, 2023, and consisting of the following sheets: G-001, G-002, G-003, G-004, G-008, A-100, A-101, A-102, A-103, A-104, A-201, A-202, A-203, A-204, A-251, A-252, A-253, A-500, A-501, A-502, C-311, C-800, L-02, L-03, L-04, L-06, L-08, L-10, L-11, L-12, L-13, and L-14, *as well as plans, dated December 29, 2023, consisting of the following sheets: G-000, A-001, A-003, C-300, C-301, C-302, C-310, C-400, C-401, C-500, L-01, L-05, L-07, and L-09* (collectively, the "Plans").

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

A. Special Conditions.

1. **Required Improvements.** The following improvements shall be made as indicated below:

- a. Applicant to remove or abandon existing water main from 94th Street to 93rd Street between Collins Avenue and Harding Avenue (the "Existing Water Main"), and install new 12-inch C-900 water main with connection to existing water main on 94th Street (between Collins Avenue and Harding Avenue) and to existing 12-inch water main on Harding Avenue, as depicted on sheet C-500 of the plans. Prior to removal or abandonment of the Existing Water Main, the Town shall coordinate and install the connection of other properties currently served by the Existing Water Main to the existing 12-inch water main on Harding Avenue.

Applicant to make all necessary trench restorations at the time of installation. Applicant shall tap into the new water main through a portion of the 94th Street Parking Lot, as depicted on sheet C-500 of the Plans included herein as Exhibit "B". The Town shall cooperate in good faith to issue or coordinate (as the case may be) all necessary approvals for the work in a timely manner.

- b. By no later than 60 days after receipt of a Temporary Certificate of Occupancy for the Project ("TCO"), Applicant will complete the restoration of the entire extents of the 94th Street municipal parking lot located at 9353-9393 Harding Avenue (the "94th Street Parking Lot"), including but not limited to new asphalt milling and resurfacing, new decorative signage with Town provided specifications, pavement markings and replacing all concrete curbs and all affected landscaping (collectively, the "94 Street Parking Lot Improvements"). All of the 94th Street Parking Lot Improvements are subject to review and approval by the Town Manager or its designee through plans review process. The Town shall cooperate in good faith to issue all necessary Town approvals for the work in a timely manner. In the event the 94th Street Parking Lot Improvements are not completed within 60 days of TCO issuance as provided above, Applicant may elect to make a payment to the Town in lieu of completing the 94th Street Parking Lot Improvements of up to \$150,000 (the "94th Street Parking Lot Payment"). Upon payment to the Town of the 94th Street Parking Lot Payment, Applicant shall have satisfied all of its obligations contained in this paragraph 1(b). This condition must be satisfied prior to the issuance of a Final Certificate of Occupancy ("CO").
- c. Prior to TCO, Applicant shall tie-in the buildings on the Property to the existing sewer main on Collins Avenue using existing sewer laterals. New sewer cut-ins into Collins Avenue gravity sewer main shall not be approved. The Town shall cooperate in good faith to issue or coordinate (as the case may be) all necessary approvals for the work in a timely manner.
- d. Prior to connecting the Project to the Collins Avenue sewer main as set forth in condition 1.c above, Applicant shall design and construct a donation sanitary sewer Manufactured Odorless Pump Station (MOPS), or approved equal packaged pump station, as noted on sheet C-500 designed to accommodate a force main connection to a Town designated force main on 93rd Street and gravity system with corresponding manhole for Town tie-in of sanitary sewer collection system with sufficient capacity to handle all sanitary sewage generated

by the maximum allowable development fronting Harding Avenue from 96th Street to 93rd Street under existing zoning (but not potential Live Local development) and that offsets the additional capacity lost by the Collins Avenue sewer main on account of the Project connecting to it (collectively, the "New Sanitary Sewer System"). The New Sanitary Sewer System shall conform to Town of Surfside and Miami-Dade Department of Regulatory and Economic Resources Division of Environmental Resources Management ("RER-DERM") Water and Wastewater Division standards and applicable permitting requirements, and at a minimum have: (i) a generator for emergency power; (ii) SCADA system compatible with the Town system; (iii) grinder type pumps of sufficient size (minimum two installed and a spare to be turned over to the Town); and (iv) corresponding electrical service connections. The New Sanitary Sewer System shall be constructed and installed at either the Town Hall municipal parking lot located at the northeast corner of Harding Avenue and 93rd Street (the "Town Hall Municipal Parking Lot"), or at the 94th Street Parking Lot, at a suitable location approved by the Town Manager or designee in conformance with Town standards and subject to approval of the Town Manager or designee. The lift station portion of the New Sanitary Sewer System station shall be installed with a perimeter decorative fence at a minimum of six (6) feet high with final design to be reviewed and approved by the Town Manager or Designee in a timely manner. Corresponding landscaping around the perimeter of the fence (in front) shall be installed in order to minimize the visual impacts of the New Sanitary Sewer System. The Town shall cooperate in good faith to issue all necessary Town approvals for the work in a timely manner. Applicant shall connect the New Sewer System to the Town sewer system, and shall be responsible for all necessary sanitary sewer tie-ins and improvements. In the event that, the New Sanitary Sewer System Work is not completed by the time the Project is ready to connect to the Collins Avenue sewer main as set forth in condition 1.c above, Applicant may elect to make a payment to the Town in lieu of completing the New Sanitary System Work for the value of the remaining work (based on an executed contract) plus 30% up to \$800,000 but no less than \$400,000 (the "New Sanitary Sewer System Payment") prior to connecting the Project to the Collins Avenue sewer main as set forth in condition 1.c above. Upon payment to the Town of the New Sanitary System Payment, Applicant will have satisfied its obligations contained in this paragraph 1(d).

- e. For all water and sanitary sewer improvements, Applicant shall obtain Town Right-of-Way Permit and execute Right-of-Way Encroachment Agreement, where applicable and as required by Town Code, and all necessary approvals from MD-WASD, Florida Department of Transportation ("FDOT") and RER-DERM. The Town shall cooperate in good faith to issue or coordinate (as the case may be) all necessary approvals for the work in a timely manner.
- f. By no later than 60 days after receipt of TCO, Applicant shall restore the entire extents of the 93rd Street Town Hall Municipal Parking Lot, including but not limited new asphalt milling and resurfacing, new decorative signage with Town provided specifications, pavement markings and replacement of all concrete curbs and all affected landscaping (collectively, the "93rd Street Town Hall Parking Lot Improvements"). All 93rd Street Town Hall Parking Lot Improvements are subject to review and approval by the Town Manager or its designee through the plans review process. The Town shall cooperate in good faith to issue all necessary Town approvals for the work in a timely manner. The 93rd Street Town Hall Parking Lot Improvements work shall be completed no later than 60 days upon receipt of TCO. In the event that the 93rd Street Town Hall Parking Lot Improvements are not completed within 60 days of TCO issuance, Applicant may elect to pay the Town in lieu of completing the work an amount up to \$150,000 (the "93rd Street Town Hall Parking Lot Payment"). Upon payment to the Town of the 93rd Street Town Hall Parking Lot Payment, Applicant shall have satisfied its obligations contained in this paragraph 1(f). This condition must be satisfied prior to the issuance of a CO. Applicant shall pay an additional \$10,000 if the 93rd Street Town Hall Parking Lot Payment described above is more than 30 days past due, and the amount shall increase by \$10,000 for every 30 days thereafter that full payment is not made.
- g. Prior to TCO, Applicant shall mill and resurface up to the centerline of those portions of 94th Street and Harding Avenue that are adjacent to the Property (for the entire length of the Property contiguous with 94th Street and Harding Avenue) as noted on Sheet C-302 and in Exhibit "C"; mill and resurface Collins Avenue to the centerline of the right-of-way; and restore all other roadways damaged by construction to Town of Surfside and FDOT standards (collectively, the "94th Street/Harding Improvements"). The Town shall cooperate in good faith to issue all necessary Town approvals for the work in a timely manner.
- h. Within six (6) months of site plan approval, the Applicant shall provide design and construction drawings for enhanced 93rd Street

improvements (with an estimated cost of improvements of no more than \$400,000), subject to review and approval by the Town Manager. The Town shall construct the improvements at its cost and discretion.

- i. Restore any and all impacts to 93rd Street proven to be caused by Applicant's development activities.
- j. Replace and expand the sidewalks contiguous to the Property as set forth on Sheet A-001 of the plans.
- k. Any damage to the existing sewer main or adjacent water main proven to be caused by the Applicant's development activities will be restored by the Applicant to the satisfaction of the Town's Public Works Department.

2. **Voluntary Proffers.** In addition to all other proffered in-kind benefits and conditions set forth in this Resolution, the Applicant shall provide the Town with the Applicant's voluntary proffer of \$400,000 prior to obtaining a building permit in furtherance of the Project to be expended at the Town's discretion as approved by the Town Manager or designee.

3. **Prior to foundation or construction permit and throughout foundation work and construction, the Applicant shall:**

- a. Comply with all applicable requirements of Ordinance No. 2022-1720, adopted March 8, 2022 (codified in 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. Take all measures necessary, as determined by the Town Manager, to prevent off-site carry and drift of any dust, particulates or other airborne construction materials, including, but not limited to, constructing a minimum 10-foot tall construction barrier along the perimeter of the Property, acceptable to the Town Manager or his designee.
- d. Applicant shall use best efforts to ensure that no heavy construction equipment shall access the Property via Harding Avenue and 93rd Street. To the maximum extent possible, all construction equipment and materials delivery shall occur on Collins Avenue or 94th Street. All deliveries from Harding Avenue or 93rd Street shall be subject to Town Manager approval.
- e. Provide a full-time on-site safety manager at all times of active construction.
- f. Demonstrate to the Town Planner's satisfaction the method and ability to reconstruct the Historic Façade as required by the Historic Preservation Order subject to the plans filed in support of the Historic Preservation

Order. Upon request of the Town Planner to ensure a faithful reconstruction of the Historic Façade, Applicant shall provide additional information including but not limited to additional drawings and expert reports.

- g. Post a bond in the amount of \$50,000 for the reconstruction of the Historic Façade prior to issuance of any demolition permit for the Historic Façade.

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

- a. Execute and record the following easements in favor of the Town, in form and substance acceptable to the Town Attorney:
 - i. 10-foot-wide access easement along the northwest area of the property, as indicated in Exhibit "B" and C-500 for access to the proposed water meters.
 - ii. 10-foot wide easement on the west boundary abutting Harding Avenue portion of the Property, for future utilities undergrounding as noted Exhibit "B" and sheet C-500.
 - iii. A public pedestrian circulation easement on north, east, and south boundaries of the Collins Avenue portion of the Property for public pedestrian circulation consistent with the sidewalks depicted on Sheet A-001 of the plans.
- b. To the extent permitted by applicable law, the Town reserves the right, in its sole discretion, to waive building permit fees and accept a payment-in-lieu of building permit fees from the Applicant to be deposited into the Town' General Fund, for all or any portion of such fees that would otherwise be due for the Project. The Applicant, for itself and on behalf of any successors and/or assigns, waives any claim against the Town in connection with said payment-in-lieu of building permit fees based in whole or in part on the manner, time, or purpose for which these monies are expended or utilized by the Town, and the Town reserves the right to use these funds to address public purposes as it determines, in its sole and absolute discretion; provided, that, if a court of competent jurisdiction finds the payment-in-lieu of building permit fees to be unlawful, then any payments made pursuant to this condition shall be reclassified as building permit fees and expended by the Town in accordance with applicable law.
- 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 Town of Surfside Ordinance No. 16-1656 (Section 14-29 of

the Town Code). The final evaluation shall be subject to approval by the Building Official.

- 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. Applicant shall provide details for LEED Silver, or its equivalent certification from the Florida Green Building Coalition level Silver for Multi-Family Green Home construction, design and a plan for compliance with the requirements for LEED Silver, or its equivalent certification from the Florida Green Building Coalition level Silver for Multi-Family Green Home construction.
- g. All lighting visible from public property subject to Town Planner review to ensure it meets the requirements of Town Code and the Florida Department of Environmental Protection and is not otherwise unduly distracting to motorists or pedestrians.
- h. Applicant shall provide operational details of solid waste pick up for review and approval by Town Manager and/or designee.
- i. Execute and record a Declaration of Restrictive Covenants acceptable to the Town and Applicant providing for the following relating to the Project:
 - i. Acknowledges that the Property is not currently zoned for commercial, industrial, or mixed use under Section 166.04151, Florida Statutes (also known as the Live Local Act); and
 - ii. That any development of the Property pursuant to this Resolution (a) shall not exceed the height permitted in the Town's H40 district and shall not exceed the height depicted in the Plans; and (b) shall otherwise substantially comply with Plans, unless a modification is approved by the Town Commission; and
 - iii. Notwithstanding the inclusion of religious, institutional, non-profit, or community serving uses on the Property, no portion of the Property shall be qualified as exempt from property taxes.
- j. Obtain FDOT Access Connection Approval for Collins Avenue prior to approval of the final building permit plans.
- k. Revise the plans for building permit as follows:
 - i. All height related dimensions need to be based on the average crown of road for Collins Avenue and in both NAVD

and NGVD. this has been provided on all revised sheets and the application complies with height limitations. New drawing sheets A-203 and A-204 need to have Average Crown of Road and NAVD and NGVD indications added to the drawing sheets for consistency.

- ii. Dry flood proofing of the underground garage level is necessary. Flood shields have been added to the garage entrance and the loading dock. Additional flood proofing of the underground garage walls shall be required in accordance with FEMA NFIP Bulletin 6/January 2021. The Town Building Official will verify compliance with the flood proofing requirement.
- iii. Provide a plan detail adjacent to the on-street parking spaces illustrating the Collins Avenue sidewalk with curb and gutter, Medjool Date Palm with tree grate, sidewalk width between the inside edge of the tree grate and the 2-foot high wall. Plan must provide a minimum 5-foot wide walkway width between proposed property wall and any tree grate.
- iv. The landscape table provided must accurately reflect the proposed plant and tree species. The revised landscape plan has 58 Florida Friendly native trees out of 125 total trees which is 46%. The landscape table on Sheet L-07 should depict this percentage. Florida Friendly shrubs are 2,034 out of 4,574 total shrubs which are 44%. The landscape table on Sheet L-09 should reflect this percentage.

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

- a. Reconstruct the Historic Façade in strict conformity with the Historic Preservation Order and meet all other conditions of the Historic Preservation Order.
- b. Work with Town staff to produce the history brochure required by the Historic Preservation Order prior to CO.
- c. Provide the publicly accessible interpretive exhibit space required by the Historic Preservation Order in connection with the Historic Façade on private property in proximity to the Historic Façade as depicted in the attached Exhibit "D", and work with Town staff regarding the content of such exhibit, prior to CO.

- d. Work with Town staff to determine appropriate species and locations for landscaping material in the right-of-way with final locations and spacing to be approved by Town Manager or designee.
- e. Post a bond in the amount and duration determined by the Town Manager or designee to ensure the survival of landscaping material installed on the Property and in the right-of-way for three years after the CO is issued.
- f. The Applicant shall meet all requirements of the Town Public Works Department, Miami-Dade County, and the Florida Department of Transportation for storm drainage.

6. General Conditions:

- a. In furtherance of the Town's undergrounding efforts, the Applicant shall convert above-ground utilities (including existing electrical and communications on the block) servicing the Project and immediately adjacent and abutting properties to underground utilities. To the extent requested by the Applicant, the Town will coordinate all design efforts through Town resources. All cost of materials and construction required by Florida Power & Light ("FPL") or other utilities shall be paid for by the Applicant. Abutting single family homes will be served electricity through a separate transformer pad (to be paid for by Applicant and installed in coordination with The Town) outside of the Project within the Town's Right of Way adjacent to or abutting the homes, the 93rd Street Town Hall Municipal Parking Lot, or other Town Property in immediate proximity to the homes. The Town shall cooperate in good faith to issue all necessary Town approvals for the work in a timely manner where applicable. The Town will work on the design and construction drawings to be submitted to FPL upon approval of this Development Order. The Applicant shall have 60 days from receiving notice from the Town that the plans have been approved by FPL and any other utility, for construction, to fully fund the work if to be performed by FPL, or to fully perform the work.
- b. 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.

- c. Any change in ownership of the current fee 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.
- d. 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 in the amount of \$60,000, 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.
- e. The Applicant shall design the Project to be LEED silver certifiable and obtain LEED Silver or Florida Green Building Coalition level Silver for Multi-Family Green Home construction within 12 months of issuance of the TCO and maintain such certification thereafter. Compliance with this requirement shall be included as a condition on the CO.
- 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 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.
- 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. The Applicant shall only apply for a CO and Certificate of Use ("CU") from the Town once in compliance with all terms and conditions of this Resolution are met and documented (or as such terms and conditions

may have been waived or deemed satisfied). The CO and CU shall be subject to cancellation in accordance with the applicable law.

- j. 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.
- k. The Applicant may, subject to the issuance of the necessary permits, locate no more than two double-wide temporary trailers, or their equivalent, within the Property to serve as construction office during the duration of the development process.
- l. 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.
- m. 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.
- n. Employ low-reflectivity glass for all west-facing windows.

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

- a. The rooftop deck shall not have live music. Recorded or streamed music, over a distributive sound system, no greater than 75 dba measured 1 meter from any speaker, is permitted only between the hours of 7 am to 11 pm. No music is permitted prior to 7 am or after 11 pm.
- b. The rooftop deck and pools shall not be used for organized events or activities after dusk.
- c. All lighting on the rooftop deck shall be internally focused and shall be shielded to direct the light downward. No external lighting shall be directed toward the adjacent single-family residences.
- d. To the extent that a valet parking operation is used to service the building, 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.
- e. All employees shall be required to park on private property.
- f. All solid waste shall be stored in a fully enclosed air-conditioned room on the Property. Solid waste pick up and operations shall be as approved by the Town Manager and/or designee.
- g. All deliveries and loading after TCO shall occur on-site and shall not block the street, sidewalk or any right-of-way.

- h. No materials may be stored outside of the loading area on the north side of the Property.
- i. No delivery or moving truck servicing the Property may be larger than a single unit truck.
- j. Maintain all landscaping materials on the Property in good condition, replacing diseased, dying or dead plant material as necessary so as to present a healthy and orderly appearance at all times.

8. Revisions to Plans:

- a. 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.
- b. Landscape revisions are subject to Town approval and shall not require formal amendment of this site plan approval:
 - i. The Town shall coordinate in good faith and in a timely manner with Applicant to approve any modified landscaping in the event the Town or Applicant seeks - or is required -to install any and all underground utilities within the easement(s) provided pursuant to condition 4 of this Resolution or in any setback areas that are used to satisfy landscape requirements.
 - ii. In the event any trees are removed from the plans prior to or during construction of the Project to accommodate the Town's utilities undergrounding plans shall be subject to a fee in lieu of a formal site plan amendment to satisfy tree requirements under the approved site plan.
 - a. Fee in lieu or relocation rates to be consistent with county fee standards for tree removals.
- c. Any other changes to the approved site plan that do not substantially comply with the approved plans, including, but not limited to, increases to lot coverage, volume, height, or massing of the building, shall require a formal site plan amendment. Changes to plans that substantially comply with approved plans and are deemed consistent with the design aesthetic by the Town Planner, including but not limited to walls or fences, shall not require a formal site plan amendment but may be required to be reviewed by the Planning and Zoning Board for design review, at the discretion of the Town Planner.
- d. The Town's approval does not bind other jurisdictions or the Town's enforcement of other codes, and the Town makes no representations as to the permissibility of such plans under other codes, including but not limited to the Florida Building Code and the National Flood Insurance

Program. Notwithstanding the above, the Town has determined that, to the extent a non-residential use is approved for the Project through an approval separate from this approval, such as but not limited to the Request for Relief pursuant to Section 90-99 of the Town Code filed together with the Application and is constructed in the same building as the residential use, the Project shall employ dry floodproofed parking below the base flood elevation in accordance with the dry floodproofing standards of the NFIP, including but not limited to FEMA NFIP Bulletin 6/January 2021. The Applicant's inability to obtain additional development permits from the Town or any other jurisdiction or agency without materially modifying the Site Plan will not excuse its material noncompliance with this Resolution, but the Town Commission shall reasonably consider, but have no obligation to approve, conforming modifications or amendments to this approval, consistent with its intent, in order to enable the Applicant to address the requirements of other jurisdictions. Under no circumstances will the Town be required to return any contributions made by the Applicant.

SECTION 4. APPROVING TERMINATION OF THE COVENANT. The Town Commission hereby approves the termination of the Covenant.

SECTION 6. 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 7. 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 8. 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 Velazquez	<u>NO</u>
Vice Mayor Jeffrey Rose	<u>YES</u>
Mayor Shlomo Danzinger	<u>YES</u>



Shlomo Danzinger, Mayor

ATTEST:



Sandra N. McCreedy, MMC, Town Clerk



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




Weiss Serota Heffman 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. 24-2-355 adopted by the Town Commission at its meeting held on the 9th day of January, 2024.

Issued: February 2, 2024



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.

Exhibit "B"

KKUSHNER
 1500 COLLINS AVENUE, 15TH FLOOR, NEW YORK, NY 10022
 WWW.KKUSHNER.COM

CLIENT
 9300 Collins Ave
 1500 Collins Ave, Suite 1515, NY 10022

PALMA
 1145 W 87TH STREET, SUITE 1000, L. 8042
 WEST PALM BEACH, FL 33411
 [Architectural Firm Name]

PROJECT
 DEVELOPMENT & CONSTRUCTION MANAGER

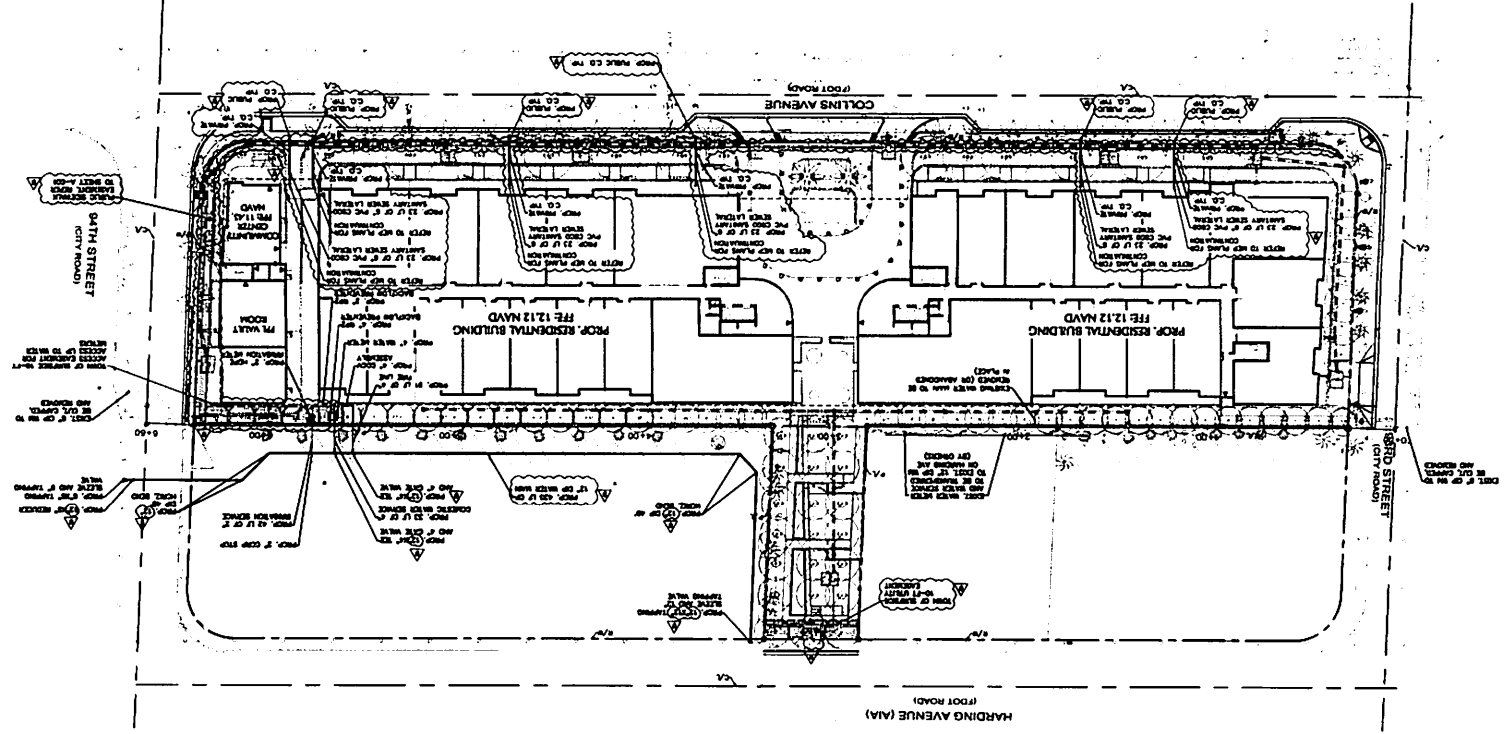
LANGAN
 121 Broadway, Suite 100
 New York, NY 10038
 [Engineering Firm Name]

CONTRACT
 KEY PLAN

REPORT SHEET (NUMBER 7) OF THE 34204
 PROJECT NO. 13 OCTOBER 2022
 DATE 01/02/2024
 NO. 54218
 [Professional Seal]

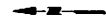
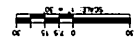
NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMITS	11/02/2023
2	REVISIONS	11/02/2023
3	REVISIONS	11/02/2023
4	REVISIONS	11/02/2023
5	REVISIONS	11/02/2023
6	REVISIONS	11/02/2023
7	REVISIONS	11/02/2023
8	REVISIONS	11/02/2023
9	REVISIONS	11/02/2023
10	REVISIONS	11/02/2023

UTILITY PLAN
 SHEET NO. C-500
 PROJECT NO. 13 OCTOBER 2022



Legend

[Symbol]	Water Main
[Symbol]	Sewer Main
[Symbol]	Gas Main
[Symbol]	Electrical
[Symbol]	Manhole
[Symbol]	Valve
[Symbol]	Access Point
[Symbol]	Other



NOTES: ALL DIMENSIONS SHOWN ARE BASED ON THE LATEST DATA AVAILABLE.

SCALE 1" = 10'

Exhibit "C"

PROJECT
9300 Collins Ave
3000 Collins Ave, Suite #1 30194

CLIENT
KUSHNER
170 FIFTH AVENUE, 21 FLOOR, NEW YORK, NY 10011
WWW.KUSHNER.COM

DEVELOPMENT & CONSTRUCTION MANAGER
PALMA

ARCHITECT
PALMA

CONSULTANT
LANGAN
1271 Broadway, Suite 1800
New York, NY 10019
Tel: 212 692 3100
Fax: 212 692 3101
www.langan.com

KEY PLAN
GENERAL NOTES
SEE 6 EXHIBIT

SCALE & EXHIBIT
PROFESSIONAL ENGINEER E.L. LIC. NO. 54804
LORIANO RODRIGUEZ
DATE: 01/07/2014
LANGAN ENGINEERING & ARCHITECTURE
1271 BROADWAY, SUITE 1800
NEW YORK, NY 10019
TEL: 212 692 3100
FAX: 212 692 3101
WWW.LANGAN.COM

SHEET NO. C-302
PROJECT NO. 3002292001
DATE 13 OCTOBER 2013
PROJECT NAME PAVING PLAN

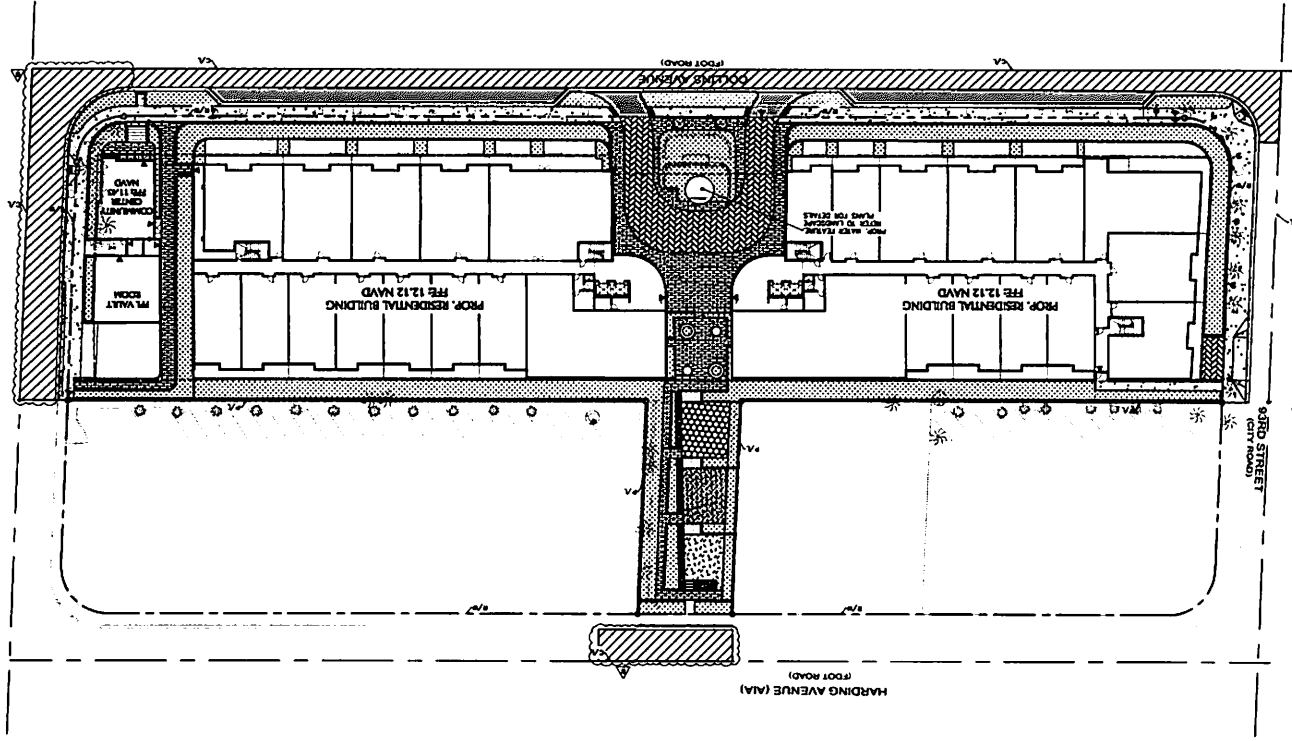
- NOTES**
1. ALL CONCRETE SHALL BE 4" REINFORCED CONCRETE WITH 3/8" REINFORCING BARS AT 18" ON CENTER.
 2. ALL 4" REINFORCED CONCRETE SHALL BE 4" REINFORCED CONCRETE WITH 3/8" REINFORCING BARS AT 18" ON CENTER.
 3. CONCRETE SHALL ADJUST ALL CATCHES TO MATCH EXISTING GRADE.

LEGEND

(Symbol)	4" REINFORCED CONCRETE WITH 3/8" REINFORCING BARS AT 18" ON CENTER
(Symbol)	3" REINFORCED CONCRETE WITH 3/8" REINFORCING BARS AT 18" ON CENTER
(Symbol)	2" REINFORCED CONCRETE WITH 3/8" REINFORCING BARS AT 18" ON CENTER
(Symbol)	1" REINFORCED CONCRETE WITH 3/8" REINFORCING BARS AT 18" ON CENTER
(Symbol)	1" UNREINFORCED CONCRETE
(Symbol)	3" UNREINFORCED CONCRETE
(Symbol)	4" UNREINFORCED CONCRETE
(Symbol)	5" UNREINFORCED CONCRETE
(Symbol)	6" UNREINFORCED CONCRETE
(Symbol)	7" UNREINFORCED CONCRETE
(Symbol)	8" UNREINFORCED CONCRETE
(Symbol)	9" UNREINFORCED CONCRETE
(Symbol)	10" UNREINFORCED CONCRETE
(Symbol)	11" UNREINFORCED CONCRETE
(Symbol)	12" UNREINFORCED CONCRETE
(Symbol)	13" UNREINFORCED CONCRETE
(Symbol)	14" UNREINFORCED CONCRETE
(Symbol)	15" UNREINFORCED CONCRETE
(Symbol)	16" UNREINFORCED CONCRETE
(Symbol)	17" UNREINFORCED CONCRETE
(Symbol)	18" UNREINFORCED CONCRETE
(Symbol)	19" UNREINFORCED CONCRETE
(Symbol)	20" UNREINFORCED CONCRETE

REVISIONS

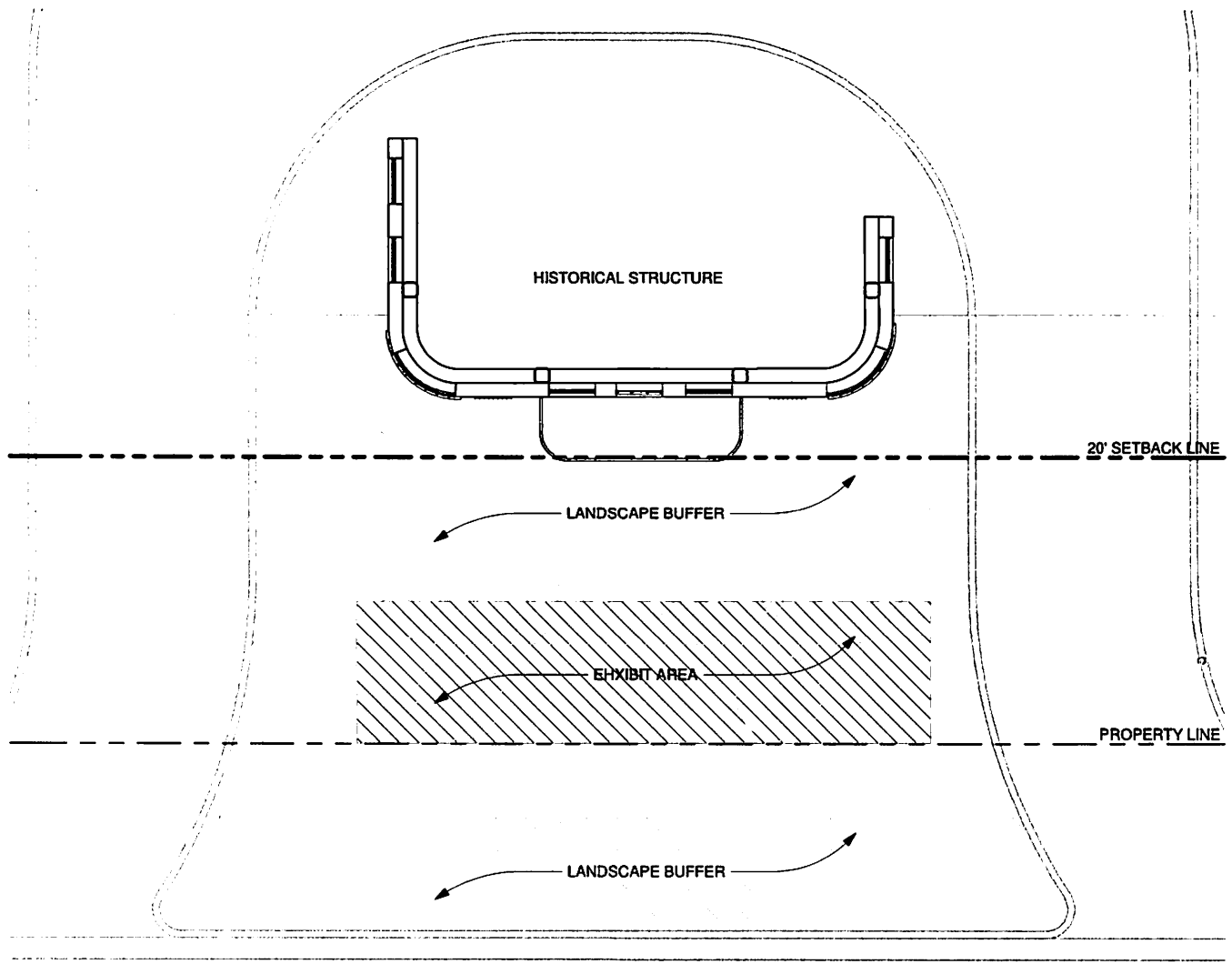
NO.	DATE	DESCRIPTION
1	10/13/13	ISSUE FOR PERMIT
2	10/13/13	REVISED PER COMMENTS
3	10/13/13	REVISED PER COMMENTS
4	10/13/13	REVISED PER COMMENTS
5	10/13/13	REVISED PER COMMENTS



Sheet C

Exhibit "D"





① PUBLIC HISTORICAL EXHIBIT SPAC
1/8" = 1'-0"

ASK-011
HIST EXHIBIT
2024.01.02